



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: September 29, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000731

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On July 14, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 27, 2014 preliminary eligibility determination.

The Decision, rendered after that hearing, is issued by the Appeals Unit of the NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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### Decision

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Appeal Identification Number: AP000000000731

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Issue

The issues presented for review by the Appeals Unit of the NY State of Health are:

Did the Marketplace properly determine that [REDACTED] was eligible for an advance premium tax credit in the amount of \$223.00 as of June 27, 2014?

Did the Marketplace properly determine that [REDACTED] was eligible for cost sharing reductions as of June 27, 2014?

### Procedural History

On December 26, 2014, you initially filed an application for health insurance through the Marketplace for yourself only.

On December 28, 2014, the Marketplace issued an eligibility determination notice stating that based on a household income of \$29,363.88, you are eligible to enroll in a qualified health plan (QHP), receive up to \$223.00 monthly of advance premium tax credit (APTC) and to receive cost-sharing reductions (CSR) while enrolled in a silver level plan through the Marketplace.

On June 27, 2014, you reapplied for health insurance through the Marketplace. The Marketplace made a preliminary eligibility determination that, with a household income of \$29,363.88, you are eligible to enroll in a QHP, receive up to \$223.00 monthly of APTC, and are eligible to receive CSR provided you are enrolled in a silver level plan.

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On June 27, 2014, you spoke with the Marketplace Customer Service Unit and entered an appeal request.

On July 14, 2014, you had a scheduled telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Translation services were provided by Spanish Interpreter, [REDACTED]. You waived formal Notice of Hearing for a rescheduled hearing and were granted an adjournment until July 17, 2014.

On July 17, 2014, you appeared for the rescheduled telephone hearing. Translation services were provided by Spanish Interpreter, [REDACTED]. Testimony was taken at the hearing. The record was held open until July 24, 2014 to allow you to submit additional documentation.

On July 23, 2014, you submitted your 2013 federal income tax return. The evidence was made part of the record, and the record was closed. The record is now complete and closed.

## **Findings of Fact**

A review of the record supports the following finding of fact:

1. You reapplied for health insurance through the NY State of Health Marketplace on June 27, 2014 for yourself only.
2. According to the Marketplace application, you reside in Bronx County, New York.
3. You plan to file a 2014 federal income tax return.
4. Your June 27, 2014 health insurance application indicated that you expected to use the filing status of "single" and to claim only one dependent on your 2014 federal income tax return.
5. You testified that you plan on claiming three dependents on your 2014 federal income tax return: [REDACTED], and [REDACTED]. You stated that you plan on claiming the same dependents as on your 2013 federal income tax return with the exception of your child, [REDACTED].
6. You submitted your 2013 federal income tax return indicating a tax filing status of single and four dependents: [REDACTED], [REDACTED].
7. You indicated on your June 27, 2014 health insurance application an expected yearly income of \$29,363.88.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

An advance premium tax credit (APTC) is available to a tax filer whose household income is not expected to be more than 400% of the Federal Poverty Level (FPL) for the benefit year in which coverage is requested (45 CFR § 155.305(f)(1)(i)).

A household of two people is eligible for APTC if the household's income is from 138% to 400% of the FPL. As of April 19, 2014, the FPL for a household of two was \$15,510.00 (100%), so a household of two people can qualify for APTC if their household income is between \$21,404.00 (138%) and \$62,040.00 (400%).

The amount of APTC awarded equals

1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the NY State of Health in the geographic area where the taxpayer resides

minus

2) the taxpayer's expected contribution amount (IRC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on the household income. For a household income in the range of least 150% of the 2013 federal poverty level (FPL) but less than 200% of the 2013 FPL, the expected contribution is from 4.00% to 6.30% of the household income (26 CFR § 1.36B-3(g)(2)).

CSR is available to a person who (1) is eligible to enroll in a qualified health plan (QHP) through the Marketplace, (2) meets the requirements to receive an advance premium tax credit, (3) is expected to have a household income that does not exceed 250% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)).

## Legal Analysis

When the Marketplace prepared your eligibility determination it relied upon the household information that you provided in your June 27, 2014 application. Since you stated that you expected to file your income taxes as “single” and to claim one dependent, the Marketplace computed your eligibility as if you were in a two-person household.

You live in Bronx County, where the second lowest cost silver plan available through the Marketplace costs \$365.28 per month.

Your expected income for 2014 is \$29,363.88, which is 189.32% of the 2013 FPL for a two-person household. At 189.32% of the FPL, the expected contribution to the cost of the health insurance premium is 5.81% of income, which equals \$141.92 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected contribution (\$141.92 per month), which equals \$223.36 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$223.00 per month, if you were in a two-person household.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the 2013 FPL. Since the household income in your application was 189.32% of the 2013 FPL, you are eligible for cost sharing reductions using the information in that application.

Based on the information provided to the Marketplace, the June 27, 2014 determination is AFFIRMED.

However, your hearing testimony and additional documents that you submitted provide credible evidence that you plan to claim three dependents on your 2014 federal income tax return and so are in a four-person household rather than a two-person household

Your eligibility should now be computed based on a household of four people. Therefore the case will be returned to the Marketplace to redetermine your eligibility using this new information.

## Decision

The June 27, 2014 eligibility determination is AFFIRMED based on the information you provided at the time of your application.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

However, based upon additional evidence that was made part of the record during and after the July 17, 2014 hearing, this matter is returned to the Marketplace to redetermine your eligibility using a four-person household with an expected 2014 income of \$29,363.88.

**Effective Date of this Decision:** September 29, 2014

### **How this Decision Affects Eligibility**

The June 27, 2014 determination that you were eligible for an advance premium tax credit of up to \$223.00 per month and eligible for cost-sharing reductions was correct when it was made, based on the information you provided, so that determination continues in effect.

However, you have provided new information that there are four people in your tax household.

The Marketplace will use this information to prepare a new eligibility determination.

### **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Submit an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the New York Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of this Decision.

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available

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to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The June 27, 2014 determination that you were eligible for an advance premium tax credit of up to \$223.00 per month and eligible for cost-sharing reductions was correct when it was made, based on the information you provided, so that determination is AFFIRMED and continues in effect.

However, you have provided new information that there are four people in your tax household, so your eligibility will be redetermined.

The Marketplace will use this information to prepare a new eligibility determination. It will be based on your eligibility as a member of a four-person household with an expected 2014 household income of \$29,363.88.

## **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).



**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]