



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

Notice of Decision

Decision Date: February 18, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005204

[REDACTED]

Dear [REDACTED],

On January 25, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 22, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of 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 NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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

Decision Date: February 18, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005204

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were not eligible for coverage through the Basic Health Plan?

Procedural History

On November 16, 2015, the Marketplace issued a notice stating that it was time to renew your NY State of Health coverage for 2016. The notice further stated that the Marketplace could not make a decision on whether you qualified for financial assistance based on the information from federal and state sources. It directed you to update the information in your Marketplace account by December 15, 2015, or the financial assistance you were receiving might end.

Also on November 16, 2015, the Marketplace received updates to your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the last application received on November 16, 2015. It stated that you were eligible to receive up to \$305.00 per month in advance payments of the premium tax credit (APTC) and eligible for cost-sharing reductions (CSR), effective January 1, 2015.

On November 16, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of November 16, 2015 preliminary eligibility determination insofar as you were not found eligible to enroll in a Basic Health Plan (BHP).

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On November 22, 2015, the Marketplace issued an eligibility determination notice formalizing the findings contained in the November 16, 2015 preliminary eligibility determination. The notice stated that you were eligible to receive up to \$305.00 per month in APTC; eligible for cost-sharing reductions (CSR), provided you selected a silver-level plan; and not eligible for Medicaid. This eligibility determination was effective January 1, 2016.

On January 25, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified, and your application reflects, that you turned 65 years old on [REDACTED].
- 2) You testified that you expected to file your 2015 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 3) You are seeking insurance only for yourself.
- 4) The final application that was submitted on November 16, 2015 listed annual household income of \$18,000.00, consisting of approximately \$1,500.00 per month you earn from your self-employment. You testified that this amount was correctly entered as of the application date, but you have since updated your application to reflect that your expected earnings have decreased to \$17,500.00.
- 5) Your application states that you will not be taking any deductions on your 2015 tax return.
- 6) Your application states that you live in Queens County.
- 7) You testified that prior to submitting your November 16, 2015 application, you were instructed by both your insurance broker and a Marketplace representative that, at your income level, you would be eligible to enroll in a Basic Health Plan (BHP).
- 8) You stated that as a result of having turned 65 years of age, you were prohibited from selecting a BHP. You further testified that you believed this was a form of age discrimination, since people over 65 years of age were being disqualified from enrollment in this plan.

- 9) You testified that you were seeking to qualify to enroll in a BHP, but were not interested in seeking a review of your Medicaid eligibility because you were over the income threshold for that program.

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

Applicable Law and Regulations

Essential Plan

The Marketplace must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State; (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL; (3) is not otherwise eligible for minimum essential coverage except through the individual market; (4) is 64 years old or younger; (5) is a citizen or a lawfully present non-citizen; and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

Legal Analysis

The issue is whether the Marketplace properly determined that you ineligible for the Basic Health Program (BHP).

The BHP is available through the Marketplace to adults at least 19 year old but less than 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that exceeds 138% and does not exceed 200% of the FPL for the applicable family size. Since you turned 65 years old prior to the date of your application, the Marketplace properly found you to be ineligible for the BHP.

Since the November 22, 2015 eligibility determination correctly found that you were eligible for an APTC of up to \$305.00 per month in APTC, eligible for CSR, and ineligible for coverage under the BHP, it is correct and is AFFIRMED.

Decision

The November 22, 2015 eligibility determination is AFFIRMED.

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).

Effective Date of this Decision: February 18, 2016

How this Decision Affects Your Eligibility

You remain eligible for an APTC of up to \$305.00 per month and, if you select a silver-level plan, eligible for CSR.

You are not eligible for coverage under the Basic Health Plan.

This Decision has no effect on any subsequent determinations issued by the Marketplace on or after November 22, 2015.

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.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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 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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 16, 2015 preliminary determination and November 22, 2015 eligibility determination are **AFFIRMED**.

You remain eligible for an APTC of up to \$305.00 per month and, if you select a silver-level plan, eligible for CSR.

You are not eligible for coverage under the Basic Health Plan.

This Decision has no effect on any subsequent determinations issued by the Marketplace after November 22, 2015.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

