



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

Notice of Decision

Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005345

[REDACTED]

Dear [REDACTED],

On February 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 25, 2015 preliminary 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 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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DEPARTMENT OF HEALTH
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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005345



Issue

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

Did the Marketplace properly determine that you were eligible to enroll in the Essential Plan effective January 1, 2016?

Procedural History

According to your Marketplace account, you were enrolled in a silver-level qualified health plan (QHP) with advance premium tax credits and cost-sharing reductions in 2015, and your health coverage that year was due to end December 31, 2015.

On November 25, 2015, the Marketplace received your updated application and you were determined conditionally eligible for Medicaid. That same day, you spoke with the Marketplace's Account Review Unit and appealed being found eligible for Medicaid and not for advance premium tax credits.

On December 6 and 7, 2015, the Marketplace received your updated application for financial assistance in 2016.

On December 7 and 8, 2015, the Marketplace issued notices of eligibility determination based on the December 6 and 7, 2015 applications, stating that you are eligible to enroll in the Essential Plan, effective January 1, 2016. The notices further stated that you no longer qualify for advance premium tax credits with cost sharing reductions as of December 31, 2015. Your eligibility was determined based upon your reported household income of \$23,700.00.

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On December 8, 2015, the Marketplace issued an enrollment notice confirming that you were enrolled in the Essential Plan 2 through Fidelis Care with a \$0.00 monthly premium and an enrollment start date of January 1, 2016. The notice further stated that the plan does not include any dental and vision services, but that you can enroll in an Essential Plan that includes these benefits and will have a monthly premium if you choose a plan with these benefits. The notice also confirmed that you have selected Empire Dental Family Enhanced with a monthly premium of \$35.35 and an enrollment start date of January 1, 2016.

A notice of hearing was issued on January 13, 2016 for a telephone hearing on February 9, 2016 at 2:00 p.m.

On February 9, 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) The record reflects that you are seeking insurance coverage for yourself.
- 2) The record reflects that you currently reside in Columbia County, New York.
- 3) The record reflects that you intend on filing your 2016 tax return as single and will claim your 29 year old nephew as a dependent on that tax return.
- 4) You testified that it goes against your pride and ego to accept free health insurance when you want to pay for a health plan, to the extent that you can afford to, and one that you have been able to select.
- 5) In the application that was submitted on December 7, 2015 you attested to an annual household income of \$23,700.00. You testified that this amount was correct.
- 6) You testified at the hearing that you want your eligibility to be redetermined so that you can qualify for advance premium tax credits and cost-sharing reductions instead of being eligible for the Essential Plan.

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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Advance Payments of the Premium Tax Credit:

Advance payments of the premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable FPL, (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR § 155.300(a), 45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

Cost-Sharing Reductions:

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250% of the applicable FPL for the plan year for which coverage is requested, (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Household Composition

For purposes of the Essential Plan, the Marketplace follows the rules applicable to advance premium tax credits and cost sharing reductions. Therefore, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were eligible for the Essential Plan, effective January 1, 2016.

You expect to file your 2016 federal tax return as single and claim one dependent. You are therefore in a two-person household for purposes of this analysis.

In the application that was submitted on December 7, 2015 you attested to an annual household income of \$23,700.00 and the eligibility determination notice issued on December 8, 2015 relied on this information.

The Essential Plan is provided through the Marketplace to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. According to your Marketplace account and, in part, your testimony, you meet the non-financial requirements to be eligible for the Essential Plan in that you are a New York State resident, not eligible to enroll in other coverage, under the age of 65, and not incarcerated.

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As to the financial requirements, on the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Your reported income of \$23,700.00 is 148.78% of the 2015 FPL. A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution. Therefore, the Marketplace properly found you to be eligible for the Essential Plan and to qualify for a \$0.00 monthly premium.

An individual who is eligible to enroll in the Essential Plan is not eligible to receive advance premium tax credits because they are considered eligible for minimum essential coverage through the Marketplace. To be eligible for cost-sharing reductions, an individual must first be eligible to receive advance premium tax credits. Since you are not eligible to receive advance premium tax credits, you do not qualify to receive cost-sharing reductions either.

Since the Marketplace properly found you eligible to enroll in the Essential Plan, and ineligible for advance premium tax credits and cost-sharing reductions based on the information that was contained in your Marketplace application, the December 8, 2015 eligibility determination notice is AFFIRMED.

Please note that you will have co-pays for certain health care services, which will usually be due when you receive the service. For a list of co-pay amounts and any deductibles you may be responsible to pay, you can contact Fidelis Care directly. You also have a monthly premium for the dental coverage you selected through Empire.

Decision

The December 8, 2015, eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 12, 2016

How this Decision Affects Your Eligibility

You are eligible for the Essential Plan, effective January 1, 2016, and enrolled in the Essential Plan 2 through Fidelis Care with \$0.00 monthly premium and Empire Dental Family Enhanced coverage with a \$35.35 monthly premium, both effective January 1, 2016.

If You Disagree with this Decision (Appeal Rights)

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).

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 8, 2015, eligibility determination notice is **AFFIRMED**.

You are eligible for the Essential Plan, effective January 1, 2016, and enrolled in the Essential Plan 2 through Fidelis Care with \$0.00 monthly premium and Empire Dental Family Enhanced coverage with a \$35.35 monthly premium, both effective January 1, 2016.

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Legal Authority

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

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A Copy of this Decision Has Been Provided To:

