



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

## Notice of Decision

Decision Date: April 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005354

[REDACTED]

Dear [REDACTED]

On January 28, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 26, 2015 notice of 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 Account ID 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: April 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005354



## 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 only to purchase a qualified health plan at full cost, effective January 1, 2016?

## Procedural History

On November 25, 2015, the Marketplace issued an eligibility determination notice stating that you were eligible only to purchase a qualified health plan at full cost through the Marketplace, effective January 1, 2016.

On November 27, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that eligibility determination insofar as it did not find you eligible for the Essential Plan.

On January 28, 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 support the following findings of fact:

- 1) You testified that you were seeking to be found eligible to enroll in the Essential Plan through the Marketplace.

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- 2) Your Marketplace account reflects that you were ineligible for the Essential Plan because your “ESI [Employer Sponsored Insurance] waiting period is over.”
- 3) You testified, and the record reflects, that you expect to file your 2016 income as head of household and claim your three children as dependents on that tax return.
- 4) In the application that was filed on November 24, 2015, you attested to an expected annual household income of \$35,685.00. This income consisted of \$27,040.00 you expect to earn from your employer and \$8,645.00 your oldest son expects to earn from his employer.
- 5) You testified that you are currently enrolled in health insurance through your employer as of January 1, 2016. You further testified that you pay a bi-weekly premium of \$133.67 for that health insurance coverage.

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 determine an applicant eligible for the Essential 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 under the age of 64, (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)).

Minimum essential coverage is defined in federal law USC § 5000A(f) and the regulations issued under that section. As described under that section, government-sponsored programs, eligible employer-sponsored plans, grandfathered health plans, and certain other health benefits coverage are minimum essential coverage (26 § CFR 1.36B-2(c)(1)).

Generally, an individual who may enroll in an eligible employer-sponsored plan is eligible for minimum essential coverage under the plan for any month only if the plan is affordable and provides minimum value (see 26 CFR § 1.36B-2(c)(3)(i)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2016.

On November 25, 2015, the Marketplace issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through the Marketplace, effective January 1, 2016. You testified that through this appeal you were seeking to be found eligible to enroll in the Essential Plan through the Marketplace.

The record reflects that you are ineligible for the Essential Plan because your “Employer Sponsored Insurance waiting period is over.”

To be eligible for the Essential Plan an individual must not be eligible for minimum essential coverage except through the Marketplace. You testified that you are currently enrolled in health insurance through your employer as of January 1, 2016. You further testified that you pay a bi-weekly premium of \$133.67 for that health insurance coverage.

Since there is no evidence that your employer-sponsored insurance plan is not affordable or does not comply with the requirements of minimum essential coverage, you are not eligible for the Essential Plan.

Therefore, the November 25, 2015 eligibility determination is **AFFIRMED** because the Marketplace properly determined that you are eligible to enroll only in a qualified health plan at full cost.

## **Decision**

The November 25, 2015 eligibility determination is **AFFIRMED**.

**Effective Date of this Decision:** April 12, 2016

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

You remain eligible to purchase a qualified health plan at full cost through the Marketplace. You are not eligible for the Essential Plan because you are currently eligible for and enrolled in Employer Sponsored Health Insurance.

This decision has no effect on any determination issued after November 25, 2015.

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).

## **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 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 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 November 25, 2015 eligibility determination is AFFIRMED.

You remain eligible to purchase a qualified health plan at full cost through the Marketplace.

You are not eligible for the Essential Plan because you are currently eligible for and enrolled in Employer Sponsored Health Insurance.

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## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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

