



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: AP000000005357

[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 14, 2015, eligibility determination.

The enclosed 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 NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

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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Issues

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

Did the Marketplace properly determine that you and your spouse, as of November 14, 2015, were eligible to enroll in a qualified health plan at full cost?

Procedural History

The Marketplace received an application for health insurance on November 13, 2015.

On November 14, 2015 the Marketplace issued an eligibility determination notice that you and your spouse are eligible to purchase a qualified health plan at full cost through NY State of Health effective January 1, 2016. The notice stated that you and your spouse were not eligible for advance premium tax credits because "ESI waiting period is over."

On November 27, 2015 you spoke to the Marketplace Account Review Unit and requested to appeal you and your spouse's eligibility for financial assistance through NY State of Health.

On January 28, 2015, you appeared for a scheduled telephone hearing with a Hearing Officer from the Marketplace Appeals Unit. Testimony was taken at the hearing and the record was developed during the hearing. The record is now complete and closed.

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Findings of Fact

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

1. You are applying for health insurance through the Marketplace for you and your spouse.
2. According to your November 13, 2015 application, your expected 2016 household income is \$45,951.20.
3. You testified that you and your spouse are enrolled in health insurance coverage through your employer.
4. You testified that the monthly premiums are \$73.93 for self-only coverage and \$275.27 for coverage for you and your spouse.
5. You testified that the insurance is not affordable through your employer because of co-pays, coinsurance and the deductible.

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

Applicable Law and Regulations

Advance Premium Tax Credit

An advance premium tax credit (APTC) is available to a person who is eligible to enroll in a Qualified Health Plan (QHP) and

1. expects to have a household income between 138% and 400% of the Federal Poverty Line (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 (45 CFR § 155.305(f)).

Essential Health Plan

An individual is eligible to receive coverage for health care services through an Essential Health Plan if they:

1. reside in New York state and are under sixty-five years of age,

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2. are not eligible for Medicaid or Child Health Plus,
3. are not eligible for minimum essential coverage or is eligible for employer-sponsored insurance that is not affordable, and
4. have a household income at or below 200% of the Federal Poverty Line (FPL)

(N.Y. Soc. Serv. Law § 369-gg(3)).

Employer-Sponsored Insurance

An employee who may enroll in an employer-sponsored health insurance plan and an individual who may enroll in the plan because of a relationship to the employee are considered eligible for minimum essential coverage as long as the plan “is affordable and provides minimum value” (26 CFR § 1.36B-2(c)(3)(i)).

An eligible employer-sponsored plan is “affordable” if the portion of the annual premium that the employee or related individual must pay for self-only coverage does not exceed the required contribution. The required contribution percentage is 9.66% of the employee’s household income for 2016 (26 CFR §1.36B-2(c)(3)(v), (26 CFR §1.36B-2T), (IRS Rev. Proc. 2014-62)).

Legal Analysis

The issue under review is whether the Marketplace properly determined you and your spouse to be eligible to enroll in a qualified health plan at full cost.

An employee or a related individual to the employee, who is eligible to enroll in an employer-sponsored health insurance plan that is affordable and provides minimum value, is not eligible for advance premium tax credits or eligible to enroll in an Essential Health Plan through the Marketplace.

According to your November 13, 2015 application, your expected household income is \$45,951.20 for 2016.

During the hearing, you testified that you and your spouse are enrolled in employer-sponsored insurance through your employer. Under the regulations the Marketplace must follow, employer-sponsored health insurance plan is considered to be affordable if it costs no more than 9.66% of the household income. You testified that you would pay approximately \$275.27 per month for health insurance premiums for you and your spouse, or \$3,303.24 annually. Annual premiums of \$3,303.24 cost 7.19% of \$45,951.20, of your reported household income. Since your plan costs 7.19% of your household income, the health insurance you have through your employer does qualify as affordable.

To qualify as minimum essential coverage, an employer-sponsored plan also must provide minimum value; that is, cover at least 60% of the total allowed costs of benefits provided to you. Since no evidence was presented on this point, no decision can be made on the issue of minimum value.

Therefore, upon review, the record shows that you and your spouse have health insurance coverage through your employer that costs less than 9.66% of your household income and is therefore affordable.

Therefore, the Marketplace correctly determined you and your spouse eligible to enroll in a qualified health plan at full cost.

The November 14, 2015 eligibility determination is AFFIRMED.

Decision

The November 14, 2015, eligibility determination is AFFIRMED.

Effective Date of this Decision: February 12, 2016

How this Decision Affects Your Eligibility

The November 14, 2015, eligibility determination is correct, so it remains in effect.

You and your spouse remain eligible to enroll in a qualified health plan at full cost through the Marketplace.

You and your spouse remain not eligible for advance premium tax credits or eligible to enroll in an Essential Health Plan through the Marketplace.

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

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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 November 14, 2015, eligibility determination is AFFIRMED.

You and your spouse remain eligible to enroll in a qualified health plan at full cost through the Marketplace.

You and your spouse remain not eligible for advance premium tax credits or eligible to enroll in an Essential Health Plan through the Marketplace.

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:

