



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

Notice of Decision

Decision Date: April 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005389

[REDACTED]

Dear [REDACTED],

On February 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s December 6, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005389

[REDACTED]

Issue

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

Did New York State of Health (NYSOH) properly determine that you and your spouse were eligible to purchase a qualified health plan only at full cost, effective January 1, 2016?

Procedural History

On December 1, 2015, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were not eligible for financial assistance but that you were eligible to purchase a qualified health plan at full cost.

Also on December 1, 2015, you contacted NYSOH's Accounts Review Unit and requested to appeal of that preliminary eligibility determination insofar as you and your spouse were not eligible for financial assistance.

On December 6, 2015, NYSOH issued a notice of eligibility determination based on the December 1, 2015 application, stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2016. The notice further stated that you and your spouse were not eligible to receive advance premium tax credits (APTC) because you were already enrolled in or eligible for minimum value employer sponsored insurance and you were not eligible for cost-sharing reductions because you were not eligible for APTC.

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On February 10, 2016, you appeared for a scheduled telephone hearing with a Hearing Officer from NYOH'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 are appealing your and your spouse's eligibility.
- 2) The application that was filed on December 1, 2015 listed an annual household income of \$32,200.00. You testified that this amount was correct at the time you filed your application but may increase if you receive a raise this year.
- 3) You testified that you and your spouse are eligible for and enrolled in the CDPHP Employee +1 plan through CDPHP EPO, which has a semi-monthly cost of \$160.89 through your employer.
- 4) On November 4, 2015 NYSOH received a fax containing the 2016 medical rates for your employer provided health insurance. Your employer provides coverage through Anthem BlueCross BlueShield (Anthem) and CDPHP EPO.
- 5) The medical rates sheet that you provided states that for an Anthem plan, the semi-monthly cost for an employee only high deductible health plan is \$21.61, the cost for the basic plus plan is \$38.41, and the cost for the premium plus plan is \$63.14.
- 6) The medical rates sheet that you provided states that for a CDPHP EPO plan, the semi-monthly cost for an employee only plan is \$68.55.
- 7) You testified that the insurance through your employer is unaffordable to you.

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

Applicable Law and Regulations

Advance Payments of the Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a Qualified Health Plan (QHP) and

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1. expects to have a household income between 200% and 400% of the federal poverty level (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)).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Essential Plan

NYSOH 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 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).

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 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 NYSOH properly determined that you and your spouse were eligible to enroll in a qualified health plan only at full cost.

On December 6, 2015 NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2016. You and your spouse were not eligible for an advance premium tax credit because you were eligible for or enrolled in employer sponsored health insurance coverage.

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 NYSOH.

During the hearing, you testified that you and your spouse are enrolled in employer-sponsored insurance through your employer. Employer-sponsored health insurance coverage is considered to be affordable in 2016 if it costs no more than 9.66% of the household income. Even though you and your spouse are both enrolled in a health plan through your employer the premium NYSOH uses to calculate whether or not a plan is affordable is based on the amount you would pay for self-only coverage.

The application that was filed on December 1, 2015 listed an annual household income of \$32,200.00. You testified that this amount was correct at the time you filed your application but may increase if you receive a raise this year.

Therefore, your employer sponsored health insurance coverage would be unaffordable to you if the premium cost associated with the self-only plan cost more than \$3,110.52 per year ($\$32,200.00 \times 9.66\%$).

The record reflects that you are eligible to enroll in two different insurance providers through your employer.

You provided documentation that if you enrolled in a self only plan through Anthem you would pay a semi-monthly cost for an employee only high deductible health plan of \$21.61, or \$38.41 for a basic plus plan, or \$63.14 for a premium plus plan. This results in an annual cost of \$518.64 for the high deductible health plan ($\$21.61 \times 2$ for semi-monthly $\times 12$ months), an annual cost of \$921.84 for the basic plus health plan ($\$38.41 \times 2$ for semi-monthly $\times 12$ months), and an annual cost of \$1,515.36 for the premium plus plan ($\$63.14 \times 2$ for semi-monthly $\times 12$ months). Since your annual cost for a self-only plan through Anthem would be less than \$3,110.52 it is considered affordable.

You provided documentation that if you enrolled in a self only plan through CDPHP EPO, the semi-monthly cost is \$68.55. This results in an annual cost of \$1,645.20 (\$68.55 x 2 for semi-monthly x 12 months), which is also less than \$3,110.52.

Since you and your spouse have health insurance coverage through your employer that costs less than 9.66% of your household income, the December 6, 2015 eligibility determination is correct and is AFFIRMED.

Decision

The December 6, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 15, 2016

How this Decision Affects Your Eligibility

You and your spouse remain eligible to purchase a qualified health plan at full cost through NYSOH.

You and your spouse are not eligible for financial assistance.

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

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

Summary

The December 6, 2015 eligibility determination is AFFIRMED.

You and your spouse remain eligible to purchase a qualified health plan at full cost through NYSOH.

You and your spouse are not eligible for financial assistance.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

