



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

**Notice of Decision**

Decision Date: March 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005919

[REDACTED]

Dear [REDACTED],

On March 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 4, 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 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005919



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

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

Did the Marketplace properly determine that you were not eligible for advance payments of the premium tax credit as of January 1, 2016?

## Procedural History

According to your Marketplace account, you were enrolled in a silver-level qualified health plan, CareConnect EPO Silver ST INN Pediatric Dental Dep 25 (CareConnect), as of January 1, 2015 and received advance payments of the premium tax credit of \$329.00 per month throughout 2015.

On December 4, 2015, the Marketplace received your updated application for financial assistance in 2016.

On December 5, 2015, the Marketplace issued an eligibility redetermination notice based on that application, which stated you were eligible to enroll in the Essential Plan, effective January 1, 2016. The notice further stated that you qualify for a monthly premium of \$20.00 because your household income of \$18,200.00 is less than the allowable income limit of \$23,540.00 for the Essential Plan.

Also On December 5, 2015, the Marketplace issued an enrollment notice confirming that you were enrolled in the Essential Plan 1 Plus Vision and

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Dental through Empire Blue Cross Blue Shield HealthPlus, with a monthly premium of \$46.45 and a plan enrollment start date of January 1, 2016.

On January 4, 2016, you contacted the Marketplace's Account Review Unit and requested an appeal of that eligibility determination insofar as your treating providers do not participate in the Essential Plan you were enrolled in or in other Essential Plans.

On February 17, 2016, the Marketplace issued a disenrollment notice informing you that your request to terminate your coverage with the Essential Plan through BCBS HealthPlus was processed and coverage would end February 29, 2016.

On March 24, 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 that you expect to file your 2015 and 2016 federal taxes with a tax filing status of single and you will not be claiming any dependents on those tax returns.
- 2) You are seeking insurance for only yourself.
- 3) The application that was submitted on December 4, 2015, in which you requested financial assistance, listed annual household income of \$18,200.00 based on your earnings. You testified that this amount was correct for both 2015 and 2016, and that you had no other sources of income.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
- 5) Your application states that you live in Nassau County, New York.
- 6) You testified that you are paying for health insurance through CareConnect outside the Marketplace at the full premium cost of \$426.00 per month because you need continuity of care with your general practitioner and several specialists, with whom you have established relationships for ongoing medical conditions and all of whom do not participate in the Essential Plan.

- 7) You testified that it is difficult for you to have to pay the full premium cost to remain in that plan so you can continue to see your treating providers.
- 8) You further testified that you want to be redetermined eligible for advance payments of the premium tax credit so that you can get some assistance and afford your 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 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 \$11,770.00 for a one-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) are 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)).

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 \$11,770.00 for a one -person household (80 Fed. Reg. 3236, 3237).

### **Legal Analysis**

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

Although you testified that you want to stay with your established treating providers for continuity of care and they do not participate in the Essential Plan, your eligibility for the Essential Plan is based on household size and income and not on this criteria.

The application that was submitted on December 4, 2015 listed an annual household income of \$18,200.00 and the eligibility determination relied upon that information.

You are in a one-person household. This is because you expect to file your 2015 and 2016 income taxes as single and will not be claiming any dependents on those tax return.

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. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since an annual household income of \$18, 200.00 is 154.63% of the 2015 FPL, the Marketplace properly found you to be eligible for the Essential Plan.

An individual who requests financial assistance and is eligible to enroll in the Essential Plan is not eligible to receive advance payments of the premium tax

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credit to subsidize the purchase of a qualified health plan because they are considered eligible for minimum essential coverage through the Marketplace.

Since the Marketplace properly determined you eligible for the Essential Plan and because of that eligibility, you are not eligible to receive advance payments of the premium tax credit, the December 5, 2015 eligibility redetermination notice is AFFIRMED.

## **Decision**

The December 5, 2015 eligibility redetermination notice is AFFIRMED.

**Effective Date of this Decision:** March 28, 2016

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

You were eligible for the Essential Plan, effective January 1, 2016.

You are not eligible for advance payments of the premium tax credit in 2016.

If your household size or income changes, please notify the Marketplace within 30 days of such change.

## **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

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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 5, 2015 eligibility redetermination notice is AFFIRMED.

You were eligible for the Essential Plan, effective January 1, 2016.

You are not eligible for advance payments of the premium tax credit in 2016.

If your household size or income changes, please notify the Marketplace within 30 days of such change.

### **Legal Authority**

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



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

