



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

Notice of Decision

Decision Date: April, 08 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005972

[REDACTED]

Dear [REDACTED],

On March 31, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 5, 2016 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005972



Issue

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 were eligible to purchase a qualified health plan at full cost, effective February 1, 2016?

Procedural History

On January 5, 2016, the Marketplace received your updated application for health insurance. That day, the Marketplace prepared a preliminary eligibility determination and found that you and your spouse were eligible to enroll in a qualified health plan at full cost.

Also on January 5, 2016, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your spouse were not eligible for financial assistance.

On January 6, 2016, the Marketplace issued an eligibility determination notice that was consistent with the January 5, 2016 preliminary determination. The notice further stated that you and your spouse were not eligible for Medicaid because your attested household income of \$40,000.00 was over the allowable income limit of \$33,465.00, were not eligible to receive advance payments of the premium tax credit (APTC) because you were both already enrolled in or eligible for minimum value employer sponsored insurance, and were not eligible for cost-sharing reductions because you both were not eligible for APTC.

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On March 31, 2016, you had a telephone hearing with a Hearing Officer from NY State of Health Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit supporting documentation.

On April 4, 2016, the Appeals Unit received a five-page facsimile from you consisting of Aetna Health quote for an individual only. That same day, this five-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) You are appealing only your and your spouse's eligibility.
- 2) The application that was filed on January 5, 2016 listed an annual household income of \$40,000.00. You testified that this amount was correct at the time you filed your application.
- 3) You testified at the hearing that you are paid \$18.00 per hour and work at most a 40 hour work week and will not be getting any overtime this year like you did last year due to company cutbacks. You further testified that you are paid once every two-weeks.
- 4) You testified that you, your spouse and your children are eligible for and enrolled in health insurance through your employer which costs you \$179.00 per paycheck.
- 5) You provided documentary proof to show that an individual plan through your employer-sponsored group insurance with the Aetna would be at an annual cost of \$2,329.08 before tax, which is the method of payment you have elected (Appellant's Exhibit A).
- 6) You testified that the insurance through your employer is unaffordable to you because it only covers 80% of your medical costs, has an annual deductible of \$1,500.00, and does not cover the prescription medication you take for your medical condition. You further testified that you pay out-of-pocket for those medications and have paid approximately \$1,700.00 from January 1, 2015 through March 31, 2015, or approximately \$566.67 per month.

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

An 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 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)).

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 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

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).

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

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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 is whether the Marketplace properly determined that you and your spouse were eligible to purchase a qualified health plan at full cost.

In the eligibility determination notice issued on January 6, 2016, the Marketplace denied eligibility for APTC and the Essential Plan to you and your spouse because you both were eligible for or enrolled in health insurance coverage through your employer.

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 APTC or eligible to enroll in an Essential Health Plan through the Marketplace.

During the hearing, you testified that you and your spouse are enrolled in employer-sponsored insurance through your employer until June 2016. You testified that the insurance through your employer is unaffordable to you. Employer-sponsored health insurance coverage is considered to be affordable if it costs no more than 9.66% of the household income. The Marketplace uses the amount of annual premium you would pay for self-only coverage through your employer to calculate whether or not a plan is affordable. It does not take into account your annual deductible amount or out-of-pocket expenses for prescription medications that are not covered by your health plan.

The application that was filed on January 5, 2016 listed an annual household income of \$40,000.00. You testified that you thought this amount was correct at the time you filed your application, but since your employer has cut out overtime in 2016, you will be earning \$18.00 for 40 hours per week at most, which equals \$37,440.00 annually.

Using the \$40,000.00 annual household income amount, your employer-sponsored health insurance coverage would be unaffordable to you if the premium cost associated with the self-only plan cost more than \$3,864.00 per year (\$40,000.00 x 9.66%).

You provided testimony and documentation that if you enrolled in a self-only plan through your employer you would pay an annual cost of \$2,329.08 pre-tax. Since your annual cost for a self-only plan through your employer is less than \$3,864.00, it is considered affordable by the Marketplace.

Since you have health insurance coverage through your employer that cost less than 9.66% of your household income of \$40,000.00, the Marketplace correctly determined that your employer-sponsored insurance was affordable and, therefore, the January 5, 2016 eligibility determination is correct and is **AFFIRMED**.

However, you credible testified that your income in 2016 will be less because you will not be getting any overtime this year due to company cutbacks. Based on a 40 hour work week at \$18.00, your projected earnings in 2016 will be \$37,440.00. Using this projected annual household income amount, your employer sponsored health insurance coverage would be unaffordable to you if the annual premium cost associated with the self-only plan cost more than \$3,616.70 per year ($\$37,440.00 \times 9.66\%$).

Since your annual premium cost for a self-only plan through your employer is \$2,329.08 and is less than \$3,616.70, it would still be considered affordable.

Decision

The January 6, 2016 notice of eligibility determination, as made on January 5, 2016, is **AFFIRMED**.

Effective Date of this Decision: April, 08 2016

How this Decision Affects Your Eligibility

You and your spouse are not eligible for financial assistance 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

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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 January 6, 2016 notice of eligibility determination, as made on January 5, 2016, is AFFIRMED.

You and your spouse are not eligible for financial assistance through the Marketplace.

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:

