



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

## Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006801

[REDACTED]

Dear [REDACTED]

On June 29, 2016, your Authorized Representative appeared by telephone on your behalf at a hearing on your appeal of NY State of Health's January 23, 2016 eligibility determination notice.

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 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006801

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were eligible to enroll in the Essential Plan effective February 1, 2016?

## Procedural History

On January 22, 2016, NYSOH received your updated application for financial assistance.

On January 23, 2016, NYSOH issued an eligibility determination notice based on the information contained in your January 22, 2016 application. The notice stated that you and your spouse were eligible to enroll in the Essential Plan. This eligibility determination was effective February 1, 2016.

Also on January 23, 2016, NYSOH issued a notice of enrollment confirming that you and your spouse had enrolled in an Essential Plan as of January 22, 2016. The notice further confirmed that coverage for you and your spouse under the Essential Plan would begin January 1, 2016.

On February 3, 2016, NYSOH received copies of (1) you and your spouse's I-551 permanent resident cards, (2) several earnings statements issued to you by your employer, [REDACTED] between December 31, 2015 and January 21, 2016.

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Also on February 3, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the January 23, 2016 eligibility determination notice insofar as you and your spouse were not found eligible for Medicaid.

On February 4, 2016, NYSOH received a screenshot of a government identification card, issued by the Department of Veterans Affairs to [REDACTED]

On June 21, 2016, NYSOH received a completed Authorized Representative Designation Form indicating that you wished for your daughter, [REDACTED] to act as your Authorized Representative for all matters related to your account.

On June 29, 2016, your Authorized Representative had a telephone hearing with a Hearing Officer from NYSOH'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) Your application reflects that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for you and your spouse.
- 3) The application that was submitted on January 22, 2016, which requested financial assistance, listed annual household income of \$8,040.00, consisting solely of \$670.00 per month you earn from your employment with [REDACTED]. Your Authorized Representative stated that this figure was reasonably accurate.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) You live in Queens County, New York.
- 6) Your Authorized Representative stated, and the record reflects, that both you and your spouse have been legally present non-citizens residing in the U.S. since [REDACTED], having each been issued an I-551 Permanent Resident card at that time.
- 7) Your Authorized Representative stated that both you and your spouse expect to become naturalized U.S. Citizens within 9 months to 1 year based, in part, on the citizenship status of your daughter.

- 8) Your Authorized Representative stated that you were seeking for your spouse, who has been diagnosed with [REDACTED] and a [REDACTED], to be found eligible for Medicaid rather than the Essential Plan, due to the proximity of physicians who accept the Essential Plan.

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 \$15,930.00 for a two-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>).

## **Legal Analysis**

The only issue under review is whether NYSOH properly determined that you and your spouse were eligible for the Essential Plan, effective February 1, 2016.

The application that was submitted on January 22, 2016 listed an annual household income of \$8,040.00 and the eligibility determination relied upon that information.

You and your spouse are in a two-person household. You expect to file your 2016 income taxes as married filing jointly and will claim no dependents on that tax return.

You and your spouse are legally present non-citizens, each having been issued an I-551 Permanent Resident Card. The record reflects that as of the application and the hearing, this was still accurate.

The Essential Plan is provided through the Marketplace to lawfully present non-citizens who are ineligible for Medicaid or CHP, as a result of their immigration status, and have a household modified adjusted gross income (MAGI) that is between 0% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual household income of \$8,040.00 is 50.47% of the 2015 FPL, the Marketplace properly found you and your spouse to be eligible for the Essential Plan at a premium of \$0.00 per month.

Since the January 23, 2016 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for the Essential Plan, it was correct and is AFFIRMED.

## **Decision**

The January 23, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** July 1, 2016

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

You and your spouse remain eligible for the Essential Plan.

In the event that either you or your spouse experience a change in citizenship status, you are encouraged to update your application to reflect this change since it may affect your eligibility for health insurance programs offered through NYSOH.

## **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.

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).

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 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 January 23, 2016 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible for the Essential Plan.

In the event that either you or your spouse experience a change in citizenship status, you are encouraged to update your application to reflect this change since it may affect your eligibility for health insurance programs offered through NYSOH.

### **Legal Authority**

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

[REDACTED]

[REDACTED]