



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

## Notice of Decision

Decision Date: July 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007083

[REDACTED]

Dear [REDACTED]

On July 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 11, 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

Decision Date: July 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007083

[REDACTED]

## Issue

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

Did NY State of Health properly determine that you were eligible to enroll in the Essential Plan effective March 1, 2016?

## Procedural History

On February 10, 2016, NYSOH received your updated application for financial assistance.

On February 11, 2016, an eligibility determination was made finding you eligible to enroll in the Essential Plan for a limited time effective March 1, 2016. You were asked to confirm your Income by providing documentation before May 10, 2016.

Also on February 11, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan with Vision and Dental.

On February 12, 2016, a disenrollment notice was issued stating your enrollment in the Essential Plan would end effective February 29, 2016. This was because you were determined no longer eligible to remain enrolled in your Essential Plan at that time.

On February 16, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for advance premium tax credits and eligible to enroll in your previous health insurance coverage.

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On July 20, 2016, you 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) You testified that you expect to file your 2016 taxes with a tax filing status of head of household. You will claim two dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on February 10, 2016, which requested financial assistance, listed annual household income of \$36,400.00, consisting of income you earn from your employment. You testified that this amount was correct.
- 4) You testified that you receive \$700.00 per week in gross wages.
- 5) Your application states that you will not be taking any deductions on your 2015 tax return.
- 6) You testified that when you were initially applying for insurance for the New Year, you had seen your doctor on the list of participating physicians with the Essential Plan that is why you chose that plan. You testified that you were then told by NYSOH that your doctor was not participating in the plan.
- 7) You testified that as of March 1, 2016 you are enrolled in third party health insurance outside of NYSOH because you thought you would have a gap in coverage through NYSOH after you were disenrolled from your Essential Plan as of February 29, 2016.
- 8) You testified you are now seeking to be enrolled back into the Essential Plan or to be allowed to choose a health plan that you can afford, and which your doctors participate in.

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

## **Applicable Law and Regulations**

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## 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 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), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on 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 \$20,090.00 for a three-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

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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).

### 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 advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250% of the applicable FPL for the plan year for which coverage is requested, (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

## **Legal Analysis**

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

The application that was submitted on February 10, 2016 listed an annual household income of \$36,400.00 and the eligibility determination relied upon that information.

You are in a three-person household. You expect to file your 2016 income taxes as head of household and will claim two dependents on that tax return.

The Essential Plan is provided through NYSOH 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 \$20,090.00 for a three-person household. Since an annual household income of \$36,400.00 is 181.18% of the 2015 FPL, NYSOH 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 credit to subsidize the purchase of a qualified health plan because they are considered eligible for minimum essential coverage through NYSOH.

Since the February 19, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

At the hearing you testified that as of March 1, 2016 you are enrolled in third party health insurance outside of NYSOH because you thought you would have a gap in coverage through NYSOH after you were disenrolled from your Essential Plan as of February 29, 2016.

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If you would like to reenroll into a plan through NYSOH please speak with customer service to discuss your current enrollment options.

## **Decision**

The February 11, 2016, eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** July 27, 2016

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

You remain eligible for the Essential Plan.

You are not eligible for advance payments of the premium tax credit, or cost-sharing reductions.

## **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 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.

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

## **Summary**

The February 19, 2016, eligibility determination notice is **AFFIRMED**.

You remain eligible for the Essential Plan.

You are not eligible for advance payments of the premium tax credit, or cost-sharing reductions.

## **Legal Authority**

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



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

