



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

Notice of Decision

Decision Date: August 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007220

[REDACTED]

Dear [REDACTED],

On July 20, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 20, 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 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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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health properly determine that you and your spouse were eligible to purchase a qualified health plan at full cost, effective April 1, 2016?

Procedural History

On January 21, 2016, NY State of Health (NYSOH) received your application for health insurance.

On January 22, 2016, an eligibility determination notice was issued with regard to the last application, finding you eligible to enroll in the Essential Plan, and your spouse was eligible to receive advance premium tax credits up to \$287.00 per month starting March 1, 2016. This determination was based on your reported household income of \$23,920.00 and your spouse's reported household income of \$52,000.00.

Also on January 22, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan and your spouse enrolled in a Platinum level qualified health plan starting March 1, 2016.

On February 19, 2016, NYSOH received your updated application for financial assistance. A preliminary determination was made finding you and your spouse ineligible for financial assistance, and your child eligible for Medicaid effective February 1, 2016.

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Also on February 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your spouse were found not eligible for financial assistance.

On February 20, 2016, an eligibility determination notice was issued finding you and your spouse eligible to purchase a qualified health plan at full cost effective April 1, 2016, and your child no longer eligible for Medicaid but that his coverage would continue until January 31, 2017. The determination further found you and your spouse ineligible for advance premium tax credits because you were already enrolled in minimum value employer sponsored insurance or have access to coverage that costs less than 9.5% of your income.

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 kept open 15 days for you to provide documentation showing your enrollment in your employer sponsored health insurance and the cost of coverage for yourself. No documentation was received within the 15 days and the record was closed.

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) You testified that you plan on filing your 2016 taxes as married filing jointly.
- 3) You testified you will be claiming your son as a dependent on that tax return.
- 4) The application that was filed on February 19, 2016 listed an annual household income of \$42,443.00. You testified that this amount was correct at the time you filed your application.
- 5) You testified that you and your spouse are eligible for and enrolled in health insurance through your employer which has a weekly cost of \$205.94. You provided documentation in the form of your paystubs showing the current cost. See Document [REDACTED]
- 6) The February 20, 2016, determination found you and your spouse ineligible for advance premium tax credits because you were already enrolled in minimum value employer sponsored insurance or have access to coverage that costs less than 9.5% of your income.

- 7) You testified that the insurance premiums through your employer make coverage with that insurance unaffordable to you.
- 8) You reside in Livingston County.

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 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 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

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§ 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 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 NYSOH properly determined that you and your spouse were eligible to purchase a qualified health plan at full cost effective April 1, 2016.

In the eligibility determination notice issued on February 20, 2016, NYSOH denied an advance premium tax credit to you because you were already enrolled in minimum value employer sponsored insurance or have access to coverage that costs less than 9.5% of your income.

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 a health plan offered through your employer. You testified that the insurance through your employer is unaffordable to you, and you would like to be found eligible to enroll in coverage with NYSOH. Employer-sponsored health insurance is considered to be affordable if the price of the plan for an individual costs no more than 9.66% of that person’s annual household income. NYSOH uses the amount you would pay for self-only coverage through your employer to calculate whether or not a plan is affordable.

You testified that you and your spouse are eligible for and enrolled in health insurance through your employer which has a weekly cost of \$205.94. You provided documentation in the form of your paystubs showing the current cost. See Document [REDACTED]

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The application that was filed on February 19, 2016, listed an annual household income of \$42,443.00. You testified that this amount was correct at the time you filed your application.

Therefore, your employer sponsored health insurance coverage would be unaffordable to you if the premium cost associated with the self-only plan was more than \$4,099.99 per year ($\$42,443.00 \times 9.66\%$).

During your telephone hearing the Hearing Officer kept the record open 15 days for you to provide documentation showing your enrollment in your employer sponsored health insurance and the cost of coverage for yourself. The provided documentation shows the cost for you and your spouse. To date docs were not received that would demonstrate the affordability of the health plan for you on an *individual* basis.

The record does not contain sufficient information to determine what the cost is for a self-only plan. Therefore, the February 20, 2016, eligibility determination is AFFIRMED.

Decision

The February 20, 2016, eligibility determination is AFFIRMED.

Effective Date of this Decision: August 12, 2016

How this Decision Affects Your Eligibility

You and your spouse are not eligible for financial assistance through NYSOH at this time.

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.

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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 February 20, 2016, eligibility determination is AFFIRMED.

You and your spouse are not eligible for financial assistance through NYSOH at this time.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

