



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

## Notice of Decision

Decision Date: July 25, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007232

[REDACTED]

Dear [REDACTED]

On July 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 19, 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 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 25, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007232

[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 April 1, 2016?

## Procedural History

On February 19, 2016, NY State of Health (NYSOH) received your completed application for financial assistance.

That same day, NYSOH preliminarily determined that you were eligible for the Essential Plan, effective April 1, 2016.

Also on February 19, 2016, you spoke with a representative from NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you could not afford to pay the monthly premium.

On February 20, 2016, NYSOH issued an eligibility determination notice that stated you were eligible to enroll in the Essential Plan, effective April 1, 2016, and needed to pick a health plan.

On February 26, 2016, NYSOH issued an enrollment notice confirming your Essential Plan selection, your monthly premium of \$46.56, and your plan enrollment start date of April 1, 2016.

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On July 21, 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 single and will not be claiming any dependents on that tax return.
- 2) You are seeking redetermination of your eligibility for financial assistance.
- 3) The application that was submitted on February 19, 2016, in which you requested financial assistance, listed annual household income of \$17,680.00 in earnings from your employment based on a weekly gross income of \$340.00. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) You testified that you cannot afford the additional expense of monthly insurance premiums because your net earnings are used for basic living needs, including rent and utilities. You would like these expenses to be factored in to determining your eligibility for financial assistance.
- 6) Your application states that you live in Bronx County, New York.

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

## **Applicable Law and Regulations**

### 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), 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 \$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).

A person can elect to purchase dental and vision coverage from their Essential Plan at an additional standard cost of \$26.56 per month.

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)).

### Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deductions in computing adjusted gross income.

### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may

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be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NYSOH has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## **Legal Analysis**

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

The application that was submitted on February 19, 2016 listed an annual household income of \$17,680.00 and the eligibility determination relied upon that information. During the hearing, you testified that the amount you provided in your application was correct. However, you asked that your current expenses, which include rent, electricity and other living expenses, be considered when calculating your annual household income. Since the Internal Revenue Service rules do not allow living expenses such as rent and utilities to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for financial eligibility purposes. Therefore, NYSOH correctly determined your household income to be \$17,680.00.

You are in a one-person household for purposes of this analysis because you expect to file your 2016 income taxes as single and will not be claiming any 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 \$11,770.00 for a one-person household. Since an annual household income of \$17,680.00 is 150.21% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

At 150.21% of the 2015 FPL, NYSOH also properly determined that you had a \$20.00 monthly premium payment and copays for certain services. In addition, the record reflects that you elected to purchase dental and vision coverage for an additional \$26.56 monthly premium for a total monthly premium of \$46.56. You may request to have the dental and vision coverage removed from your Essential Plan coverage at any time during the policy year to lower your monthly premium.

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Since the February 19, 2016 eligibility determination and February 20, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is **AFFIRMED**.

Notwithstanding, you testified that you cannot afford to pay monthly insurance premiums in addition to your basic monthly living expenses, which may qualify as a hardship. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **Decision**

The February 20, 2016 eligibility determination notice is **AFFIRMED**.

**Effective Date of this Decision:** July 25, 2016

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

You remain eligible for the Essential Plan.

You may request to have dental and vision coverage removed from your Essential Plan coverage at any time during the policy year to lower your monthly premium.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **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.

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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 notice is **AFFIRMED**.

You remain eligible for the Essential Plan.

You may request to have dental and vision coverage removed from your Essential Plan coverage at any time during the policy year to lower your monthly premium.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

### **Legal Authority**

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

