



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

Notice of Decision

Decision Date: November 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008382

[REDACTED]

Dear [REDACTED],

On September 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 2015 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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Issues

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 December 21, 2015, NYSOH received your updated application for financial assistance.

On December 22, 2015, NYSOH issued an eligibility determination based on the December 21, 2015 application, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2016. It further stated that you no longer qualify for a Qualified Health Plan as of January 31, 2016. The determination was based on your attested household income of \$18,720.00.

Also on December 22, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in Essential Plan 1 with a \$20.00 per month premium with a plan enrollment start date of February 1, 2016.

On March 28, 2016, you contacted NYSOH's Account Review Unit and requested an appeal insofar as you were not eligible for advance premium tax credits and wanted to be so you could select the silver level qualified health plan you had previously.

On April 12, 2016, NYSOH issued a disenrollment notice informing you that your coverage in the Essential Plan you had selected terminated as of February 29, 2016 for nonpayment.

Also on April 12, 2016 NYSOH issued eligibility redetermination and enrollment confirmation notices that stated you were eligible for and enrolled in an Essential Plan, effective May 1, 2016.

Additional cancellation and disenrollment notices were issued thereafter due to nonpayment of premium.

On September 29, 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. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on December 21, 2015, in which you requested financial assistance, listed annual household income of \$18,720.00 you earn from your employment. You testified that this amount was correct.
- 4) You testified that you earn \$9.00/hour and work a 40 hour week. You testified that you are paid weekly and your gross pay per week is about \$360.00.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) Your application states that you live in Richmond County, New York.
- 7) You testified that you are seeking to have your eligibility reviewed for advance premium tax credits so you can purchase a qualified health plan. You testified that your previous long-established doctors do not take the Essential Plan.

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

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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 § 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 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 Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (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 QHP, 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 requested (45 CFR §§ 155.300(a), 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 Federal Register 3236, 3237).

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Legal Analysis

The issue is whether NYSOH properly determined that you were eligible for the Essential Plan, effective February 1, 2016 and thereafter, as of May 1, 2016.

You testified that your weekly gross income was about \$360.00. For 52 weeks in a year, your expected household income would be \$18,720.00 which is the amount of yearly income you attested to on your December 21, 2015 application and the eligibility determination relied upon that information.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as single and will claim no 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 your annual household listed on your application as \$18,720.00 is 159.04% 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 December 22, 2015, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

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) for direction.

Decision

The December 22, 2015 eligibility determination notice is AFFIRMED.

This decision does not affect any subsequent redeterminations made, or enrollments or disenrollments confirmed by NYSOH.

Effective Date of this Decision: November 16, 2016

How this Decision Affects Your Eligibility

You were eligible for the Essential Plan in 2016, but your coverage has been terminated at least twice for nonpayment of premium.

You are not eligible for advance payments of the premium tax credit.

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.

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 December 22, 2015 eligibility determination notice is **AFFIRMED**.

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This decision does not affect any subsequent redeterminations made, or enrollments or disenrollments confirmed by NYSOH.

You were eligible for the Essential Plan in 2016, but your coverage has been terminated at least twice for nonpayment of premium.

You are not eligible for advance payments of the premium tax credit.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

