



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

## Notice of Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012308

[REDACTED]

Dear [REDACTED],

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 5, 2016 and August 31, 2016 eligibility determination notices.

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 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012308

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your spouse was eligible to enroll in the Essential Plan, with a \$20.00 monthly premium, effective February 1, 2016?

Did NYSOH properly determine that your spouse was eligible to enroll in the Essential Plan, with a \$0.00 monthly premium, effective September 1, 2016?

## Procedural History

On January 4, 2016 NYSOH received your application for health insurance.

On January 5, 2016, NYSOH issued a notice of eligibility determination, stating that your spouse was eligible to enroll in the Essential Plan, effective February 1, 2016. The notice stated that your spouse qualified for a monthly premium of \$20.00 because your household income of \$24,554.17 was less than the allowable income limit of \$31,860.00 for the Essential Plan.

On January 12, 2016, NYSOH issued an enrollment confirmation notice, stating that your spouse was enrolled in the Essential Plan, with a \$20.00 monthly premium, with a plan enrollment start date of February 1, 2016.

On August 23, 2016, you updated your application with NYSOH.

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On August 24, 2016, NYSOH issued an eligibility determination notice stating that your spouse was eligible for the Essential Plan for a limited time, effective September 1, 2016. The notice stated that your spouse qualified for the Essential Plan with \$0.00 monthly premium because your household income of \$15,284.25 was less than the allowable income limit of \$21,984.00 for the Essential Plan and that your spouse was in the first five years of her qualified immigration status or living in the United States under the color of law (PRUCOL).

On August 24, 2016, NYSOH issued an enrollment confirmation notice, stating that your spouse was enrolled in the Essential Plan, with \$0.00 monthly premium.

On August 31, 2016, NYSOH issued an eligibility determination stating that you were eligible for Medicaid, effective August 1, 2016. The notice also stated that your spouse was eligible for the Essential Plan, effective September 1, 2016.

On September 29, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of your spouse's eligibility determinations insofar as you believe your spouse's eligibility under the Essential Plan entitled her to a \$0.00 monthly premium, effective February 1, 2016.

On January 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until January 24, 2017 to allow you to submit supporting documents.

On January 20, 2017, the Appeals Unit received via fax a copy of a letter sent to your health plan with a summary of expenses, a copy of your bank's schedule of fee's, a listing of telephone conversations between your carrier and NYSOH, a copy of a handwritten fax log, three pharmacy receipts, 4 invoices from health care providers, copies of 3 billing receipts you received from your health plan, and copies of 7 invoices from your dental provider, these documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) Your application states that you will be filing taxes with a filing status of married filing jointly on your tax return.
- 2) Your NYSOH application dated January 4, 2016 lists an expected yearly household income of \$24,359.92.
- 3) Your spouse was determined eligible for the Essential Plan with a \$20 monthly premium, effective February 1, 2016.

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- 4) Your NYSOH application dated August 23, 2016 lists an expected yearly household income of \$15,284.25.
- 5) Your spouse was determined eligible for the Essential Plan 4 with a \$0.00 monthly premium, effective September 1, 2016.
- 6) The eligibility determination issued by NYSOH on August 24, 2016 states that your spouse qualified to enroll in the Essential Plan with a \$0.00 monthly premium because the household income listed in your application was \$15,284.25 and that your spouse was in the first five years of her qualified immigration status or living in the United States under the color of law (PRUCOL).
- 7) According to NYSOH records, your spouse was in the first five years of her qualified immigration status or living in the United States under the color of law (PRUCOL).
- 8) You testified that a NYSOH representative advised you that your spouse should have been eligible for the Essential Plan, with a \$0.00 monthly premium, effective February 1, 2016.
- 9) You are seeking that your spouse be retroactively determined eligible for the Essential Plan, effective February 1, 2016, with a \$0.00 monthly premium, due to her immigration status.

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 § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

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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 \$15,930.00 for a two-person household (80 Federal Register 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>).

### Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your spouse was eligible to enroll in the Essential Plan, with a \$20 monthly premium, effective February 1, 2016.

The application that was submitted on January 4, 2016 listed an annual household income of \$24,359.92 and the eligibility determination relied upon that information.

On January 5, 2016, NYSOH issued a notice of eligibility determination, stating that your spouse was eligible to enroll in the Essential Plan, effective February 1, 2016, with a \$20.00 monthly premium.

According to your application, you are in a two-person household. You expect to file your 2016 income taxes as married filing jointly on that tax return.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between 0% and 200% of the FPL. Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and

have a household modified adjusted gross income that is at or below 138% 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 income of \$24,359.92 is 152.9% of the 2015 FPL, your spouse was properly determined eligible for the Essential Plan.

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution. Therefore, as your annual household income was above 150% of the 2015 FPL, NYSOH properly determined that your spouse's premium for enrollment in the Essential Plan was \$20.00 per month.

Therefore, NYSOH properly determined that your spouse was eligible to enroll in the Essential Plan, with a \$20 monthly premium, effective February 1, 2016.

The second issue under review is whether NYSOH properly determined that your spouse was eligible to enroll in the Essential Plan, with a monthly premium of \$0.00, effective September 1, 2016.

The application that was submitted on August 23, 2016 listed an annual household income of \$15,284.25 and the eligibility determination relied upon that information.

On August 24, 2016, NYSOH issued an eligibility determination notice stating that your spouse was eligible for the Essential Plan for a limited time, effective September 1, 2016. The notice stated that your spouse qualified for the Essential Plan with \$0.00 monthly premium because your household income of \$15,284.25 was less than the allowable income limit of \$21,984.00 for the Essential Plan and that your spouse was in the first five years of her qualified immigration status or living in the United States under the color of law (PRUCOL).

According to your application, you are in a two-person household. You expect to file your 2016 income taxes as married filing jointly on that tax return.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between 0% and 200% of the FPL. Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% 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. An annual income of \$15,284.25 is 0.959% of the 2015 FPL. Since your annual income was below 138% of the FPL, your spouse was eligible for Medicaid, based on income.

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However, NYSOH records reflect that your spouse is a permanent resident, and has had permanent resident status for two to three years. As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan. Because your spouse was in her first five years of permanent residency, NYSOH properly determined that she did not meet the non-financial requirements for Medicaid. Therefore, NYSOH properly determined that your spouse was eligible for the Essential Plan, despite meeting the financial eligibility criteria for Medicaid.

In the Essential Plan, a person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution. Since your annual income was below 138% of the FPL, NYSOH properly determined your spouse to have a monthly premium of \$0.00.

Therefore, the January 15, 2016 eligibility determination properly stated that your spouse was eligible for the Essential Plan with a \$20.00 monthly premium, effective February 1, 2016 and is AFFIRMED; and the August 31, 2016 eligibility determination properly stated that your spouse was eligible for the Essential Plan with a \$0.00 premium, effective September 1, 2016 and is AFFIRMED.

## **Decision**

The January 15, 2016 eligibility determination notice is AFFIRMED.

The August 31, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** March 14, 2017

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

Your spouse remains eligible for the Essential Plan, and the monthly premiums remain as previously determined.

## **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.

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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 January 15, 2016 eligibility determination notice is AFFIRMED.

The August 31, 2016 eligibility determination notice is AFFIRMED.

Your spouse remains eligible for the Essential Plan, and the monthly premiums remain as previously determined.

### **Legal Authority**

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

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

