



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: AP000000013598

[REDACTED]

Dear [REDACTED],

On March 6, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's November 29, 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 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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## Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013598

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## Issue

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

Did NY State of Health (NYSOH) properly determine that you were eligible for the Essential Plan, with a \$20.00 per month premium?

## Procedural History

On November 28, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan for a limited time with a \$20.00 per month premium, effective January 1, 2017.

Also on November 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination, insofar as you were found eligible for the Essential Plan with a \$20.00 per month premium rather than a \$0.00 per month premium.

On November 29, 2016, NYSOH issued a notice of eligibility determination, based on the November 28, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time with a \$20.00 per month premium, effective January 1, 2017. That notice requested that you submit income documentation by February 26, 2017.

On January 21, 2017 you updated your application for financial assistance.

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On January 22, 2017, NYSOH issued a notice of eligibility determination, based on the January 21, 2016 application, stating that you were eligible to enroll in the Essential Plan with a \$20.00 per month premium, effective March 1, 2017.

On March 6, 2017, 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 2017 tax return 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 November 28, 2016 listed annual household income of \$20,000.00, consisting of wages you earn from your employment. You testified that this amount was not correct.
- 4) On January 21, 2017 you updated the income in your application to be \$22,930.41. You testified that this was based on the income in the W-2 you received from your employer. You further testified that you expect to receive the same amount in 2017.
- 5) Your application states, and you testified, that you will not be taking any deductions on your 2017 tax return.
- 6) Your application states, and you testified, that you live in Kings County.
- 7) You testified that you have bills including utilities that you would like deducted from your household income.

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

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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 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036.).

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).

### 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 federal taxable 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, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

## Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan with a \$20.00 per month premium, effective January 1, 2017.

The application that was submitted on November 28, 2016 listed an annual household income of \$20,000.00 and the eligibility determination relied upon that information.

During the hearing, you asked that your current expenses, which includes utilities, be considered when calculating your annual household income.

Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the NYSOH computes your modified adjusted gross income for financial assistance determination purposes. Therefore, NYSOH correctly determined your household income to be \$20,000.00.

You are in a one-person household. You expect to file your 2017 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 that is between 138% and 200% of the FPL for the applicable family size. A person who has a household income between 150% and 200% of the FPL will have a \$20.00 per month premium. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household. Since an annual household income of \$20,000.00 is 168.35% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan with a \$20.00 per month premium.

Since the November 29, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan with a \$20.00 per month premium, it is correct and is AFFIRMED.

During the hearing you testified that your income for 2016 was actually \$22,930.41 and that you anticipate that your 2017 income will be the same as your 2016 income. As you have already updated your application to reflect this income, and a new eligibility determination was issued January 22, 2017 based on this information, which is not the subject of this appeal, the NYSOH Appeals Unit declines to return the case to NYSOH for a redetermination based on this updated information.

## **Decision**

The November 29, 2016 eligibility determination notice is AFFIRMED.

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

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

You remain eligible for the Essential Plan with a \$20.00 per month premium.

## **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:

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- By fax: 1-855-900-5557

## **Summary**

The November 29, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan with a \$20.00 per month premium.

## **Legal Authority**

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



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

