

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

Notice of Decision

Decision Date: March 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013620

[REDACTED]

Dear [REDACTED],

On March 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 30, 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 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 issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you were eligible to enroll in the Essential Plan effective January 1, 2017?

Procedural History

On November 29, 2016, NYSOH received your updated application for financial assistance. In response to your application, NYSOH prepared a preliminary eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00, effective January 1, 2017.

Also on November 29, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible to enroll in a qualified health plan and receive an advance premium tax credit (APTC).

On November 30, 2016, NYSOH issued an eligibility determination notice based on the information contained in the November 29, 2016 application, stating that you are eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on November 30, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of November 29, 2016. The notice stated that your Essential Plan coverage would begin effective January 1, 2017.

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On March 3, 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, and your application reflects, that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself only.
- 3) The application that was submitted on November 29, 2016, which requested financial assistance, listed an annual household income of \$22,803.85, consisting of (1) \$1,493.77 from [REDACTED], (2) \$2,965.00 from [REDACTED] 21, (3) \$2,285.95 from [REDACTED], (4) \$572.52 from [REDACTED], (5) \$572.52 from [REDACTED], (6) \$1,429.13 from [REDACTED], (7) \$2,039.28 you received from [REDACTED], (8) \$8,866.18 from [REDACTED], and (9) \$2,579.50 you received from [REDACTED]. You testified that these amounts were correct when you provided them in your application.
- 4) You testified that the income amounts you provided were received in 2016, you expected to earn approximately the same amount during 2017.
- 5) Your application states that you will not be taking any deductions on your 2017 tax return.
- 6) You live in New York County, New York.
- 7) You testified that you were seeking to enroll in a QHP and receive tax credits, rather than remain enrolled in the Essential Plan, because specialist physicians you have been referred to by friends or your primary care physician typically do not accept the Essential Plan.

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

Applicable Law and Regulations

Essential Plan

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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 \$11,880.00 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 the Premium Tax Credit:

Advance payments of the premium tax credit (APTC) are 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 applicable 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 (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), 45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$11,880.00 for a one-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The only issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective January 1, 2017.

The application that was submitted on November 29, 2016 listed an annual household income of listed an annual household income of \$22,803.85 derived from nine separate income sources. The eligibility determination relied upon that information.

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 (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 \$11,880.00 for a one-person household. Since an annual household income of \$22,803.85 is 191.95% of the 2016 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 November 30, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan, and not eligible to enroll in a QHP and receive tax credits, it was correct and is **AFFIRMED**.

At the hearing you testified that your anticipated annual household income for 2017 will be approximately the same as what you provided in your November 29, 2016 application. Accordingly, there is insufficient evidence to return your case to NYSOH for a redetermination at this time.

Decision

The November 30, 2016 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: March 08, 2017

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

You are not eligible to enroll in a QHP and receive advance payments of the premium tax credit.

You are eligible, however, to enroll in a QHP at full cost.

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.

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:

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Summary

The November 30, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan.

You are not eligible to enroll in a QHP and receive advance payments of the premium tax credit.

You are eligible, however, to enroll in a QHP at full cost.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

