



Appeals Process – Small Business Marketplace Policy and Procedures

Policy:

Small Business Marketplace (SBM) employers and employees applying for health coverage in the NYSOH have the right to appeal their eligibility determination. The default review is paper based (Desk Review), but the appellant may request a telephone hearing. In either case, the review is performed by an impartial adjudicator employed by the NYS Department of Health (DOH). Adjudicators are Hearing Officers who are lawyers in NYS. Appellants may also participate in an Informal Dispute Resolution (IDR) process at any point, whether or not they file an appeal request.

Procedures:

- SBM employers and employees have 90 days from the date on their eligibility determination notice to request an appeal. The following are reasons a SBM participant can file an appeal:

SBM Employer –

Denial of Eligibility because:

- Not a qualified small employer
 - Employer has no common law employee
 - Employer has more than 50 employees
 - Organization is not an employer (e.g. does not have an employer identification number)
 - Employer does not have principle business address in NYS
- Employer does not offer all full-time employees coverage
- Failure of SBM to make a timely eligibility determination
- Failure of SBM to provide a notice of employer approval or denial of eligibility
- Other

SBM Employees –

Denial of Eligibility because:

- The applicant is not a qualified employee of a qualified employer that is participating in the SBM
- Failure of SBM to make a timely eligibility determination
- Other

NOTE: Employees who call the NYSOH Customer Service Center because their employer does not offer health insurance through SBM should be referred back to their employer or advised to contact the Labor Board.

- SBM employers and employees have 90 days from the date on their eligibility determination notice to request an appeal.
- Appeals can be requested through the web, phone, or mail/fax. The system of record for appeals is the NYSOH web portal. The NYSOH Eligibility Specialist Account Review Unit tracks the appeal and schedules the desk review or hearing.
- At any time through and including during the appeal hearing, the employer/employee can submit documentation to show why the NYSOH eligibility determination is incorrect. The kind of documentation that is needed is determined by the issues raised on appeal.
- The appeal can take place as a desk review or over the telephone. In SBM cases, desk review is the default, but an employer may request a telephone hearing. During a desk review, the Hearing Officer reviews the application and any other relevant evidence in the record but does not speak with the parties. The parties are not told when the desk review will be done, and they are not expected to be present. If the appellant wants a telephone hearing rather than a desk review, each party is sent a hearing notice giving the date and time of the telephone call. All parties have the opportunity to submit additional documentary evidence before or during the telephone hearing, give sworn testimony, question opposing parties, and explain why they believe the Marketplace's determination is correct or incorrect.
- The NY Appeals Unit at DOH has 90 days from the filing date of the valid appeal request to issue a decision on the appeal. The Hearing Officer's decision upholds the initial eligibility determination, remands the case for a new eligibility determination, or reverses the initial eligibility decision. If the eligibility determination is remanded or reversed, the NY Appeals Unit transfers the case to a DOH eligibility specialist for redetermination.
- An SBM employer has the option to select a desk review or a telephone hearing. SBM employees receive a desk review only. SBM employers/employees do not receive evidence packets, are not eligible for Aid to Continue, and cannot request an expedited appeal.

Informal Dispute Resolution (IDR) Process

- The Informal Dispute Resolution (IDR) process is available to every customer, whether or not an appeal is filed. Formal appeal hearings may be avoided if the employer's/employee's issue can be resolved during the IDR process. However, appellants are not required to participate in IDR.



- During the IDR process, the NYSOH Eligibility Specialist Account Review Unit assists the employer/employee by adding missing information, updating incorrect application information, or updating information that may have changed.
- If a new eligibility determination is made at the end of the successful IDR, a notice containing the new determination is issued. This new determination can itself be appealed within 90 days of issue.
- If the IDR resolves the appellant's issue and the appellant wishes to withdraw the appeal, the Eligibility Specialist provides instructions on appeal withdrawal. If the appellant does not withdraw the appeal request in writing, the NY Appeals Unit performs the desk review (or, if requested, holds the telephone hearing), regardless of whether the IDR was successful.