



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

Notice of Decision

Decision Date: September 2, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000699

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On July 21, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 21, 2014 denial of special enrollment period (SEP).

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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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[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you were not eligible for a special enrollment period (SEP) to enroll in a Qualified Health Plan (QHP) as of May 21, 2014?

Procedural History

On March 6, 2014, you initially applied for health insurance coverage through the New York state of Health Marketplace for yourself.

On March 7, 2014, the Marketplace issued an eligibility determination that you were eligible to enroll in a qualified health plan through New York State of Health. You were determined ineligible for tax credits because you were not a joint tax filer and ineligible for cost-sharing reductions because you were not eligible for tax credits.

On April 20, 2014, the Marketplace issued an eligibility redetermination that you were eligible to enroll in a qualified health plan, eligible to receive up to \$303.00 monthly of advanced premium tax credit (APTC), and cost-sharing reductions (CSR).

On May 21, 2014, the Marketplace issued an eligibility redetermination that you were eligible to receive up to \$303.00 monthly of APTC and CSR. The notice stated that you were ineligible to select a qualified health plan because you did not qualify for a special enrollment period.

On June 2, 2014, you spoke with the Marketplace Customer Service Unit and entered an appeal request for denial of a special enrollment period.

On July 21, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Translation services were provided by Spanish Interpreter [REDACTED]. Testimony was taken during the hearing. The record was developed and was closed at the end of the hearing.

Findings of Fact

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

1. On March 6, 2014, you applied for health insurance through the New York State of Health Marketplace for yourself (Testimony 6/26/2014).
2. You were unable to complete your Marketplace application and select a QHP in March 2014 (Testimony 6/26/2014).

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

Applicable Law and Regulations

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR §155.410(a)).

The initial open enrollment period began October 1, 2013 and extended through March 31, 2014 (45 CFR §155.410(b)).

After the open enrollment period is over, the Marketplace must provide special enrollment periods. During a special enrollment period qualified individuals may enroll in QHPs and enrollees may change QHP. The Exchange must allow a qualified individual or enrollee, and, when specified below, his or her dependent, to enroll in or change from one QHP to another if one of the following triggering events occur:

- (1) The qualified individual or his or her dependent loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage; or
 - (b) Enrolled in any non-calendar year health insurance policy that will expire in 2014, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or

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(c) Pregnancy-related coverage; or

(d) Medically needy coverage.

(2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or

(3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or

(4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or

(5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or

(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions; or

(7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or

(8) The qualified individual who is an Indian may enroll in a QHP or change from one QHP to another one time per month; or

(9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide; or

(10) A qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

(45 CFR § 155.420(d))

Legal Analysis

Currently at issue is whether you were properly denied a special enrollment period as of May 21, 2014.

The law requires that the Marketplace provide an open enrollment from October 1, 2013 until March 31, 2014. Once open enrollment period is over an individual must qualify for a special enrollment period to enroll in a QHP.

When an applicant's or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Marketplace or its instrumentalities, a special enrollment period may be granted

You credibly testified at the hearing that misinformation prevented you from completing your Marketplace application in March 2014 and that, as a result, you could not enroll in a QHP. Moreover, this problem appears to have arisen from an error by the Marketplace or its agent.

Therefore, you do qualify for a special enrollment period.

The Marketplace's May 21, 2014 determination is MODIFIED to state that you are granted a special enrollment period, which continues through September 30, 2014.

Decision

The May 21, 2014 eligibility determination is MODIFIED to state that you are granted a special enrollment period, which continues through September 30, 2014.

Effective Date of this Decision: September 2, 2014

How this Decision Affects Your Eligibility

You are eligible for a special enrollment period to enroll in a qualified health plan through September 30, 2014.

You continue to be eligible to for an advance premium tax credit of up to \$303.00 per month.

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).

If you enroll in a silver-level health plan through the Marketplace, you also are eligible for cost-sharing reductions.

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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520[c]).

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

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

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Summary

The May 21, 2014 eligibility determination is MODIFIED to state that you are granted a special enrollment period, which continues through September 30, 2014.

You are eligible for a special enrollment period to enroll in a qualified health plan through September 30, 2014.

You continue to be eligible to for an advance premium tax credit of up to \$303.00 per month.

If you enroll in a silver-level health plan through the Marketplace, you also are eligible for cost-sharing reductions.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]