



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

Notice of Decision

Decision Date: November 21, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000825

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 22, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 31, 2014 eligibility determination.

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 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]

Issue

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

Did the Marketplace properly determine that [REDACTED] were not eligible for a special enrollment period to enroll in a qualified health plan as of July 31, 2014?

Procedural History

The Marketplace received your first application for health insurance on July 30, 2014 for you and your spouse, [REDACTED].

On July 31, 2014, the Marketplace issued an eligibility determination that you and your spouse were eligible to receive up to \$582.00 per month in advance premium tax credit but did not qualify to select a health plan outside of the open enrollment period because the requirements to qualify for a special enrollment period were not met.

On August 6, 2014, the Marketplace issued an eligibility redetermination that you and your spouse still did not qualify to select a health plan outside of the open enrollment period because the requirements to qualify for a special enrollment period were not met.

On August 11, 2014, you spoke to the Marketplace's Customer Service Unit and appealed that determination.

On September 22, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the

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hearing and was left open for 15 days to allow you to submit supporting evidence. The Marketplace's Appeals Unit did not receive your supporting documentation within the 15-day period and the record was closed on October 7, 2014.

Findings of Fact

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

- 1) You testified that you attempted to apply for health insurance through the Marketplace for you and your spouse in November 2013.
- 2) You testified that you experienced technical difficulties when applying as the system kept crashing.
- 3) You testified that you applied numerous times between November 2013 and April 2014. You further testified that you tried to call the Marketplace multiple times to get assistance with your application but were unsuccessful in speaking with anyone.
- 4) According to your Marketplace account history, your account was created on April 4, 2014.
- 5) According to your Marketplace account history, you completed your application on July 30, 2014, and the Marketplace issued an eligibility determination in your case on July 31, 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 qualified health plan 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)). However, if an applicant was unable to complete enrollment by the March 31, 2014 deadline due to technological issues or Customer Service Center delays, the NY State of Health extended the open enrollment period to April 15, 2014.

After the open enrollment period is over, the Marketplace must provide special enrollment periods. During a special enrollment period qualified individuals may enroll in qualified health plans and enrollees may change qualified health plans. The Exchange must allow a qualified individual or enrollee, and, when specified below, his or her dependent, to enroll in or change from one qualified health plan 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
 - (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 qualified health plan 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 qualified health plan 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 qualified health plans as a result of a permanent move; or
- (8) The qualified individual who is an Indian may enroll in a qualified health plan or change from one qualified health plan 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 qualified health plan 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 and your spouse were properly denied a special enrollment period as of July 31, 2014.

The Marketplace was required to provide an open enrollment period from October 1, 2013 until March 31, 2014. However, the NY State of Health extended the open enrollment period to April 15, 2014 for applicants who experienced enrollment problems due to Marketplace technical problems or Customer Service Center delays. Once an open enrollment period ends, an individual must qualify for a special enrollment period to enroll in a qualified health plan.

You credibly testified at the hearing that you had technical problems and difficulties speaking with Marketplace Customer Service between November 2013 and April 2014.

According to the record, you successfully created your account on April 4, 2014, which was within the extended open enrollment period. However, you did not complete your application until July 30, 2014, after the open enrollment period ended.

At the hearing, you testified only to experiencing technological issues and Customer Service Center delays. You did not indicate that you experienced any

triggering events that would allow the Marketplace to grant you a special enrollment period.

Since the Marketplace properly found that you did not qualify for a special enrollment period, the July 31, 2014 determination is AFFIRMED.

However, the Marketplace's open enrollment period for 2015 insurance plans runs from November 15, 2014 to February 15, 2015. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

Decision

The July 31, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 21, 2014

How this Decision Affects Your Eligibility

You are not eligible for a special enrollment period.

However, the Marketplace's open enrollment period for 2015 insurance plans runs from November 15, 2014 to February 15, 2015. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

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

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- 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

Summary

The July 31, 2014 eligibility determination is AFFIRMED.

You are not eligible for a special enrollment period.

However, the Marketplace's open enrollment period for 2015 insurance plans runs from November 15, 2014 to February 15, 2015. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

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]