



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

Notice of Decision

Decision Date: December 22, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000911

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

Dear [REDACTED],

On October 3, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 8, 2014 eligibility determination.

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 at the top of this notice.

Legal Authority

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

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

Issue

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

Did the Marketplace properly determine that [REDACTED] was not eligible for a Special Enrollment Period (SEP) as of May 8, 2014?

Procedural History

On November 14, 2013, the Marketplace received your initial application for health insurance.

On November 15, 2013, the Marketplace issued a notice of eligibility determination stating that you are eligible to enroll in a qualified health plan (QHP), receive up to \$233.00 monthly of advanced premium tax credit (APTC), and receive cost-sharing reductions (CSR).

On May 8, 2014, the Marketplace issued a notice of eligibility determination stating that that you are eligible to enroll in a QHP, receive up to \$233.00 monthly of APTC, and receive CSR. The notice also states that you do not qualify to select a health plan outside of open enrollment because the requirements to qualify for a special enrollment period have not been met.

On June 24, 2014 and June 28, 2014, you reapplied for health insurance through the Marketplace.

On June 25, 2014 and June 29, 2014, the Marketplace issued a notices of eligibility determination stating that that you are eligible to enroll in a QHP, receive up to \$233.00 monthly of APTC, and receive CSR. These notices also state that you do not qualify to select a health plan outside of open enrollment

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because the requirements to qualify for a special enrollment period have not been met.

On September 2, 2014, you spoke with the Marketplace's Account Review Unit and appealed the Marketplace's decision to deny you a special enrollment period.

On October 3, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record is now complete and closed.

Findings of Fact

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

1. You initially applied for health insurance through the Marketplace on November 14, 2013. You were determined eligible to enroll in a qualified health plan (QHP), receive up to \$233.00 monthly of advanced premium tax credit (APTC), and receive cost-sharing reductions (CSR).
2. You testified that you selected Metroplus Health Plan as your qualified health plan in January 2014.
3. You testified that you contacted your medical specialist in January and April 2014 to find out if they accept Metroplus Health Plan's health insurance. You testified that your specialist's staff were not certain which qualified health plans they were going to accept.
4. You testified that you contacted your medical specialist in May 2014 and was told that the practice does not accept Metroplus Health Plan.
5. On May 6, 2014, you requested a special enrollment period in order to change health plans because your medical specialist does not accept Metroplus Health Plan.

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

Applicable Law and Regulations

The Exchange 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 each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another plan. This is permitted when one of the following triggering events occurs:

- (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 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

The Marketplace provided an open enrollment from October 1, 2013 until March 31, 2014. You testified that you enrolled in the Metroplus Health Plan during the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to change to another health plan offered in the Marketplace. Here, you requested a special enrollment period on May 6, 2014 in order to change from the Metroplus Health Plan to another plan.

You credibly testified you contacted your medical specialist in January 2014 and April 2014 to find out if that practice accepts Metroplus Health Plan's health insurance. You testified that your specialist was not certain which qualified health plans they were going to accept through the Marketplace. You testified that you contacted your medical specialist in May 2014 and were told that they do not accept Metroplus Health Plan.

You request a special enrollment period on grounds that, during the open enrollment period, your medical specialist was not certain which qualified health plans it would accept.

A special enrollment period can be granted on the basis of "error, misrepresentation, or inaction of an officer, employee, or agent of the [Marketplace] or [the U.S. Department of Health and Human Services], or its instrumentalities as evaluated and determined by the [Marketplace]" (45 CFR § 155.420(d)(4)). Here, the record does not indicate that the Marketplace, by action or inaction, made an error or misrepresented information regarding the plan that

you selected. Therefore, a special enrollment period cannot be granted under 45 CFR § 155.420(d)(4).

The facts as set out in the record do not suggest that any other triggering event described in 45 CFR § 155.420(d) has occurred.

Therefore, the Marketplace's determination to deny a special enrollment period is AFFIRMED.

Decision

The Marketplace's September 2, 2014 determination to deny the Appellant a special enrollment period, memorialized in the September 3, 2014 notice, is AFFIRMED.

Effective Date of this Decision: December 22, 2014

How this Decision Affects Eligibility

You remain eligible to receive up to \$233.00 monthly of advance premium tax credit and cost-sharing reductions.

You are not eligible for a special enrollment period to change your qualified health plan.

The Open Enrollment period for coverage during continues until February 15, 2015.

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:
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Summary

You remain eligible to receive up to \$233.00 monthly of APTC and CSR.

You are not eligible for a special enrollment period to change your qualified health plan.

The Open Enrollment period for 2015 coverage is November 15, 2014 to February 15, 2015.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

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