



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

Notice of Decision

Decision Date: January 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000993

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

Dear [REDACTED],

On October 15, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s August 30, 2014 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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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 to enroll in a qualified health plan as of August 28, 2014?

Procedural History

The Marketplace received your initial application for health insurance on May 1, 2014.

On May 22, 2014, you modified your application to add your spouse and your son to your household. You also indicated that you and your spouse would be filing a joint income tax return and claim your son as your sole dependent.

That same day, the Marketplace made a preliminary determination that, with a household income of \$32,000.00, you were temporarily eligible to enroll in a qualified health plan with an advance premium tax credit (APTC) of up to \$247.00 per month and, if you selected a silver-level plan, cost-sharing reductions, pending the receipt of additional documentation showing that you were no longer covered under Medicare Parts A or B.

On May 22, 2014, you uploaded May 22, 2014 correspondence in which United HealthCare confirmed that you were not enrolled with them in a New York Medicaid, Family Health Plus, or Medicaid Advantage plan as of March 31, 2014.

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On May 23, 2014, the Marketplace issued a notice of eligibility determination, the findings of which were consistent with the May 22, 2014 preliminary determination. It also noted that you had until May 29, 2014 to select a plan outside of the open enrollment period.

On June 9, 2014, you submitted a modified application for insurance and the Marketplace made a preliminary determination that you were not eligible to enroll in a qualified health plan at that time.

On June 25, 2014, you resubmitted your Marketplace application and uploaded to the Marketplace a July 5, 2013 letter from the Social Security Administration (2013 SSA Letter) stating that the last month of your Medicare coverage was June 2013, due to the failure to pay premiums. This letter also provided instructions on reinstating coverage.

On June 25, 2014, The Marketplace made a preliminary redetermination that you remained eligible for up to \$247.00 per month in APTC.

On June 26, 2014, the Marketplace issued a notice of eligibility redetermination, the findings of which were also consistent with the May 23, 2014 eligibility determination notice but added that you were ineligible to enroll in a qualified health plan outside the open enrollment period.

The Marketplace issued further notices of redetermination on July 1, 2014 and August 29, 2014, each consistent with the June 26, 2014 determination in that you were found ineligible to enroll in a qualified health plan (QHP) outside the open enrollment period because you did not qualify for a special enrollment period.

On August 30, 2014, the Marketplace issued a further notice of eligibility redetermination based on the documentation you submitted to the Marketplace. The findings under this determination were consistent with the June 26, 2014; July 1, 2014; and August 29, 2014 eligibility determinations, except that the determination was no longer temporary. Also, it did not state mention a special enrollment period.

On September 18, 2014, you appealed the denial of your request for another special enrollment period.

On October 15, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace'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 are married to [REDACTED] and have one child: [REDACTED] (1-year-old).
- 2) You are seeking insurance coverage only for yourself through the Marketplace.
- 3) You expect to file a U.S. Income Tax return for 2014 jointly with your spouse and claim your son as your sole dependent.
- 4) You reside in Kings County, New York.
- 5) You testified, and provided documentation showing, that you were no longer enrolled in a Medicaid plan issued or administered by UnitedHealthcare as of March 31, 2014. You further testified that this was the reason you were seeking health insurance through the Marketplace.
- 6) You testified that you submitted your initial application for health insurance through the Marketplace on May 1, 2014. In that application, you indicated that you were not enrolled in public health insurance coverage.
- 7) On May 1, 2014, the Marketplace made a preliminary determination that you were not eligible to purchase a plan through the Marketplace. During this period, you were unable to select a plan through the Marketplace.
- 8) On May 22, 2014, you provided documentation to the Marketplace that your prior insurance coverage ended on March 31, 2014.
- 9) On May 23, 2014, the Marketplace issued a notice of eligibility determination finding you temporarily eligible to enroll in a health plan and that you had a special enrollment period but must select a plan by May 29, 2014. You also were directed to provide proof by July 9, 2014 that you were no longer enrolled in Medicare Parts A or B.
- 10) You testified that you were not enrolled in Medicare Parts A or B coverage at the time of your May 1, 2014 application and all subsequent applications.

- 11) You testified that you did not select a plan between May 23, 2014 and May 29, 2014, because you could not find proof that you were no longer enrolled in Medicare.
- 12) You testified that once you did locate your copy of the 2013 SSA letter, you immediately uploaded it to your account on June 25, 2014.
- 13) You testified, and the evidence you submitted to the Marketplace on June 25, 2014 shows, that your Medicare Parts A or B ended in June 2013.
- 14) The Marketplace verified the 2013 SSA letter on August 29, 2014.
- 15) On June 26, 2014; July 1, 2014; July 9, 2014; and August 29, 2014, 2014, the Marketplace issued notices of eligibility determination stating that you were temporarily eligible to enroll in a qualified health plan with an advance premium tax credit and cost-sharing reductions. The notices requested evidence that your Medicare coverage had been terminated, because the information you provided did not match the Marketplace's records. The notices also stated that you did not qualify to select a health plan outside of the open enrollment period since you had not met the requirements to qualify for special enrollment period.
- 16) A notice issued on August 30, 2014 lacked the denial of a special enrollment period but otherwise contained the same information as the notices issued since June 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 qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)). The initial open enrollment period during which a qualified individual may select and enroll in a QHP began on October 1, 2013 and extended through March 31, 2014 (45 CFR § 155.410(b)).

Unless stated otherwise, a qualified individual has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)).

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

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QHP. A special enrollment period may be permitted when one of the following triggering events occurs:

- 1) The qualified individual or his or her dependent
 - i) loses health insurance considered to be minimum essential coverage
 - ii) is enrolled in a non-calendar-year health insurance policy that will expire in 2014, even if they have the option to renew the policy
 - iii) loses pregnancy-related coverage
 - iv) loses 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,
- 3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status,
- 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,
- 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,
- 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,
- 7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move,
- 8) The qualified individual who is an Indian may enroll in a QHP or change from one QHP to another one time per month,
- 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

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- 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

You testified, and provided documents showing, that you were no longer enrolled in a Medicaid plan issued or administered by UnitedHealthcare as of March 31, 2014. You further testified that this was the reason you were seeking health insurance through the Marketplace.

Federal regulations provide that a qualified individual has 60 days from the date of a triggering event to select a qualified health plan (QHP) in the Marketplace.

Losing your health insurance coverage as of March 31, 2014 was a triggering event that qualified you for a 60-day special enrollment period. The special enrollment period began on the date of your triggering event. Counted from March 31, 2014, that 60-day period expired on May 29, 2014.

You first applied for insurance through the Marketplace on May 1, 2014. That day, the Marketplace made a preliminary determination that you were not eligible to purchase insurance coverage.

On May 22, 2014, you uploaded clarifying documents, and the Marketplace made a preliminary redetermination that you could enroll in a QHP with an advance premium tax credit (APTC) and cost-sharing reductions.

On May 23, 2014, the Marketplace issued a notice confirming this redetermination and advising you that you “must review your options and confirm your selection by May 29, 2014.”

The record does not indicate that you selected a plan within 60 days after your qualifying event on March 31, 2014.

You submitted additional applications to the Marketplace after your special enrollment period ended and, on June 26, 2014; July 1, 2014; July 9, 2014; and August 29, 2014, the Marketplace issued notices indicating that, although you were temporarily eligible to enroll in a qualified health plan with APTC and cost-sharing reductions, you did not qualify for another special enrollment period. Accompanying each notice of eligibility determination was a document entitled

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“Instructions & Additional Information on How to Appeal.” This advised you that you had “60 days from the date on your eligibility notice to ask for an appeal.”

On September 18, 2014, you appealed the denial of your request for a special enrollment period.

Of the notices denying you another special enrollment period, your appeal is timely with reference to the one issued on August 29, 2014. The credible evidence of record indicates that since March 31, 2014 no triggering events have occurred that would qualify you for another special enrollment period. Although you did not seek insurance for the first half of your special enrollment period and did not provide supporting documentation until May 22, 2014, these facts in themselves do not constitute triggering events that would allow the Marketplace to authorize another special enrollment period.

However, since open enrollment for 2015 is currently in progress, you may enroll in coverage through the Marketplace and claim any financial support for which you qualify.

Decision

The Marketplace’s August 29, 2014 notice of eligibility determination is **AFFIRMED**.

Effective Date of this Decision: January 28, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You did not qualify for an additional special enrollment period after June 29, 2014. However, since open enrollment for 2015 is currently in progress, you may enroll in coverage through the Marketplace and claim any financial support for which you qualify.

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.

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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 date of 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 date 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:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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- By fax: 1-855-900-5557

Summary

The Marketplace's August 29, 2014 notice of eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You did not qualify for an additional special enrollment period after June 29, 2014. However, since open enrollment for 2015 is currently in progress, you may enroll in coverage through the Marketplace and claim any financial support for which you qualify.

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]