



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

Notice of Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002336

[REDACTED]

Dear [REDACTED],

On August 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 9, 2015 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).

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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Issue

The issue presented for review by the Appeals Unit of 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 through the Marketplace?

Procedural History

On April 9, 2015, the Marketplace issued an eligibility determination notice based on your April 8, 2015 application, stating that you were eligible to enroll in a qualified health plan (QHP) at full cost, effective May 1, 2015. It also stated that you did not qualify for a special enrollment period (SEP) to select a plan outside of the open enrollment period. You appealed this determination insofar as you were found not to have qualified for an SEP.

On August 10, 2015, 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 testified that you were outside of the U.S., for approximately 3 years (since 2012), and returned in October of 2014.

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- 2) You testified that you were unaware that you were required to have health insurance for the 2015 plan year.
- 3) You testified that [REDACTED] assisted you with your application after you initially tried to apply through a health insurance broker.
- 4) You testified, and the record reflects, that you first applied for health insurance through the Marketplace on April 8, 2015. You were found eligible to select a qualified health plan at full cost, effective May 1, 2015.
- 5) The notice issued by the Marketplace on April 9, 2015 stated that you did not qualify to select a plan outside of the open enrollment period.

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 annual open enrollment period during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)). The open enrollment period for the benefit year beginning on January 1, 2015 during which a qualified individual could enroll in a QHP and enrollees could change QHPs began on November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)).

However, the open enrollment period was extended to February 28, 2015 for individuals who took steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-in-line%E2%80%99-provision-ahead-february-15-open>).

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 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
 - a. loses health insurance considered to be minimum essential coverage

- b. 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
 - c. loses pregnancy-related coverage
 - d. 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
 - 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)).

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Legal Analysis

The only issue under appeal is whether the Marketplace correctly determined that you were not eligible for a special enrollment period as of April 9, 2015.

The Marketplace provided an open enrollment from November 15, 2014 until February 15, 2015 or February 28, 2015, if you had taken the necessary steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process. The record shows that you did not enroll in a health plan during the open enrollment period by February 15, 2015 or February 28, 2015.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in a health plan offered in the Marketplace.

You testified, and the record reflects, that you did not submit an application to the Marketplace until April 8, 2015. When you contacted the Marketplace to enroll in a health plan, you were informed that the open enrollment period had lapsed.

The facts as set out in the record do not suggest that any 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 eligibility determinations issued on April 9, 2015 is **AFFIRMED**.

Effective Date of this Decision: October 10, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You did not qualify for a special enrollment period.

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.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The Marketplace's eligibility determinations issued on April 9, 2015 is **AFFIRMED**.

This decision does not change your eligibility.

You did not qualify for a special enrollment period.

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You are encouraged to submit a new application to the Marketplace during the next open enrollment period, beginning November 15, 2015, for coverage to take effect on January 1, 2016.

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:

