



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

## Notice of Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002342

[REDACTED]

Dear [REDACTED],

On May 11, 2015 you appeared by telephone at a hearing of NY State of Health Marketplace's April 10, 2015 denial of a special enrollment period.

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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002342



## 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, effective May 1, 2015?

## Procedural History

On February 17, 2015, the Marketplace received your initial application for health insurance.

On February 18, 2015, the Marketplace issued a notice stating that you might be eligible for health insurance through NY State of Health but that more income information was needed to make a determination. The notice stated that in order for your eligibility to be determined you needed to submit income documentation by March 7, 2015.

On March 12, 2015, a copy of a letter from your employer was uploaded to your Marketplace account, confirming that you started working for your employer on February 23, 2015, as well as your wage rate and work schedule.

On March 13, 2015, the Marketplace issued a notice stating that you might be eligible for health insurance through NY State of Health but that more income information was needed to make a determination. The notice stated that in order for your eligibility to be determined you needed to submit income documentation by March 30, 2015.

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On March 27, 2015, copies of your paystubs issued on March 6, 2015, March 13, 2015, March 20, 2015, and March 27, 2015 were uploaded to your Marketplace account.

On March 28, 2015, the Marketplace issued a notice of eligibility redetermination, which stated that you were conditionally eligible to receive advance premium tax credits and cost-sharing reductions effective May 1, 2015. The notice further provided instructions on the “Next Steps for Picking a Plan.”

On April 10, 2015, the Marketplace issued a notice of eligibility redetermination, which stated that you were conditionally eligible to receive an advance premium tax credit and cost-sharing reductions; however, you did not qualify to select a health plan outside of the open enrollment period for 2015 because the requirements to qualify for a special enrollment period had not been met.

Also on April 10, 2015, the Marketplace issued a notice stating that on April 9, 2015 you requested a telephone hearing to review the issue of your denial of a Special Enrollment Period (SEP).

On May 11, 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 moved from Florida to New York on December 31, 2014.
- 2) You testified that you had health insurance through your previous employer in Florida during 2014. You further testified that your previous insurance coverage terminated on December 31, 2014.
- 3) You testified that you received notices from the Marketplace requesting income information to confirm your eligibility but were unable to provide four weeks of paystubs until March 27, 2015 because you recently started a new job on February 10, 2015 and did not have the requested number of paystubs available.
- 4) The record reflects that you submitted your initial application for health insurance on February 17, 2015.
- 5) You testified that you were misled about when your application was considered complete because your application for health insurance was

submitted on February 17, 2015, which was within the open enrollment period.

- 6) You did not submit any income documentation by the March 7, 2015, although your February 17, 2015 application indicated that you already anticipated earning \$13,100.00 in 2015.

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

## **Applicable Law and Regulations**

### Enrollment Periods

The Marketplace must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHP's (45 CFR §155.410(a)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)); however, the open enrollment period was further 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-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 their enrollment to another plan. This is permitted when 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;
  - (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

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(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 QHP's 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)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)).

### Eligibility Determination Notices

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)).

To assess whether an eligibility determination was timely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly denied you a special enrollment period, effective 1, 2015.

The Marketplace provided an open enrollment from November 15, 2014 until February 15, 2015, and later extended the open enrollment period to February 28, 2015 for people who could not complete their application by the February 15, 2015 deadline.

The record reflects that you submitted your initial application for health insurance on February 17, 2015, which was within the extended open enrollment period. However, the Marketplace issued a notice on February 18, 2015 that stated that in order for your eligibility to be determined you needed to submit income documentation by March 7, 2015. No income documentation was submitted by that date.

On March 12, 2015, a copy of a letter confirming your employment, wage rate, and work schedule was uploaded to your Marketplace account. The record reflects that further proof of income was uploaded to your Marketplace account on March 27, 2015. However, both the letter and the paystubs you provided were received after the March 7, 2015 deadline, without explanation. Additionally, as of your February 17, 2015 application, you already anticipate having income, so it appears you were aware at that time that you would shortly be starting work. Therefore, your application was completed outside of the open enrollment period.

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Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in the Marketplace. In order to qualify for a special enrollment period, a person must experience a triggering life event.

You testified that you permanently moved to New York on December 31, 2014, which is considered a triggering life event.

When a triggering life event occurs, the qualified individual has 60 days from the date of that event to select a qualified health plan (QHP).

Sixty days from December 31, 2014 was March 1, 2015; therefore, you were eligible to select a QHP outside of the open enrollment period until March 1, 2015. The record reflects that your application was not complete until March 27, 2015, which was after your special enrollment period expired.

The credible evidence of record indicates that no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, the Marketplace's April 10, 2015 determination that you do not qualify for a special enrollment period is AFFIRMED.

## **Decision**

The Marketplace's April 10, 2015 determination that you do not qualify for a special enrollment period is AFFIRMED.

**Effective Date of this Decision:** August 27, 2015

## **How this Decision Affects Your Eligibility**

You do 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

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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 April 10, 2015 determination that you do not qualify for a special enrollment period is AFFIRMED.

You do not qualify for a special enrollment period.

### **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:**

