



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

Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002404

[REDACTED]

Dear [REDACTED],

On May 28, 2015 you appeared by telephone at a hearing on your request for 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).

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002404



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?

Procedural History

On January 13, 2015, the Marketplace received your application for health insurance.

On January 14, 2015, the Marketplace issued a notice that you “may be eligible for health insurance through [the Marketplace] but more information is needed to make a determination.” The notice directed you to submit income documentation to the Marketplace.

On January 27, 2015, you faxed income documentation to the Marketplace.

On January 30, 2015, you mailed the same income documentation to the Marketplace.

On February 4 and February 12, 2015, the Marketplace issued notices that “[a]dditional information is required to make sure we know your correct proof of income.”

On April 7, 2015, you updated your Marketplace account.

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On April 8, 2015, the Marketplace issued a notice of eligibility determination that you are eligible for up to \$218.00 of advance premium tax credits and cost-sharing reductions, if you select a silver-level qualified health plan. The notice also stated that you “do not qualify to select a health plan outside of the open enrollment period.”

On April 14, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal insofar as being denied a special enrollment period.

On May 28, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open until June 11, 2015 to allow you to submit additional income documentation to the Marketplace Appeals Unit.

On June 11, 2015, you sent an eleven-page fax to the Marketplace Appeals Unit. The fax has been marked as “Appellant Exhibit A” and has been made part of the record. The record is now complete and closed.

Findings of Fact

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

1. On January 13, 2015, the Marketplace received your application for health insurance.
2. You attested to having two sources on income on your January 13, 2015 health insurance application: [REDACTED] and [REDACTED].
3. On January 14, 2015, the Marketplace issued a notice that “more information is needed to make a determination.” The notice directed you to “submit income information documentation for your household by January 31, 2015 to confirm that the information you provided in your application is accurate.” Included in the list of acceptable income documentation was 4 weeks of paycheck stubs.
4. On January 27, 2015, you faxed income documentation to the Marketplace. You subsequently mailed the income documentation to the Marketplace on January 30, 2015 and was received on February 2, 2015.

5. Based on the income documentation you faxed to the Marketplace on January 27, 2015 and mailed on January 30, 2015, you received from [REDACTED]:
 - (a) \$300.00 on 12/26/2015;
 - (b) \$190.00 on 1/2/2015;
 - (c) \$190.00 on 1/9/2015;
 - (d) \$310.00 on 1/16/2015;
 - (e) \$230.00 on 1/23/2015.

6. Based on the income documentation you faxed to the Marketplace on January 27, 2015 and mailed on January 30, 2015, you received from [REDACTED]:
 - (a) \$150.00 on 12/5/2015;
 - (b) \$161.75 on 12/26/2015;
 - (c) \$173.00 on 1/2/2015 (year-to-date (YTD) \$173.00);
 - (d) \$139.50 on 1/9/2015 (YTD \$312.50);
 - (e) \$165.00 on 1/26/2015 (YTD \$477.50).

7. On April 7, 2015, you updated your Marketplace account and on the following day the Marketplace issued a notice of eligibility determination that you are eligible for up to \$218.00 of advance premium tax credits and cost-sharing reductions, if you select a silver-level qualified health plan. The notice also stated that you “do not qualify to select a health 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 may enroll in a QHP and enrollees may change QHPs begins on November 15, 2014 and extends through February 15, 2015 (45 CFR § 155.410(e)).

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:

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- 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 2015, 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

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.

In certain circumstances a special enrollment period is granted to individuals so that they may enroll in a qualified health plan outside of the open enrollment period if the individual experiences a triggering event.

When an applicant'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 Marketplace or its instrumentalities, a special enrollment period may be granted.

The record shows that you applied for health insurance through the Marketplace on January 13, 2015. On the following day the Marketplace issued a notice that "more information is needed to make a determination." The notice directed you to "submit income information documentation for your household by January 31, 2015 to confirm that the information you provided in your application is accurate." Included in the list of acceptable income documentation was 4 weeks of paycheck stubs.

The record shows that you faxed income documentation to the Marketplace on January 27, 2015 and subsequently mailed the documentation on January 30, 2015. This documentation contains the requested 4 weeks of paycheck stubs and sufficient information for the Marketplace to render an eligibility determination during the open enrollment period.

Therefore, since your Marketplace account contained sufficient income documentation for the Marketplace to render an eligibility determination prior to February 15, 2015, the April 8, 2015 eligibility determination notice is MODIFIED to state that you do qualify to select a health plan outside of the open enrollment period.

You are granted a special enrollment period during which you may enroll in a qualified health plan if you have not already done so. The special enrollment period runs for 60 calendar days from the effective date of the Decision.

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).

Decision

The April 8, 2015 eligibility determination notice is MODIFIED to state that you are granted a special enrollment period for 60 calendar days following the date of the Decision.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

You are eligible for a special enrollment period to enroll in a QHP for 60 calendar days following the date of the Decision.

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

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

Summary

The April 8, 2015 eligibility determination notice is MODIFIED to state that you are granted a special enrollment period for 60 calendar days following the date of the Decision.

You are eligible for a special enrollment period to enroll in a QHP for 60 calendar days following the date of the Decision.

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



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