



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

Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002423

[REDACTED]

Dear [REDACTED]

On July 27, 2015, you appeared by telephone at a hearing on your April 15, 2015 appeal request regarding the Marketplace's 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).

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002423

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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, as of April 16, 2015?

Procedural History

On April 15, 2015, the Marketplace received your application for health insurance and prepared a preliminary eligibility determination, stating that you were eligible to receive advance premium tax credits.

On that same date, you spoke to the Marketplace's Account Review Unit and appealed the denial of a special enrollment period during which you could enroll in a health plan outside of the open enrollment period.

On April 16, 2015, the Marketplace issued a notice of eligibility determination, based on the information contained in the April 15, 2015 application, stating that you were eligible to receive an advance premium tax credit of up to \$82.00 per month.

On May 26, 2015, the Marketplace issued a notice of eligibility determination, stating, in pertinent part, that you were not eligible for a special enrollment period.

On July 27, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and

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left open for up to 15 days to provide you an opportunity to submit supporting evidence.

The Marketplace's Appeals Unit did not receive your supporting evidence by August 11, 2015, and the record was closed.

Findings of Fact

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

- 1) The record reflects that you submitted your initial application for health insurance on April 15, 2015.
- 2) You testified that you had health insurance in 2014 and you did not incur any tax penalties.
- 3) You testified that you moved to New York State in April 2014.
- 4) You testified that your previous health insurance coverage ended on December 31, 2014.
- 5) You testified that you believed you had more time to submit your application for health insurance for 2015 coverage.

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 QHPs (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
 - (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

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- (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)(1)).

The Marketplace has provided a special enrollment period for individuals who were uninsured in 2014 and owed a federal tax penalty (“Special Enrollment Periods,” <http://info.nystateofhealth.ny.gov/SpecialEnrollmentPeriods>). For those who qualify, the SEP began on March 1, 2015 and ended at 11:59 p.m. on April 30, 2015 (*id*).

Legal Analysis

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

On April 15, 2015, you spoke with the Marketplace and requested a special enrollment period. You were verbally told that you were not eligible for a special enrollment period at that time. The record does not contain a notice of eligibility determination regarding your April 15, 2015 denial of a special enrollment period. It does contain an April 16, 2015 notice in which the Marketplace acknowledges receipt of an appeal request and identifies the issue on appeal as “Verbal denial of SEP. Consumer does not meet SEP requirements.” A notice sent on May 26, 2015 did say that you were not eligible for a special enrollment period.

The Marketplace provided an open enrollment period from November 15, 2014 until February 15, 2015, which was later extended to February 28, 2015 for people who could not complete their application by the February 15, 2015 deadline. The record reflects that you submitted a complete application on April

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15, 2015. Therefore, you did not complete your application 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 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 event.

The Marketplace granted a special enrollment period, from March 1, 2015 to April 30, 2015, for individuals who were uninsured in 2014 and owed a federal tax penalty.

You credibly testified that you were insured in 2014 and did not incur a federal tax penalty. Therefore, you did not qualify for the special enrollment period granted by the Marketplace on this basis.

You testified that you permanently moved to New York State in April 2014, which is considered a triggering life event.

Generally, when a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

Sixty days from, approximately, April 1, 2014 was May 31, 2014. Since this triggering life event occurred during the 2014 benefit year, you would have qualified to select a qualified health plan outside of the open enrollment period for 2014 until, approximately, May 31, 2014. However, this special enrollment period expired prior to the 2015 open enrollment period.

You further testified that your previous insurance coverage ended on December 31, 2014, which is also considered a triggering life event.

Sixty days from December 31, 2014 was March 1, 2015; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until March 1, 2015. The record reflects that your application was not complete until April 15, 2015, which was after your special enrollment period expired.

The credible evidence of record indicates that, since the open enrollment period closed on February 28, 2015, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, the Marketplace's determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is **AFFIRMED**.

Decision

The Marketplace's determination to deny you a special enrollment period is **AFFIRMED**.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period to enroll in a qualified health plan at this time.

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
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- By fax: 1-855-900-5557

Summary

The Marketplace's determination to deny you a special enrollment period is **AFFIRMED**.

You do not qualify for a special enrollment period to enroll in a qualified health plan at this time.

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:

