



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

Notice of Decision

Decision Date: September 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002437



Dear [REDACTED],

On July 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 17, 2015 eligibility determination notice.

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 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 April 17, 2015?

Procedural History

The Marketplace received your application for health insurance on April 16, 2015. The Marketplace rendered a preliminary eligibility determination that you are eligible for up to \$184.00 of advance premium tax credits and cost-sharing reductions.

On that same day you spoke to the Marketplace Account Review Unit and requested to appeal your denial of a special enrollment period.

On April 17, 2015, the Marketplace issued an eligibility determination notice stating that you are eligible to receive up to \$184.00 of advance premium tax credits and cost sharing reductions, if you select a silver-level plan, effective June 1, 2015. The notice also stated that you do not qualify to select a health plan outside of the open enrollment period.

On July 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 closed at the end of the hearing.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself.
2. You testified that you first attempted to apply for health insurance in the beginning of February 2015.
3. You testified that you contacted the Marketplace on the same day for assistance because you were not able to successfully complete the application. However, you remained on hold and did not receive assistance in completing the application.
4. You testified that you contacted the Marketplace for assistance at the end February 2015. However, you remained on hold and did not receive assistance in completing the application.
5. You testified that with the assistance of a family member, you were able to complete the health insurance application in April 2015.
6. On April 17, 2015, the Marketplace issued an eligibility determination notice stating that you do not qualify to select a health plan outside of the open enrollment period.
7. You testified that you lost your job on July 14, 2015. You applied for unemployment insurance benefits on July 15, 2015, but have not received a response from the Department of Labor.

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)).

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

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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 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
 - i) loses health insurance considered to be minimum essential coverage;
 - ii) is enrolled in a non-calendar-year health insurance policy that expires, even if they have the option to renew the policy;
 - iii) loses pregnancy-related coverage; or
 - 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,

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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,
- 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)).

Legal Analysis

The issue under appeal is whether or not the Marketplace correctly determined that you were not eligible for a special enrollment period on April 17, 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 that you attempted to apply for health insurance through the Marketplace in the beginning and the end of February 2015. You contacted the Marketplace for assistance because you were not able to successfully complete the application. However, you remained on hold and did not receive assistance in completing the application.

You testified that with the assistance of a family member, you were able to complete the health insurance application in April 2015. However, by the time you successfully completed the application, the open enrollment period had closed.

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 April 17, 2015 eligibility determination to deny a special enrollment period is AFFIRMED.

You testified that you lost your job on July 14, 2015. You applied for Unemployment Insurance Benefits (UIB) on July 15, 2015, but have not received a response to date. At this time you did not provide sufficient testimony or documents to return your case to Marketplace to recalculate your benefits on a yearly or monthly basis. However, please contact the Marketplace when you have sufficient documentation of your change in income.

Decision

The Marketplace's April 17, 2015 notice of eligibility determination insofar as stating that you do not qualify for a special enrollment period is AFFIRMED.

Effective Date of this Decision: September 14, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You did not qualify for a special enrollment period.

Please contact the Marketplace when you have sufficient documentation of your change in income.

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

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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):

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Summary

The Marketplace's April 17, 2015 notice of eligibility determination insofar as stating that you do not qualify for a special enrollment period is **AFFIRMED**.

This decision does not change your eligibility.

You did not qualify for an additional special enrollment period.

Please contact the Marketplace when you have sufficient documentation of your change in income.

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

