



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: AP000000002538

[REDACTED]

Dear [REDACTED]

On May 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 22, 2015 and April 23, 2015 eligibility determinations.

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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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?

Procedural History

On March 17, 2015 the Marketplace received your initial application for health insurance, in which you declined financial assistance.

On March 18, 2015 the Marketplace issued an eligibility determination notice that stated you were eligible to purchase a qualified health plan (QHP) at full cost through NY State of Health. The notice further stated that you qualified to select a health plan outside of the open enrollment period. The notice instructed you to review your options and confirm your plan selection by April 1, 2015. If you did not choose a plan by April 1, 2015, you might have to wait to enroll in a plan until the next open enrollment period.

On March 18, 2015, you modified your application to request financial assistance.

On March 19, 2015 the Marketplace issued an eligibility redetermination notice stating that you were newly eligible for advance premium tax credits (APTC), effective May 1, 2015. The notice again stated that you qualified to select a health plan outside of the open enrollment period, but that you would need to review your options and confirm your plan selection by April 1, 2015. If you did

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not choose a plan by April 1, 2015, you might have to wait until the open enrollment period.

No health plan selections were made in your account by April 1, 2015.

On April 22, 2015 and on April 23, 2015, after several additional modifications were made to your account, the Marketplace issued eligibility determination notices that stated you were eligible to receive an APTC, effective June 1, 2015. However, the notices stated that you did not qualify for a special enrollment period to select or change a plan outside of the open enrollment period. You appealed these determinations insofar as you did not qualify for 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 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 enrolled in Healthfirst Medicaid Managed Care (MMC) plan up until January 31, 2015, when such coverage was cancelled. You further testified that you believe you were enrolled through your Human Resource Administration in New York City, but were not sure.
- 2) You testified that after applying online in March, you weren't sure which plan you should pick and wanted to do more research before selecting a plan. You further testified that you were told by a Marketplace representative that since that was the case, you could wait until a later date to select a plan.
- 3) You testified, and your applications reflect, that you did not select or enroll in a plan through the Marketplace.

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 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)).

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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-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 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
- (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)).

Legal Analysis

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

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 did not submit an application for health insurance until March 17, 2015, which was outside of 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

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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 your previous insurance coverage through Medicaid ended on January 31, 2015, 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 January 31, 2015 was April 1, 2015; therefore, you were eligible to select a QHP outside of the open enrollment period until April 1, 2015. In the eligibility determination notices issued on March 18, 2015 and on March 19, 2015 the Marketplace properly granted you a special enrollment until April 1, 2015.

The record reflects that you did not select or enroll in a health plan prior to April 1, 2015.

On April 22, 2015 and on April 23, 2015 the Marketplace redetermined your eligibility and found that you did not qualify to select a QHP outside of open enrollment.

The credible evidence of record indicates that no other triggering events have occurred that would qualify you for a special enrollment period outside of your initial special enrollment period that ended on April 1, 2015.

Therefore, the Marketplace's determination to deny a special enrollment period, as reflected in the April 22, 2015 and April 23, 2015 eligibility determinations, is AFFIRMED.

Decision

The April 22, 2015 and April 23, 2015 eligibility determinations are AFFIRMED.

Effective Date of this Decision: September 3, 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 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:

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Summary

The on April 22, 2015 and April 23, 2015 eligibility determinations are **AFFIRMED**.

You did not qualify for a special enrollment period.

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A Copy of this Decision Has Been Provided To:

