



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

Notice of Decision

Decision Date: September 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002673

[REDACTED]

Dear [REDACTED],

On May 29, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 1, 2015 eligibility determination.

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).

This page intentionally left blank.

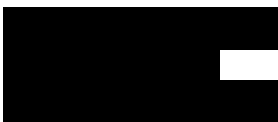


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: September 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002673



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?

Procedural History

On April 30, 2015 the Marketplace received your application for health insurance and prepared a preliminary eligibility determination in your case. It stated that you were eligible to enroll in a qualified health plan (QHP) through the Marketplace.

On May 1, 2015, the Marketplace issued a notice stating that on April 30, 2015, you requested a telephone hearing to review the issue of your denial of a Special Enrollment Period (SEP).

Also on May 1, 2015, the Marketplace issued a notice of eligibility determination based on the April 30, 2015 application for health insurance. It stated that you were eligible to purchase a QHP at full cost through NY State of Health, but did not qualify to select a health plan outside of the open enrollment period for 2015.

On May 29, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

On June 5, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included screenshots of an e-mail sent to you by HealthCare.gov on April 30, 2015 stating, in part, "The Special Enrollment Period ends today. If you owed the fee for not having coverage in 2014, take advantage of this chance to get covered for 2015. To beat the deadline, you must enroll today." This evidence was collectively marked as Appellant's Exhibit 1 and incorporated into the record.

The record was closed on June 5, 2015.

Findings of Fact

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

- 1) You testified that you are recently married and permanently moved from New Jersey to New York on January 31, 2015.
- 2) You testified that you believed you had until June 1, 2015 to enroll in health insurance coverage through the Marketplace.
- 3) You testified, and the record reflects that you submitted your application for health insurance on April 30, 2015. You testified that you relied upon an e-mail notification sent to you by HealthCare.gov stating that the last date to enroll in a plan was April 30, 2015.
- 4) You provided evidence of the e-mail notification sent to you on April 30, 2015. It states in part, "The Special Enrollment Period ends today. If you owed the fee for not having coverage in 2014, take advantage of this chance to get covered for 2015. To beat the deadline, you must enroll today" (Appellant's Exhibit 1).
- 5) You testified that you did not incur a tax penalty due to lack of health insurance coverage in 2014 because you were continuously enrolled in health insurance coverage for the 2014 tax year.

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)).

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).

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)).

The Marketplace provided a special enrollment period for individuals who were uninsured in 2014 and owed a federal tax penalty as a result of being uninsured ("Special Enrollment Periods," <http://info.nystateofhealth.ny.gov/SpecialEnrollmentPeriods>). For those who qualified, the SEP began on March 1, 2015 and ended at 11:59 p.m. on April 30, 2015 (*id.*). However, individuals who owed a penalty for not having coverage in 2014, but were already enrolled in coverage through the Marketplace for 2015, were not eligible to use the special enrollment period to switch plans ("Owe a fee for not having health coverage in 2014? You may still be able to get coverage for 2015," <https://www.healthcare.gov/blog/tax-penalty-special-enrollment-period-for-2015-health-coverage/>).

Legal Analysis

The issue under review is whether you were properly denied a special enrollment period, effective June 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 did not submit an application for health insurance until April 30, 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 health plan offered in the Marketplace. In order to qualify for a special enrollment period, a person must experience a triggering life 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 submitted as evidence an email you received on April 30, 2015 that states in part, "The Special Enrollment Period ends today. If you owed the fee for not having coverage in 2014, take advantage of this chance to get covered for 2015. To beat the deadline, you must enroll today". You testified that you relied on this email and believed you still had time to enroll in a health plan. However, 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. Moreover, since you did not get the email until April 30, 2015, you could not have relied on it when you failed to apply for a plan before the open enrollment period ended.

However, you testified that you moved to the State of New York 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. The record reflects that your application was submitted on April 30, 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 May 1, 2015 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is **AFFIRMED**.

Decision

The May 1, 2015 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: September 8, 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:

- 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 May 1, 2015 eligibility determination 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).

A Copy of this Decision Has Been Provided To:

