



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002735

[REDACTED]

Dear [REDACTED]

On October 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 10, 2015 eligibility determination denying you 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 Code of Federal Regulation (CFR) 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 NY State of Health is:

Did the Marketplace properly determine on April 10, 2015 that you were not eligible for a special enrollment period?

Procedural History

On February 2, 2015, the Marketplace received your application for health insurance in 2015.

On February 3, 2015, the Marketplace issued a letter that the income information you provided does not match federal and state data sources and an eligibility determination cannot be made until you submitted additional income documentation regarding your household. You were given until February 20, 2015 to comply.

On February 7 and 12, 2015, you submitted income documentation to the Marketplace, which it verified on February 17, 2015.

On March 19, 2015, the Marketplace issued a notice of eligibility redetermination that you were eligible to receive up to \$189.00 in advance premium tax credits (APTC) and, if you selected a silver-level qualified health plan, eligible for cost sharing reductions (CSR), effective May 1, 2015. That notice also informed you how to pick a health plan.

On April 10, 2015, the Marketplace issued another notice of eligibility redetermination with the same APTC and CSR findings as contained in the March 19, 2015 notice, but it stated that you did not qualify to select a health plan outside of the open enrollment

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period for 2015 because you did not meet any of the requirements for a special enrollment period. The notice further stated that, to qualify for a special enrollment period, you must report a qualifying event and provide supporting documentation, if required, within 60 days of the qualifying event.

On May 4, 2015, the Marketplace prepared a preliminary eligibility redetermination also with the same APTC and CSR findings as contained in the March 19, 2015 and April 10, 2015 notices, with a June 1, 2015 effective date. You were again denied a special enrollment period because you had not met any of the requirements to enroll outside the open enrollment period for 2015 and were required to report the qualifying event within 60 days of its occurrence.

That same day, you spoke with a representative from the Marketplace's Account Review Unit and appealed the May 4, 2015 preliminary eligibility redetermination insofar as you were not granted a special enrollment period that would allow you to select and enroll in a health plan through the Marketplace.

On May 5, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the May 4, 2015 preliminary redetermination.

On July 7, 2015, the Marketplace issued another notice of eligibility redetermination that you were eligible to receive up to \$171.00 in APTC and, if you select a silver-level qualified health plan, eligible for CSR, effective August 1, 2015. That notice further stated that you do not qualify to select a health plan outside of the open enrollment period for 2015 and were required to report the qualifying event within 60 days of its occurrence.

At your request, a July 10, 2015 Notice of Dismissal - Telephone Withdrawal was vacated and you were granted a new hearing.

On October 5, 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 applied for health insurance through the Marketplace on February 2, 2015, because your minimum essential coverage through the health plan you had outside the Marketplace ended December 31, 2014.
- 2) You testified that you plan on filing your 2015 federal taxes using the tax filing status of Single and that you will not be claiming any dependents on that return.

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- 3) According to your Marketplace account, you listed your expected 2015 annual household income as \$24,250.00 from earnings. You testified that this amount is accurate now, but may increase by as much as \$1,500.00 by year end, which you will report to the Marketplace if the increase occurs.
- 4) According to your Marketplace account and your testimony at hearing, on February 7, 2015 and February 12, 2015, you uploaded to your Marketplace account your W-2 statements from 2014 in the amounts of \$20,982.10 and \$4,412.51 respectively from your two employments that year. You also uploaded a February 12, 2015 letter from one employer confirming your employment since December 2, 2013 to present and your gross weekly wages of \$440.00 per week (Appellant's Exhibit A). These income documents were verified by the Marketplace on February 17, 2015.
- 5) You testified and submitted a letter on August 12, 2015, that you timely provided income documentation to the Marketplace within 60 days of losing your minimum essential coverage and, after the March 19, 2015 notice of eligibility redetermination was issued, you attempted to select a plan but only got an error page online (Appellant's Exhibit B).
- 6) You testified a Marketplace representative told you that the reason you could not select a plan was because 60 days from the date you lost your minimum essential coverage outside the Marketplace had passed and the system would not allow you to select a plan.
- 7) You submitted a statement and testified that you had submitted your income documents, completed your Marketplace application, and spoke with several Marketplace representatives all within 60 days of losing your minimum essential coverage on December 31, 2014, and should have been eligible to pick a health plan (Appellant's Exhibit B).
- 8) You testified that you were told by the Marketplace that the delay in issuing an eligibility redetermination notice until March 19, 2015 was its error and that, although your income documents were timely verified, your account somehow got missed by the system and was not picked up again until March 19, 2015, when your eligibility was rerun and a notice of eligibility redetermination was issued.
- 9) Since you believe this was no fault on your part, you want to be granted a special enrollment period so that you can select a health plan and have coverage as soon as possible.

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-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 a triggering event, such as when the qualified individual or his or her dependent involuntarily loses certain health insurance coverage considered to be minimum essential coverage and/or 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 (45 CFR § 155.420(d)(1)(a) and (4)).

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, effective April 10, 2015 and thereafter.

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 by February 12, 2015, when you

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submitted the last proof of income and employment, which your Marketplace account reflects was verified on February 17, 2015. Therefore, you had completed your application during the open enrollment period, which had been extended to February 28, 2015.

Since your application was completed before the open enrollment deadline of February 28, 2015, you did not need to qualify for a special enrollment period. However, in your case, the Marketplace's system did not run your eligibility until one month later on March 19, 2015 and, although you were entitled to pick a plan according to the notice of that date, you testified that you kept getting an error message when you tried to enroll online.

The Marketplace's explanation that this was because you had not reported your loss of minimum essential coverage within 60 days of its occurrence on December 31, 2015, is not supported by the record. Sixty days from December 31, 2015 runs on March 1, 2015. The credible evidence of record demonstrates that your application was received on February 2, 2015 and completed by February 12, 2015, and verified by the Marketplace on February 17, 2015. Therefore, the March 19, 2015 notice of eligibility determination that, in part, informed you how to select a health plan was correct when made and is AFFIRMED.

Notwithstanding and despite the Marketplace's delay in issuing an eligibility determination in your case until March 19, 2015, the Marketplace system was unable to allow you to select a plan as of that date, because 60 days from the triggering event had passed on March 1, 2015, and was being adhered to by the Marketplace's system as of this date. Further, the April 10, 2015 notice of eligibility redetermination indicating that you do not qualify for a special enrollment period on the same basis, as did the May 5, 2015 and July 7, 2015 notices of eligibility redetermination also were based on the 60 days from the triggering event standard, which the Marketplace's system was also adhering to on those dates.

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 and report that event to the Marketplace within 60 days.

Since the record supports that your repeated denial of a special enrollment period is the result of system delay and error, you qualify for a special enrollment period at this time and the April 10, 2015, May 5, 2015, and July 7, 2015 notices of eligibility redeterminations stating that you did not qualify are MODIFIED to state that you do qualify for a special enrollment period. Therefore, you are granted a special enrollment period of 60 days from the date of this decision within which to select a health plan.

Decision

The March 19, 2015 notice of eligibility determination is **AFFIRMED**.

The April 10, 2015, May 5, 2015, and July 7, 2015 notices of eligibility redeterminations stating that you did not qualify for a special enrollment period are **MODIFIED** to state that you do qualify for a special enrollment period and have until 60 days from the date of this decision to select and confirm a health plan through the Marketplace.

Your case is **RETURNED** to the Marketplace to facilitate for you the opportunity to select and enroll in a health plan within 60 days of this decision.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You qualify for a special enrollment period to enroll in a qualified health plan at this time and up to 60 days from the date of this decision.

Your case is being returned to the Marketplace to facilitate for you the opportunity to enroll in a qualified health plan, if you so wish.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The March 19, 2015 notice of eligibility determination is **AFFIRMED**.

The April 10, 2015, May 5, 2015, and July 7, 2015 notices of eligibility redeterminations stating that you did not qualify for a special enrollment period are **MODIFIED** to state that you do qualify for a special enrollment period and have until 60 days from the date of this decision to select and confirm a health plan through the Marketplace.

Your case is **RETURNED** to the Marketplace to facilitate for you the opportunity to select and enroll in a health plan within 60 days of this decision.

You qualify for a special enrollment period to enroll in a qualified health plan at this time, and your case is being returned to the Marketplace to give you the opportunity to do so within 60 days of this decision, if you so wish.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

