



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

Notice of Decision

Decision Date: DATE

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003400

[REDACTED]

Dear [REDACTED]

On August 25, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 4, 2015 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).

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

Decision

Decision Date: December 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003400

[REDACTED]

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 June 4, 2015?

Procedural History

On June 3, 2015, the Marketplace received your application for health insurance.

On June 4, 2015, the Marketplace issued a notice of eligibility determination that stated that you were eligible to purchase a qualified health plan at full cost. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 2015.

On June 9, 2015, your Authorized Representative spoke to the Marketplace's Account Review Unit and appealed that eligibility determination in so far as you were not eligible to enroll in a health plan outside of the open enrollment period.

On August 25, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, your Authorized Representative, [REDACTED], also appeared on your behalf. 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 August 25, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a written statement from [REDACTED], a copy of

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your Social Security card issued on April 29, 2015, and a copy of the envelope in which your Social Security card was sent. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

The record was closed on August 25, 2015.

Findings of Fact

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

- 1) The record reflects that you personally created your Marketplace account on February 13, 2015. You testified that, on or around that date, you were informed you must wait until you obtained a Social Security number before completing your application for health insurance.
- 2) You testified that you resided in Guiana and became a U.S. lawful permanent resident in November 2014. You further testified that you made attempts to obtain a Social Security number since November 2014, but had been unable to do so because your Guiana passport had expired and was no longer considered proper identification by the Social Security Administration. You testified that you updated your passport at the Guiana consulate in December 2014, but did not receive your new passport until 7 months later.
- 3) You testified that at the end of May or beginning of June 2015, you were informed by a Marketplace representative that obtaining a Social Security card would qualify you for a special enrollment period. You further testified that you reasonably relied upon that information.
- 4) You provided evidence that your Social Security card was issued on April 29, 2015, and mailed on, or around May 1, 2015 (Appellant's Exhibit 1, August 25, 2015).
- 5) The record reflects that you submitted your initial application for health insurance on June 3, 2015.
- 6) You testified that you spoke with a Marketplace representative on June 3, 2015, who stated that you did not qualify for a special enrollment period due to your receipt of a Social Security Number.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Qualified Health Plans

An applicant is eligible for enrollment in a qualified health plan through the Marketplace if her or she: (1) is a citizen or national of the United States, or is a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought; (2) is not incarcerated; and (3) is a resident of the state (45 CFR § 155.305(a)).

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%99waiting-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.

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- (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)).

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Legal Analysis

The issue under review is whether the Marketplace properly denied you a special enrollment period, as of June 4, 2015.

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 created your account on February 13, 2015 but did not submit a complete application until June 3, 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.

A special enrollment period can be granted on the basis of newly acquired citizenship. According to your account, you became a United State Citizen on November 19, 2014. This would have resulted in your eligibility for a special enrollment period lasting until January 18, 2015. You did not apply for coverage during this special enrollment period.

You stated that you were told you could not apply without a Social Security number; however, this is inaccurate and there is no corroboration in your account that any such statement occurred. Moreover, although your file indicates that you personally created your account on February 13, 2015, no application was ever submitted that day.

Therefore, your request for a special enrollment period is denied.

The Marketplace's June 4, 2015 eligibility determination is **AFFIRMED**.

Decision

The June 4, 2015 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: December 18, 2015

How this Decision Affects Your Eligibility

Your eligibility has not changed. However, the open enrollment period is currently in effect, and you may apply immediately for health insurance coverage.

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:
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- By fax: 1-855-900-5557

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Summary

The June 4, 2015 eligibility determination is AFFIRMED.

Your eligibility has not changed. However, the open enrollment period is currently in effect, and you may apply immediately for health insurance coverage.

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:

[REDACTED]

[REDACTED]