



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

## Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003466



Dear [REDACTED],

On August 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 13, 2015, eligibility determination notice denying 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).

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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## Decision

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NY State of Health Number: [REDACTED]  
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## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly find that you were not eligible for a special enrollment period to enroll in a qualified health plan?

## Procedural History

On April 18, 2015, the Marketplace issued a notice that you “may be eligible for health insurance through New York State of Health but MORE information is needed to make a determination.” The notice stated that “you must submit income documentation for your household by May 5, 2015, to confirm that the information you provided in your application is accurate.”

On May 5, 2015, you faxed additional income documentation to the Marketplace.

On May 12, 2015, the Marketplace issued an eligibility determination notice that you are eligible for up to \$267.00 monthly of advance premium tax credits and cost-sharing reductions, if you enroll in a silver level qualified health plan.

On June 12, 2015, you spoke to the Marketplace Account Review Unit and requested an appeal insofar as being determined not qualified for a special enrollment period.

On June 13, 2015, the Marketplace issued an eligibility determination notice that you are eligible for up to \$267.00 monthly of advance premium tax credits and cost-sharing reductions, if you enroll in a silver level qualified health plan. The

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notice also found that you “do not qualify to select 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. The record was developed during the hearing and closed at the end of the hearing. The record is now closed.

## **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 moved to New York State on March 1, 2015.
- 3) You applied for health insurance on April 17, 2015. The Marketplace issued a notice stating that additional income documentation was necessary to confirm your eligibility.
- 4) You faxed income documentation to the Marketplace on May 5, 2015.
- 5) You testified that you contacted the Marketplace on May 5, 2015. The Marketplace representative extended the deadline for you to submit the income documentation.
- 6) You testified that you were never notified by the Marketplace that there was a time limit in which you could enroll in a health plan through the Marketplace.
- 7) You testified that you attempted to enroll in a health plan through the Marketplace in June 2015.
- 8) On June 13, 2015, the Marketplace issued an eligibility determination notice that “you do not qualify to select a health plan outside of the open enrollment period.”

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

## **Applicable Law and Regulations**

### Special Enrollment Period

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which time qualified individuals may enroll in a

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qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)). The open enrollment period for the 2015 calendar year began November 15, 2014 and ended on February 15, 2015 (45 CFR § 155.410(e)(1)).

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, even if they have the option to renew the policy
  - iii) loses pregnancy-related coverage
  - 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

- 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
- 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)).

As a general rule, a 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 appeal is whether or not the Marketplace correctly determined that you were not eligible for a special enrollment period on June 13, 2015.

Federal regulations provide that a qualified individual has 60 days from the date of a triggering event to select a qualified health plan (QHP) in the Marketplace.

The Marketplace provided an open enrollment from November 15, 2014 until February 15, 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.

Moving to New York State on March 1, 2015, was a triggering event that qualified you for a 60-day special enrollment period. The special enrollment period began on the date of your triggering event. Sixty days from March 1, 2015, is April 29, 2015. The special enrollment period expired on April 29, 2015.

You testified that you attempted to enroll in a health plan through New York State of Health in June 2015. Therefore, you attempted to enroll in a health after the expiration of the special enrollment period.

Therefore, the Marketplace's determination to deny a special enrollment period is **AFFIRMED**.

## **Decision**

The June 13, 2015, eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** October 27, 2015

## **How this Decision Affects Your Eligibility**

This decision does not change your eligibility.

You did not qualify for a special enrollment period after April 29, 2015.

## **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):**

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

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- By fax: 1-855-900-5557

## **Summary**

The Marketplace's June 13, 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 after April 29, 2015.

## **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:**

