



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

## Notice of Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003471

[REDACTED]

Dear [REDACTED],

On August 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 16, 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).

This page intentionally left blank.



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

## Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003471



## 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 effective July 1, 2015?

## Procedural History

On December 2, 2014, the Marketplace processed your initial application for health insurance and issued a notice of eligibility determination that you qualify to receive \$0.00 of advance premium tax credits effective January 1, 2015.

On December 16, 2014, the Marketplace issued an enrollment notice confirming your selection of a silver-level qualified health plan and your monthly premium responsibility of \$456.94.

On June 11, 2015, the Marketplace issued a disenrollment notice stating that your insurance with Empire Blue Cross Blue Shield HMO 2450, Silver, NS, INN, Pediatric Dental, Dep 25, a Multi-State Plan is terminated effective April 30, 2015 due to non-payment of premium.

On June 15, 2015, the Marketplace prepared a preliminary eligibility redetermination that you were eligible for advance premium tax credits effective July 1, 2015, but did not qualify for a special enrollment period outside the open enrollment period for 2015.

That same day, you spoke to the Marketplace's Account Review Unit and appealed that eligibility determination insofar as you were determined to be ineligible to enroll in a health plan outside of the open enrollment period.

On June 16, 2015, the Marketplace issued a notice of eligibility redetermination consistent with its June 15, 2015 preliminary eligibility redetermination.

On August 26, 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) The record reflects that you submitted your initial application for health insurance on November 26, 2014.
- 2) You testified that you believed your online monthly premium payments were taken automatically by the health plan and you did not have to actively make those payments online yourself.
- 3) You testified that you made your monthly premium payments for January, February, and March 2015 online and had coverage for those months.
- 4) According to the Department of Health's notation of June 29, 2015, "[p]er the Plan: [M]ember was not enrolled in automatic payment withdrawal which is only done through a personal checking account. Member was using web pay which does not have the capability to set up automatic payments. Member was sent a letter to [REDACTED] on 4/6/2015 stating \$456.94 [was] due by 5/7/2015. Letter sent on 5/6/2015 stating \$456.94 [was] due by 6/6/2015. Premium was not received so policy was cancelled. No Empire error.' As there was no Plan error, the member will not be reinstated at this time."
- 5) You testified that during April and May 2015 you were taking care of an ill family member and devoted your time and energy to that member's care.
- 6) You testified that you did not look through your mail because you pay your bills online and did not receive any billing notices from your health plan via email.
- 7) You testified that your health plan did inform you online that your insurance had terminated due to non-payment of premium.

- 8) You would like the Marketplace to afford you leniency because of your family circumstances during April and May 2015 that detracted you from paying your premiums and you want to pay for and have health insurance reinstated.

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 generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
  - (a) Health insurance considered to be minimum essential coverage;
  - (b) Enrolled in any non-calendar year health insurance policy, 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 has a 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 is an Indian, as defined by section 4 of the Indian Health Care Improvement Act, and 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**

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).

The issue under review is whether the Marketplace properly denied you a special enrollment period, effective July 1, 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 submitted a complete application on November 26, 2015 and the Marketplace prepared a preliminary eligibility determination on December 1, 2015. Therefore, you had completed your application during the open enrollment period.

Once the annual open enrollment period ends, in this case as of February 28, 2015, 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.

The credible evidence of record indicates that no triggering events have occurred that would qualify you for a special enrollment period, including that there was no error by the health plan. Nonetheless, you want the Marketplace to grant you a special enrollment period because you were pre-occupied with an ill family member during April and May 2015, and had assumed your monthly premium payments were automatically deducted when they were not. However, the law does not provide for such an exception.

Therefore, the Marketplace's June 16, 2015 notice of eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is **AFFIRMED**.

## **Decision**

The June 16, 2015 notice of eligibility determination is **AFFIRMED**.

**Effective Date of this Decision:** October 15, 2015

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

You do not qualify for a special enrollment period to enroll in a qualified health plan at this time.

## **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.

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).

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 June 16, 2015 notice of eligibility determination is **AFFIRMED**.

You do not qualify for a special enrollment period to enroll in a qualified health plan at this time.

## **Legal Authority**

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



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).

**A Copy of this Decision Has Been Provided To:**

