



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: AP000000003824

[REDACTED]

Dear [REDACTED],

On September 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 8, 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 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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## Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003824

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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 that you were not eligible for a special enrollment period as of July 7, 2015?

## Procedural History

On July 7, 2015, the Marketplace received your application for health insurance.

On July 8, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible for advance premium tax credits and cost-sharing reductions. The notice further stated that you did not qualify to select a health plan outside of the open enrollment period for 2015 because the requirements to qualify for a special enrollment period had not been met.

Also on July 8, 2015, you spoke to the Marketplace's Account Review Unit and appealed that eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On September 3, 2015, you were scheduled for a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You requested that day for the hearing be adjourned to a later date.

On September 9, 2015, you had an adjourned telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. The record was developed during the hearing and

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left open for 15 days to allow you time to submit supporting documentation. No documentation was received within the allotted time. The record is now closed.

## **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 July 7, 2015.
- 2) You testified that you lost your job on March 26, 2015.
- 3) You testified that, with the loss of your job, you also lost your employer sponsored health insurance.
- 4) You testified that you believe your insurance through your employer was extended into May. You were asked to provide a copy of the letter stating this within 15 days from the date of the hearing.
- 5) You did not provide any evidence to support your testimony within the allotted time.
- 6) You testified that, on August 15, 2015, you got married.

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-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

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- (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)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly denied you a special enrollment period as of July 7, 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 your initial application for health insurance on July 7, 2015, which is 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 event.

You testified that you lost your job on March 26, 2015 which resulted in the loss your employer sponsored health insurance. The loss of prior insurance coverage through an employer is considered a triggering life event.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan. You testified that you believe your insurance through your employer was extended into May. You were asked to provide a copy of the letter stating this within 15 days from the date of

the hearing. However, you did not provide any evidence to support your testimony within the allotted time. Since you did not provide proper evidence of when your insurance ended, we must assume that it ended on the day you lost your job.

Sixty days from March 26, 2015 was May 25, 2015; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until May 25, 2015. The record reflects that your application was not complete until July 7, 2015, which was after your special enrollment period expired.

Therefore, the Marketplace's July 8, 2015 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is **AFFIRMED**.

However, at the hearing you testified that, on August 15, 2015, you got married. Getting married is also considered a triggering event but in order to redetermine your eligibility for health insurance and financial assistance through the Marketplace, you must provide information regarding your new spouse.

Therefore, your case is **RETURNED** to the Marketplace and you are granted a 60 day special enrollment period from the date of this decision in which to update your Marketplace account with your spouse's information and enroll in a health plan, if you so choose.

## **Decision**

The July 8, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace and you are granted a 60 day special enrollment period from the date of this decision in which to update your Marketplace account with your spouse's information and enroll in a health plan, if you so choose.

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

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

You qualify for a special enrollment period of up to 60 days from the date of this decision because you testified that you recently got married.

Your case is being sent back to the Marketplace so that you may update your account with your spouse's information and enroll in a health plan, if you so choose.

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## **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 July 8, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace and you are granted a 60 day special enrollment period from the date of this decision in which to update your Marketplace account with your spouse's information and enroll in a health plan, if you so choose.

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You qualify for a special enrollment period of up to 60 days from the date of this decision because you testified that you recently got married.

Your case is being sent back to the Marketplace so that you may update your account with your spouse's information and enroll in a health plan, if you so choose.

## **Legal Authority**

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

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

