



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: AP000000003919

[REDACTED]

Dear [REDACTED],

On September 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 9, 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).

This page intentionally left blank.

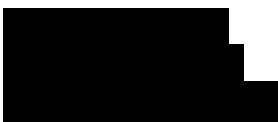


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003919



## 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 9, 2015?

## Procedural History

On May 16, 2015, the Marketplace received your renewal application for health insurance.

On May 17, 2015, the Marketplace issued a notice of eligibility determination that stated that you were newly eligible to receive advance premium tax credits and cost-sharing reductions, effective July 1, 2015. It further stated that you qualified to select a health plan outside of the open enrollment period for 2015, but that you must confirm your health plan selection no later than July 15, 2015.

On July 3, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were eligible to receive advance premium tax credits and cost-sharing reductions, effective August 1, 2015. It further stated that you qualified to select a health plan outside of the open enrollment period for 2015, but you must confirm your health plan selection no later than August 29, 2015.

Also on July 3, 2015, the Marketplace issued a notice confirming your qualified health plan enrollment as of July 2, 2015 with TotalIndependence Silver NS INN Dep25 Acupuncture Massage Therapy Naturopathy. The notice further stated that your enrollment was effective August 1, 2015.

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).

On July 9, 2015, the Marketplace issued a cancellation notice confirming your request to cancel your insurance coverage with TotalIndependence Silver NS INN Dep25 Acupuncture Massage Therapy Naturopathy as of July 8, 2015.

Also on July 9, 2015, the Marketplace issued a notice of eligibility determination that stated you were eligible to receive advance premium tax credits and cost-sharing reductions, effective August 1, 2015. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 2015.

On July 17, 2015, you 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 September 22, 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 were previously enrolled in Medicaid, effective June 1, 2014 to May 31, 2015.
- 2) The record reflects that you submitted your renewal application for health insurance on May 16, 2015 and became newly eligible for advance premium tax credits and cost-sharing reductions as of May 17, 2015.
- 3) According to the May 17, 2015 notice of eligibility determination, you were granted a special enrollment period until July 15, 2015. According to the July 3, 2015 notice of eligibility determination, you were granted an extended special enrollment period until August 29, 2015.
- 4) The record reflects that you selected TotalIndependence Silver NS INN Dep25 on July 2, 2015. You testified that, after you selected this plan, you were informed that your medical provider and hospital system do not accept any "metal plans."
- 5) You testified, and the record reflects that you cancelled your health insurance coverage with TotalIndependence Silver NS INN Dep25 on July 8, 2015, in order to select a different health plan, but were prevented from making a new selection.

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

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).

## 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 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
- (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 9, 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

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).

deadline. The record reflects that you submitted your renewal application on May 16, 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.

The record reflects that you were determined newly eligible for advance premium tax credits and cost-sharing reductions as of May 17, 2015, which 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.

Sixty days from May 17, 2015 was July 16, 2015; therefore, you properly qualified to select a qualified health plan outside of the open enrollment period until July 16, 2015. The record reflects that you selected a health plan on July 2, 2015, which was within the special enrollment period, and attempted to switch plans on July 8, 2015, which was also within the special enrollment period. However, you credibly testified that you were prevented from selecting a new health plan on July 8, 2015.

According to the notice of eligibility determination issued on July 9, 2015, the Marketplace determined that you did not qualify to select a health plan outside of the open enrollment period for 2015. However, since you attempted to change to another health plan prior to the end of your special enrollment period, the Marketplace improperly determined that you were no longer eligible to select a health plan outside of the open enrollment period for 2015.

Therefore, the Marketplace's July 9, 2015 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is **RESCINDED**.

Your case is **REMANDED** to the Marketplace to grant you a special enrollment until October 15, 2015.

## **Decision**

The July 9, 2015 eligibility determination is **RESCINDED**.

Your case is **REMANDED** to the Marketplace to grant you a special enrollment period until October 15, 2015.

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

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

You qualify for a special enrollment period to enroll in a qualified health plan. You must confirm your health plan selection by October 15, 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):**

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**

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 July 9, 2015 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace to grant you a special enrollment period until October 15, 2015.

You qualify for a special enrollment period to enroll in a qualified health plan. You must confirm your health plan selection by October 15, 2015.

### **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:**

