



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

Notice of Decision

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP00000004006

[REDACTED]

Dear [REDACTED]

On October 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 23, 2015 eligibility redetermination 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).

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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP00000004006

[REDACTED]

Issue

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

Did the Marketplace properly determine on July 23, 2015 that you were not eligible for a special enrollment period?

Procedural History

On June 23, 2015, the Marketplace received your application for health insurance.

That same day the Marketplace issued a notice of eligibility determination that stated more information was needed to make a determination. The income information that you provided did not match what NY State of Health had obtained from State and Federal data sources. In order for your eligibility to be determined you needed to submit income documentation for your household by July 9, 2015.

On June 25, 2015, the Marketplace sent you a request for additional information in the form of proof of income.

On July 23, 2015, the Marketplace redetermined your household's eligibility and found you and your husband eligible to receive advance premium tax credit in the amount \$462.00 per month and cost sharing reductions, and your children eligible to enroll in Child Health Plus at a cost of \$9.00 each per month effective September 1, 2015. It was also determined that you did not qualify to select a health plan outside of the open enrollment period for 2015.

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On July 24, 2015, you spoke to the Marketplace's Account Review Unit and appealed that eligibility determination insofar as you were ineligible to enroll in a health plan outside of the open enrollment period.

On October 20, 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 June 23, 2015.
- 2) The record reflects that your husband had voluntarily resigned from his employer as of April 27, 2015 as evidenced in his resignation letter dated May 5, 2015, which was uploaded to your Marketplace account on June 24, 2015.
- 3) You testified and the record supports that on June 24, 2015 you uploaded income documentation to your Marketplace account in the form of four weeks of pay stubs from your employer, [REDACTED].
- 4) You testified and the record reflects that on June 24, 2015 you uploaded additional income documentation to your account in the form of two weeks of pay stubs from your employer [REDACTED] with check dates of May 15, 2015, and June 12, 2015.
- 5) You testified and the record supports that on July 2, 2015 you uploaded your remaining two weeks of pay stubs to your account from [REDACTED] dated again June 12, 2015, and an additional pay stub dated June 26, 2015.
- 6) You are seeking insurance for both yourself and your husband.

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

The issue under review is whether the Marketplace properly denied you and your spouse a special enrollment period effective July 23, 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

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people who could not complete their application by the February 15, 2015 deadline. The record reflects that you submitted an application for health insurance on June 23, 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.

You testified that your husband lost his employer sponsored health insurance after resigning from employment on April 27, 2015.

This may have qualified as a triggering event that could be the basis for a special enrollment period. When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

The Marketplace received your husband's resignation letter on June 24, 2015.

Sixty days from April 27, 2015, was June 26, 2015; therefore, you may have qualified to select a qualified health plan outside of the open enrollment period until June 26, 2015. This means you would have had to submit a completed application with the required supporting documentation and chosen a plan by June 26, 2015.

Even though you began your application on June 23, 2015, your application was still not complete until the Marketplace received four weeks of current and consecutive pay stubs or a valid letter from each employer attesting to employment, gross wages, and hours worked.

The record reflects that your application is still missing information necessary to validate your income from your employers. To date, the Marketplace has only received three weeks of consecutive pay stubs as both uploaded documents you provided as proof of income from [REDACTED] contained two checks dated June 12, 2015, one check dated May 15, 2015, and one check dated June 26, 2015.

Therefore, the Marketplace's July 23, 2015 eligibility determination that you and your spouse do not qualify to select a health plan outside of the open enrollment period for 2015 is AFFIRMED.

Decision

The July 23, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 16, 2015

How this Decision Affects Your Eligibility

You and your spouse 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.

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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P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The July 23, 2015 eligibility determination is AFFIRMED.

You and your spouse 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).

A Copy of this Decision Has Been Provided To:

