



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: AP000000004056

[REDACTED]

Dear [REDACTED],

On October 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 28, 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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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 July 28, 2015, the Marketplace issued an eligibility determination notice that you and your spouse are eligible to receive up to \$641.00 in advance premium tax credit and cost-sharing reductions, if you enroll in a qualified health plan through the Marketplace. The notice also stated that you and your spouse do not qualify to select a health plan outside of the open enrollment period.

On the same day, you spoke to the Marketplace Account Review Unit and requested an appeal insofar as you and your spouse did not qualify for a special enrollment period.

On October 5, 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) You are applying for health insurance through the Marketplace for yourself and spouse.
- 2) According to your Marketplace account, your spouse moved to New York State on April 26, 2015.
- 3) You testified that you have lived in New York your entire life.
- 4) You applied for health insurance through the Marketplace on July 27, 2015.
- 5) You testified that you are seeking to enroll you and your spouse in a health plan through the Marketplace.
- 6) On July 28, 2015, the Marketplace issued an eligibility determination notice that you and your spouse “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 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

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- 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)).

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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 and your spouse were not eligible for a special enrollment period on July 28, 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 April 26, 2015, was a triggering event that qualified your spouse for a 60-day special enrollment period. The special enrollment period began on the date of your triggering event. Sixty days from April 26, 2015, is June 25, 2015. Therefore, the special enrollment period expired on June 25, 2015.

You testified that you attempted to enroll in a health plan through New York State of Health on July 27, 2015. Therefore, you attempted to enroll in a health after the expiration of the special enrollment period.

The facts as set out in the record do not suggest that any other triggering event described in 45 CFR § 155.420(d) has occurred to allow to qualify for a special enrollment period.

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

Decision

The July 28, 2015, eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: November 16, 2015

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How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You and your spouse do not qualify for a special enrollment period.

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:

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Summary

The July 28, 2015, eligibility determination notice is AFFIRMED.

This decision does not change your eligibility.

You and your spouse do not qualify for a special enrollment period.

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:

