



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: AP000000004197

[REDACTED]

Dear [REDACTED]

On October 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility determination.

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: AP000000004197

[REDACTED]

## Issue

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

Did the Marketplace properly determine that you did not qualify for a special enrollment period as of July 17, 2015?

## Procedural History

On April 23, 2015, the Marketplace issued a notice confirming your enrollment in your qualified health plan. The notice stated that your coverage could begin as early as June 1, 2015 if you paid your first month's premium.

On May 19, 2015 the Marketplace issued a cancellation notice stating that you requested to cancel your insurance coverage with your qualified health plan on May 18, 2015. The notice further stated that your request had been processed and that you would not have coverage with your qualified health plan.

On July 19, 2015 the Marketplace issued an eligibility redetermination notice stating that as of July 17, 2015, you did not qualify to select a health plan outside of the open enrollment period because the requirements to qualify for a special enrollment period had not been met.

On August 5, 2015, you spoke with the Marketplace's Account Review Unit and appealed the denial of a special enrollment period to reenroll into a health plan.

On October 9, 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.

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## Findings of Fact

A review of the record support the following findings of fact:

- 1) The record indicates that you had enrolled in a qualified health plan and that coverage could begin on June 1, 2015 if you paid your first month's premium.
- 2) You testified that you paid your premium for June 2015 but that the health plan sent it back to you because you did not have coverage through them.
- 3) On May 19, 2015, the Marketplace issued a cancellation notice stating that you requested to cancel your insurance coverage with your qualified health plan on May 18, 2015.
- 4) You testified that you did not want to be cancelled from your health insurance plan.
- 5) The record indicates that a representative from the Marketplace deleted your enrollment in your qualified health plan on May 18, 2015.

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 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

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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)).

## Legal Analysis

The issue under review is whether you were properly denied a special enrollment period as of July 17, 2015.

The Marketplace provided an open enrollment from November 15, 2014 until February 15, 2015, and later extended the open enrollment period to February 28, 2015 for people who could not complete their application by the February 15, 2015 deadline. 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.

A special enrollment period can be granted on the basis of “error, misrepresentation, or inaction of an officer, employee, or agent of the [Marketplace] or [the U.S. Department of Health and Human Services], or its instrumentalities as evaluated and determined by the [Marketplace]”

The record indicates that you were enrolled in a qualified health plan and that coverage was to begin June 1, 2015 if you paid your first month’s premium. You testified that you paid your premium for June 2015 but that the health plan sent it back to you because you did not have coverage through them.

On May 19, 2015 the Marketplace issued a cancellation notice stating that you requested to cancel your insurance coverage with your qualified health plan on May 18, 2015.

However, you testified that you did not want to be cancelled from your health insurance plan and the record indicates that it was a representative from the Marketplace that deleted your enrollment in your qualified health plan on May 18, 2015.

Since the credible evidence of the record indicates that your non-enrollment in a qualified health plan was the result of an error of an employee of the Marketplace, you should have been granted a special enrollment period.

Therefore, the July 19, 2015 eligibility determination denying you a special enrollment period is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to grant you a 60 day special enrollment period from the date of this decision to enroll in a health plan for 2015 coverage.

## **Decision**

The July 19, 2015 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to grant you a 60 day special enrollment period from the date of this decision to enroll in a health plan for 2015 coverage.

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

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

You have 60 days from the date of this decision to enroll in a health plan for 2015 health insurance coverage.

## **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)).

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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 19, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace to grant you a 60 day special enrollment period from the date of this decision to enroll in a health plan for 2015 coverage.

You have 60 days from the date of this decision to enroll in a health plan for 2015 health insurance coverage.

## **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:**

