



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

Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004428

[REDACTED]

Dear [REDACTED],

On November 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 22, 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004428

[REDACTED]

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 August 22, 2015?

Procedural History

On July 27, 2015, the Marketplace received your application for health insurance, in which you stated that you were eligible to enroll in health insurance through your employer effective August 1, 2015. The application also noted that you lost essential health coverage on June 1, 2015.

On July 28, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to purchase a qualified health plan at full cost, effective September 1, 2015. You were directed to provide documentation, before September 10, 2015, confirming that your Medicare coverage was terminated. It further stated that you qualified to select a health plan outside of the open enrollment period, but that you needed confirm your selection no later than July 31, 2015.

Your application was modified on August 14, 2015.

On August 15, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to purchase a qualified health plan at full cost, effective September 1, 2015. You were directed to provide

documentation confirming that your Medicare coverage was terminated before September 28, 2015.

On August 18, 2015, a letter from the Social Security Administration, confirming that your Medicare coverage ended in March 2012, was uploaded to your Marketplace account.

On August 21, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were newly eligible to receive an advance premium tax credit of up to \$183.00 per month and cost-sharing reductions, effective October 1, 2015.

On August 22, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were newly eligible to receive an advance premium tax credit of up to \$183.00 per month and cost-sharing reductions, effective October 1, 2015. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 2015.

On August 24, 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 November 24, 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 July 27, 2015. According to this application, you were seeking financial assistance.
- 2) You testified that you attempted to enroll in a health insurance plan on July 27, 2015, but were prevented because you needed to supply a letter confirming that you were no longer enrolled in Medicare coverage.
- 3) There is no evidence in your account that would show any attempt was made to select a plan prior to July 31, 2015.
- 4) According to the notices issued on July 28, August 15, and August 19, 2015, your eligibility to purchase a qualified health plan at full cost was conditional.

- 5) The record reflects that a letter from the Social Security Administration confirming that your Medicare coverage ended in March 2012 was uploaded to your Marketplace account on August 18, 2015.
- 6) The record reflects that you were determined newly eligible for advance premium tax credits and cost-sharing reductions on August 21, 2015.
- 7) You testified that your previous employer-sponsored health insurance plan was terminated effective May 31, 2015.

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 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 August 22, 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 a complete application on July 27, 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 previous insurance coverage ended on May 31, 2015 which is considered a triggering life event. Your application indicated that the date was June 1, 2015.

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 31, 2015 was July 30, 2015; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until at least July 30, 2015 due to this triggering life event. The record reflects that your application was complete on July 27, 2015, which was before your special enrollment period expired. While you testified that you were prevented from selecting a health plan at that time because you were required to submit documentation confirming that your previous Medicare coverage had ended, there is nothing in your account that shows any attempt was made to enroll you in a plan. Additionally, while you were directed to produce additional information, the eligibility determination under review stated that you were in fact eligible to enroll at that time.

Therefore, you were not eligible for a special enrollment period after your first special enrollment period ended at the end of July 2015. However, the record reflects that requested documentation was uploaded to your Marketplace account on August 18, 2015, and on August 21, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were newly eligible for advance premium tax credits and cost-sharing reductions, effective October 1, 2015.

A special enrollment period can be granted on the basis of an enrollee becoming newly eligible for advance premium tax credits or cost-sharing reductions. Since the record reflects that you became newly eligible for advance premium tax credits and cost-sharing reductions as of August 21, 2015, a special enrollment period should have been granted on that basis.

Therefore, the Marketplace's August 22, 2015 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is MODIFIED to grant you a special enrollment period that will be in effect for 60 days after the date of this decision.

Had you enrolled in a plan on August 22, 2015, the earliest any such plan could have gone into effect would be October 1, 2015.

Your case is RETURNED to the Marketplace to facilitate your enrollment in a qualified health plan, to be effective as early as October 1, 2015.

Decision

The August 22, 2015 eligibility determination is MODIFIED to grant you a special enrollment period for 60 days, as of the date of this decision.

Your case is RETURNED to the Marketplace to facilitate your enrollment in a qualified health plan, to be effective as early as October 1, 2015.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

You qualify for a special enrollment period to enroll in a qualified health plan.

Your case is being sent back to the Marketplace to facilitate your enrollment in a qualified health plan.

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).

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 August 22, 2015 eligibility determination is MODIFIED to grant you a special enrollment period for 60 days, as of the date of this decision.

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).

Your case is RETURNED to the Marketplace to facilitate your enrollment in a qualified health plan, to be effective as early as October 1, 2015.

You qualify for a special enrollment period to enroll in a qualified health plan.

Your case is being sent back to the Marketplace to facilitate your enrollment in a qualified health plan.

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:

