



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

Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004761

[REDACTED]

Dear [REDACTED],

On December 15, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 22, 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 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP00000004761

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Issue

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

Did the Marketplace properly determine on September 22, 2015 that you were not eligible for a special enrollment period?

Procedural History

On September 22, 2015, the Marketplace received your application for health insurance.

That same day the Marketplace issued a notice of eligibility determination finding you eligible to purchase a qualified health plan at full cost through NY State of Health effective November 1, 2015. The notice explained that you did not qualify to select a health plan outside of the open enrollment period for 2015.

That same day, you spoke to the Marketplace's Account Review Unit and appealed that eligibility determination insofar as you were denied the ability to enroll in a qualified health plan outside of the open enrollment period.

On December 15, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and kept open for 15 days for you to provide documentation in the form of a letter from your previous health insurance through your school. This documentation was received by the NY State of Health Appeals unit on December 15, 2015 and has been incorporated into the record as (Appellant's Exhibit 1).

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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 September 22, 2015.
- 2) You are seeking insurance for yourself.
- 3) You reside in a two-person household.
- 4) You will be filing your taxes as Married Filing Jointly.
- 5) You reside in Suffolk County, New York.
- 6) You testified that your income as attested on your application is correct and you have an expected household income of \$75,800.00.
- 7) You testified that you lost your school sponsored health insurance on July 6, 2015.
- 8) A letter from your former health care provider UnitedHealthcare entitled Certificate of Health Plan Coverage was received by the NY State of Health Appeals unit showing a coverage start date of October 27, 2014, and end date of July 6, 2015. The document is given a certificate date of September 8, 2015. This documentation was received on December 15, 2015 by the Appeals Unit and incorporated in the record as (Appellant's Exhibit 1).
- 9) You testified that you tried contacting UnitedHealthcare and your school in order to obtain the letter showing the end date of your health coverage but you did not receive the requested information until September 8, 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 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 a special enrollment period on September 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

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deadline. The record reflects that you submitted an application for health insurance on September 22, 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 you lost your school sponsored health insurance on July 6, 2015. (See Appellant's Exhibit 1).

This may be deemed acceptable as a triggering life event that could be the basis for a special enrollment period. When a qualified individual or his or her dependent involuntarily loses certain health insurance considered to be minimum essential coverage, they may qualify to select a plan outside of open enrollment.

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 July 6, 2015, was September 4, 2015; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until September 4, 2015. This means you would have had to submit a completed application with the required supporting documentation and chosen a plan by September 4, 2015.

You testified that you tried contacting UnitedHealthcare and your school in order to obtain the letter showing the end date of your health coverage but you did not receive the requested information until September 8, 2015. However, the Marketplace did not receive your initial application for health insurance until September 22, 2015.

Therefore, the Marketplace's September 22, 2015 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is AFFIRMED.

Decision

The September 22, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 08, 2016

How this Decision Affects Your Eligibility

You 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:

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Summary

The September 22, 2015 eligibility determination is AFFIRMED.

You 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 federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

