



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

Notice of Decision

Decision Date: July 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006694

[REDACTED]

Dear [REDACTED]

On June 9, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2016 eligibility determination notice.

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 and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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 Account ID: [REDACTED]
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Issue

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

Did NY State of Health (NYSOH) properly determine that your spouse did not qualify to select a health plan outside of the open enrollment period?

Procedural History

On December 19, 2015, you applied for health insurance through NYSOH.

On December 20, 2015, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective as of January 1, 2016.

Also on December 20, 2015, NYSOH issued an enrollment notice confirming that as of December 19, 2015 you were enrolled in PlatinumPlus-P2, NS, INN, Family Dental, Family Vision, Dep25 (Metro Plus Health Plan) with a plan enrollment start date of January 1, 2016.

On February 1, 2016, you updated your NYSOH account.

On February 1, 2016, you spoke to the NYSOH Account Review Unit and requested an appeal insofar as your spouse's eligibility for a special enrollment period.

On February 2, 2016, NYSOH issued an eligibility determination stating, in relevant part, that your spouse was conditionally eligible to purchase a qualified health plan at full cost through NYSOH, effective as of March 1, 2016. The notice

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also stated that your spouse did not qualify to select a health plan outside of the open enrollment period.

On June 9, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

- 1) You testified that you are seeking to enroll your spouse in coverage through NYSOH.
- 2) You applied and enrolled in health insurance coverage through NYSOH on December 19, 2015.
- 3) According to your December 19, 2015 NYSOH application, you indicated that your spouse was not in need of health insurance through NYSOH.
- 4) You testified that it was your intention to enroll your spouse in health insurance on December 19, 2015.
- 5) You testified that because you did not receive any information regarding your spouse's health insurance, you contacted NYSOH on February 1, 2016.
- 6) According to your February 1, 2016 NYSOH application, you updated your account to indicate that your spouse was in need of health insurance through NYSOH.
- 7) You testified that your spouse's non-enrollment in health coverage for your spouse was not the result of an error, misrepresentation, or inaction of an officer, employee, or agent of the NYSOH.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

The NY State of Health (NYSOH) 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)(1)).

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For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

Special Enrollment Periods

After each open enrollment period ends, the NYSOH 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 a non-Exchange entity providing enrollment assistance or conducting enrollment activities; 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;

(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 NY State of Health (NYSOH) properly denied your spouse a special enrollment period.

The NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record reflects that you applied and enrolled in health insurance coverage on December 19, 2015. The record reflects that you indicated on your December 19, 2015, application that your spouse was not seeking health insurance coverage through NYSOH.

Once the annual open enrollment period ends, an applicant must qualify for a special enrollment period in order to enroll in health insurance coverage offered by NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

You testified that it was your intention to apply and enroll your spouse in health insurance coverage as of December 19, 2015. Your spouse's non-enrollment in health coverage was not the result of an error, misrepresentation, or inaction of an officer, employee, or agent of the NYSOH.

Therefore, the record supports that no triggering events have occurred that would qualify your spouse for a special enrollment period.

Therefore, NYSOH's February 2, 2016, eligibility determination notice stating, in relevant part, that your spouse does not qualify for a special enrollment period is AFFIRMED.

Decision

The February 2, 2016, eligibility determination insofar as stating that your spouse is not eligible for a special enrollment period is AFFIRMED.

Effective Date of this Decision: July 11, 2016

How this Decision Affects Your Eligibility

Your spouse does 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 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 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

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- By mail at:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The February 2, 2016, eligibility determination insofar as stating that your spouse is not eligible for a special enrollment period is **AFFIRMED**.

Your spouse does not qualify for a special enrollment period to enroll in a qualified health plan at this time.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

