



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

Notice of Decision

Decision Date: July 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006706

[REDACTED]

Dear [REDACTED]

On July 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2016 notice of an appeal for a 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 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).

This page intentionally left blank.



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

Decision

Decision Date: July 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006706



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 you were not eligible to enroll in a qualified health plan outside of the open enrollment period for 2016 on February 1, 2016?

Procedural History

On December 7, 2015, NYSOH received your application for health insurance.

On December 8, 2015, NYSOH issued a notice of eligibility determination that stated that you are eligible to receive an advance premium tax credit of up to \$210.00 per month as well as cost-sharing reductions effective January 1, 2016. The notice advised that you needed to pick a health plan and explained you would receive written confirmation once you selected a health plan. This determination was based on your attested annual household income of \$27,600.00.

On January 25, 2016, you contacted NYSOH and updated your application for financial assistance with your health insurance.

On January 26, 2016, an eligibility determination notice was issued finding you eligible to receive an advance premium tax credit of up to \$210.00 per month as well as cost-sharing reductions effective March 1, 2016. The notice advised that you needed to pick a health plan and explained you would receive written

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).

confirmation once you selected a health plan. This determination was based on you attested annual household income of \$27,600.00.

On February 1, 2016, you contacted NYSOH and attempted to enroll into a qualified health plan but were unable to.

On February 2, 2016, NYSOH issued a notice confirming your appeal request. That notice stated that the reason for your appeal was appeal was the denial of a special enrollment period.

On July 7, 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 hearing.

Findings of Fact

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

- 1) The record indicates that you submitted your initial application for 2016 health insurance coverage on December 7, 2015.
- 2) The record indicates you had previously been found eligible for Medicaid effective July 1, 2014. You subsequently enrolled in a Managed Care plan effective September 1, 2014.
- 3) Your coverage under Medicaid ended effective June 30, 2015. You were then placed in a pending eligibility once you provided income documentation to be verified by NYSOH. The documentation was verified and you were determined eligible to enroll in a qualified health plan effective September 1, 2015. You testified that you did not elect to choose a health plan at that time.
- 4) You testified that you still reside in a one-person household.
- 5) You testified you still plan on filing your 2016 taxes as single.
- 6) The record reflects you reside in Nassau County.
- 7) You testified that your address has remained the same, and you have not moved since initially applying for health insurance for 2016.
- 8) You testified and your NYSOH account indicates you receive your notices from NYSOH via regular U.S. mail.

- 9) You testified that you did not select a new health plan for 2016 after being found eligible effective January 1, 2016, because you needed to check to see what health plans you could select. You testified that you had done some research on plans and called in to the NYSOH on February 1, 2016.
- 10) The record reflects that on your January 25, 2016 application you attested to a projected annual household income for 2016 to be \$27,600.00. At the time of your hearing you testified this was correct.
- 11) The record reflects you contacted the NYSOH on February 1, 2016 to see if you could select a health plan, however you were told that you could no longer select a plan as the open enrollment period had ended January 31, 2016. You then appealed the denial of the ability to select a health plan that day.

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

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)).

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, 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)).

De Novo Review

The NYSOH Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Legal Analysis

A review of the record demonstrates that you spoke with NYSOH’s Account Review Unit and requested a special enrollment to select a new health plan. The record does not contain a notice of eligibility determination or redetermination on the issue of special enrollment period. It does contain a February 2, 2016, notice in which the NYSOH acknowledges receipt of an appeal request and identifies one of the issues on appeal as “Denial of Special Enrollment Period (SEP).”

Here, the lack of a notice of eligibility determination on the issue of special enrollment periods does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH’s failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination.

The text of the February 2, 2016, notice, which acknowledges the appeal on the issue of special enrollment period denial, permits an inference that the NYSOH did deny your special enrollment request.

Since the Appeals Unit review of determinations is performed on a de novo basis, no deference would have been granted to the notice of eligibility determination had it been issued. Therefore, the issue under review is whether you were properly denied a special enrollment period.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016.

You submitted applications for 2016 health coverage on December 7, 2015, and again on January 25, 2016. However, after each submission and determination, no plan was selected for 2016.

You testified that you did not select a new health plan for 2016 because you needed to check to see what health plans you could select. You testified that you had done some research on plans and called in to the NYSOH on February 1, 2016.

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 testimony supports that the purpose of your call to NYSOH on February 1, 2016 was to see if you could select a health plan, however you were told that you could no longer select a plan as the open enrollment period had ended January 31, 2016.

Therefore, you did not complete your application and enrollment 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 NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2016, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's February 2, 2016 notice of an appeal for a denial of a special enrollment period is AFFIRMED, as you do not qualify to select a health plan outside of open enrollment for 2016.

Decision

The February 2, 2016 notice of an appeal for a denial of a special enrollment period is AFFIRMED, as you do not qualify to select a health plan outside of open enrollment for 2016 at this time.

Effective Date of this Decision: July 15, 2016

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period 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

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).

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
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 2, 2016 notice of an appeal for a denial of a special enrollment period is **AFFIRMED**, as you do not qualify to select a health plan outside of open enrollment for 2016 at this time.

You do not qualify for a special enrollment period 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:

