



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

Notice of Decision

Decision Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006780

[REDACTED]

Dear [REDACTED]

On June 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 3, 2016 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 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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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 do not qualify for a special enrollment period as of February 1, 2016?

Procedural History

On February 1, 2016 NYSOH received your request to enroll in a qualified health plan.

On February 2, 2016, NYSOH issued a notice of eligibility determination that stated that you were eligible to purchase a qualified health plan at full cost. It further stated that you do not qualify to select a health plan outside of the open enrollment period for 2016.

On February 3, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On June 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you time to submit a screenshot showing your attempt to select a plan on January 31, 2016. Also on June 16, 2016 you uploaded the requested screenshot to your NYSOH account and the record was closed that day.

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Findings of Fact

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

- 1) The record indicates that you submitted your initial request to enroll in a health plan for 2016 on February 1, 2016.
- 2) You testified that you were in your NYSOH account on January 31, 2016 and that you attempted to enroll into a health plan that day but the system crashed and you were unable to.
- 3) You uploaded a screenshot dated January 31, 2016 that shows the NYSOH website with an error message stating "We apologize for the inconvenience, the Marketplace is currently undergoing regularly scheduled maintenance. It is scheduled to be available at 8am EST."

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 a triggering event occurs such as

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 (45 CFR § 155.420(d)(4)).

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 NYSOH properly denied you a special enrollment period, as of February 1, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you attempted to enroll in a health plan on February 1, 2016. Therefore, you did not select a plan for 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.

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

The credible evidence of record indicates that you attempted to select a health plan prior to the open enrollment period ending on January 31, 2016 but were unable to due to a system error. You uploaded a screenshot dated January 31, 2016 that shows the NYSOH website with an error message stating “We apologize for the inconvenience, the Marketplace is currently undergoing regularly scheduled maintenance. It is scheduled to be available at 8am EST.” Since you attempted to select a health plan during the open enrollment period and were unable to because of NYSOH system maintenance, you should have been granted a special enrollment period as of February 1, 2016.

Therefore, NYSOH’s February 2, 2016 eligibility determination notice stating that you do not qualify to select a health plan outside of the open enrollment period for 2016 is MODIFIED to reflect that you are eligible for a special enrollment period for 60 days from the date of this decision.

Decision

The February 2, 2016 eligibility determination is MODIFIED to state that you are eligible for a special enrollment period until 60 days from the date of this decision.

Your case is RETURNED to NYSOH to assist you in enrolling into a plan for 2016 health coverage.

Effective Date of this Decision: June 21, 2016

How this Decision Affects Your Eligibility

You qualify for a special enrollment period.

You have 60 days from the date of this decision to enroll into a plan.

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):

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).

You can contact us in any of the following ways:

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Albany, NY 12211
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Summary

The February 2, 2016 eligibility determination is MODIFIED to state that you are eligible for a special enrollment period until 60 days from the date of this decision.

Your case is RETURNED to NYSOH to assist you in enrolling into a plan for 2016 health coverage.

You qualify for a special enrollment period.

You have 60 days from the date of this decision to enroll into a plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

