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

Notice of Decision

Decision Date: July 19, 2016

NY State of Health Account ID:
Appeal Identification Number: AP000000006796

Dear

On June 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 4, 2016 notice of 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: July 19, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000006796

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

> Did NY State of Health (NYSOH) properly determine that you did not qualify to select a qualified health plan outside of the open enrollment period for 2016?
>
> Did NYSOH properly determine that you were not eligible for Medicaid?

Procedural History

On December 14, 2015, NYSOH received your initial application for health insurance.

On December 15, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 14, 2015 application. The notice stated that you were conditionally eligible to receive advance payments of the premium tax credit (APTC) of up to $144.00 per month, effective January 1, 2016. You were not eligible for Medicaid. Your eligibility was conditional pending receipt of documentation to confirm your citizenship status before March 13, 2016. Finally, the notice advised you to select a plan.

On December 17, 2015, you updated your NYSOH application.

On December 18, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 17, 2015 application. The notice stated that you were conditionally eligible to receive up to $144.00 per month in

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APTC, effective January 1, 2016. You were not eligible for Medicaid. Your eligibility was conditional pending receipt of documentation to confirm your citizenship status before March 16, 2016. Finally, the notice advised you to select a plan.

On February 3, 2016, NYSOH again redetermined your eligibility for financial assistance. On February 3, 2016, a preliminary eligibility determination was prepared with regard to the information contained in the February 1, 2016 application. It stated that you were found eligible for an APTC of up to $144.00 per month.

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

On February 4, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 3, 2016 redetermination. The notice stated that you were conditionally eligible to receive up to $144.00 per month in APTC, effective March 1, 2016. You were not eligible for Medicaid. Your eligibility was conditional pending receipt of documentation to confirm your citizenship status before May 3, 2016. The notice further stated that you did not qualify to select a health plan outside of the open enrollment period.

On June 20, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) a copy of your unemployment benefits history reflecting your weekly receipt of unemployment benefits in connection with your claim against your former employer, [redacted] and (2) letter signed by subsequent employer reflecting your hire date and earnings on bi-weekly basis. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No documents were received from you by July 5, 2016.

Accordingly, the record was closed on July 5, 2016.

Findings of Fact

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

1) The record reflects that you submitted your initial applications for 2016 health insurance coverage on December 14, 2015 and December 17, 2015. In each case, you were found conditionally eligible to enroll in a qualified health plan and to receive up to $144.00 per month of APTC.

2) The record reflects that you did not select a plan for enrollment during 2015.

3) Your application was further revised on February 1, 2016. Again, you were you were found conditionally eligible to enroll in a qualified health plan and to receive up to $144.00 per month of APTC. However, you were also found not eligible to select a plan outside of the open enrollment period.

4) You testified that you were seeking to enroll in a plan for the remainder of 2016. You also testified during the hearing that you were seeking a review of whether you were eligible for Medicaid during 2016.

5) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.

6) You are seeking insurance for only yourself.

7) The application that was submitted on February 1, 2016 listed annual household income of $31,200.00, consisting of $1,200.00 you earned from your employment with [redacted] once every two weeks. You testified that this amount was correct when you filed you application.

8) Your application states that you will not be taking any deductions on your 2016 tax return.

9) You testified that you are no longer employed by [redacted] and had made a claim for unemployment benefits.

10) You testified that in late April 2016 you began working for a new employer. You further testified that your income with this employer is variable depending on the amount of hours you work per week.

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)).

<u>Medicaid</u>

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is $11,770.00 for a one-person household (80 Federal Register 3236, 3237).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Legal Analysis

The first issue under review is whether NYSOH properly denied you a special enrollment period in the February 4, 2016 notice of eligibility determination.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted completed applications on December 14, 2015 and December 17, 2015. Therefore, you completed your initial applications during the open enrollment period. However, the record reflects that you did not enroll in a plan after those application had been completed.

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 to enroll in a qualified health plan.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid.

The application that was submitted on February 1, 2016 listed an annual household income of $31,200.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $11,770.00 for a one-person household. Since $31,200.00 is 265.08% of the 2015 FPL, NYSOH properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is $1,354.00 per month.

In order to assess your eligibility for Medicaid on a monthly household income basis, the Hearing Officer requested that you provide (1) a copy of your unemployment benefits history reflecting your weekly receipt of unemployment benefits in connection with your claim against your former employer, ████ ██ and (2) letter signed by subsequent employer reflecting your hire date and earnings on bi-weekly basis, by July 5, 2016. Since you did not provide the documentation as requested, we are unable to assess your eligible for Medicaid on a month household income basis. Therefore, there is insufficient evidence in the record to return your case to NYSOH for a redetermination of your eligibility for financial assistance.

Therefore, NYSOH's February 4, 2016 eligibility determination notice, and the February 3, 2016 preliminary eligibility determination upon which it is based, that you do not qualify to select a health plan outside of the open enrollment period for 2016, and do not qualify for Medicaid, is AFFIRMED.

Decision

The February 4, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 19, 2016

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period at this time.

You are not eligible for Medicaid.

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
- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The February 2, 2016 eligibility determination is AFFIRMED.

You do not qualify for a special enrollment period at this time.

You are not eligible for Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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