



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

Notice of Decision

Decision Date: August 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006817

[REDACTED]

Dear [REDACTED],

On June 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 4, 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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006817



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 did not qualify to select a health plan outside of the open enrollment period?

Procedural History

On December 8, 2015, you applied for health insurance through NYSOH.

On December 9, 2015, NYSOH issued an eligibility determination notice that you were conditionally eligible to receive up to \$79.00 of advance premium tax credits, effective as of January 1, 2016. The notice directed you to provide documentation of your citizenship status before March 7, 2016.

On December 16, 2015, NYSOH issued an enrollment notice confirming that as of December 15, 2015, you were enrolled in UnitedHealthcare Compass Bronze ST INN Pediatric Dental Dep 25 (UnitedHealthcare) with a plan enrollment start date of January 1, 2016.

On January 28, 2016, NYSOH issued a cancellation notice stating that your UnitedHealthcare was cancelled effective January 1, 2016. The notice stated your insurance was cancelled because a premium payment had not been received by UnitedHealthcare.

On February 3, 2016, you updated your NYSOH account.

Also on February 3, 2016, you spoke to NYSOH Account Review Unit and requested an appeal insofar as your eligibility for a special enrollment period.

On February 4, 2016, NYSOH issued an eligibility determination stating that you are conditionally eligible to receive up to \$79.00 of advance premium tax credits, effective as of March 1, 2016. The notice also stated, in relevant part, that you did not qualify to select a health plan outside of the open enrollment period.

On June 23, 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 re-enroll in health coverage through NYSOH.
- 2) According to your NYSOH account, a navigator from Brooklyn Perinatal Network, Inc. assisted you in applying and enrolling in health insurance through NYSOH.
- 3) According to your NYSOH account, you applied for health insurance through NYSOH on December 8, 2015.
- 4) According to your NYSOH account, you were enrolled in a UnitedHealthcare medical plan on December 15, 2015, with a plan enrollment start date of January 1, 2016.
- 5) You testified that you offered to provide your credit card information to the navigator, so the information could be kept on file. However, the information was refused.
- 6) On January 28, 2016, NYSOH issued a cancellation notice stating that your UnitedHealthcare was cancelled effective January 1, 2016. The notice stated your insurance was cancelled because a premium payment had not been received by UnitedHealthcare ([REDACTED]).
- 7) You testified that you never received a premium billing statement from UnitedHealthcare.
- 8) You testified that you contacted NYSOH in February 2016 to change qualified health plans and was notified that your UnitedHealthcare plan had been terminated.

- 9) You testified that you were visiting family in Texas beginning on or about December 10, 2015 until April 2016, and you were considering relocating to Texas permanently.
- 10) According to your NYSOH account, [REDACTED], [REDACTED] was listed as your residential and mailing address and has not been changed since December 8, 2015.
- 11) On February 4, 2016, NYSOH issued an eligibility determination stating that your eligibility was redetermined on February 3, 2016. The notice stated, in relevant part, that you did not qualify to select a health plan outside of the open enrollment period ([REDACTED]).

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)).

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

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(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)).

The loss of minimum essential coverage by a qualified individual or a dependent as a result of a failure to pay premiums on a timely basis, including COBRA premiums prior to the expiration of coverage, is not a sufficient basis to be awarded a special enrollment period (45 CFR § 155.420(e)).

Legal Analysis

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The issue under review is whether the NY State of Health (NYSOH) properly denied you a special enrollment period.

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

The record reflects that you enrolled in health insurance coverage on December 15, 2015. However, the insurance was cancelled effective January 1, 2016, because a premium payment had not been received by UnitedHealthcare

Once the annual open enrollment period ends, an applicant or enrollee must qualify for a special enrollment period in order to enroll or change 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 you were visiting family in Texas beginning on or about December 10, 2015 until April 2016, and you were considering relocating to Texas permanently. The record reflects that the residential address listed in your NYSOH account, [REDACTED] has not been changed since December 8, 2015. Furthermore, you contacted NYSOH on February 3, 2016, with the intention of changing qualified health plans.

The record does not support that you are entitled to a special enrollment period based on a permanent move.

According to the record, you applied and enrolled in health coverage through NYSOH with the assistance of a navigator. You offered to provide your credit card information to the navigator, so the information could be kept on file in order to pay for the health insurance premiums. However, the information was refused.

The facts do not support that your non-enrollment in health coverage was the result of an error, misrepresentation, or inaction of an officer, employee, or agent of the NYSOH.

Therefore, the record supports that a triggering event that would qualify you for a special enrollment period has not occurred.

Therefore, NYSOH's February 4, 2016, eligibility determination notice stating, in relevant part, that you did not qualify for a special enrollment period is **AFFIRMED**.

Decision

The February 4, 2016, eligibility determination insofar as stating that you are not eligible for a special enrollment period is **AFFIRMED**.

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Effective Date of this Decision: August 1, 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 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

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Summary

The February 4, 2016, eligibility determination insofar as stating that you are not eligible for a special enrollment period 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 issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

