



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

Notice of Decision

Decision Date: July 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006898

[REDACTED]

Dear [REDACTED]

On June 27, 2016, you appeared by telephone at a hearing on your eligibility for a health insurance exemption for 2015.

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:

Based on your interactions with NY State of Health (NYSOH), do you qualify for a health insurance exemption for 2015?

Procedural History

On December 16, 2014, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by January 15, 2015 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by January 15, 2015.

On January 17, 2015, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

On March 5, 2015, NYSOH issued a disenrollment notice stating that your Medicaid coverage with HealthPlus, an Amerigroup Company, would end effective January 31, 2015.

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On March 10, 2015, NYSOH received a revised application.

On March 11, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$269.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). This eligibility determination was effective April 1, 2016. The notice also stated that you qualified to select a plan outside of the open enrollment period for 2015, and to select a plan no later than May 30, 2015. Finally, the stated that you would receive a written confirmation from NYSOH once a plan had been selected.

Between June 17, 2015 and November 10, 2015, you updated you application several times. In each case, you were found eligible not only eligible to receive an APTC and eligible for CSR, but also eligible to enroll in a health plan outside of the open enrollment period. However, you were never enrolled in a plan.

On February 8, 2016, you spoke to NYSOH's Account Review Unit and appealed that you had not been permitted to enroll in a health plan after your March 10, 2015 eligibility determination as it caused you to incur a tax penalty for not having been enrolled in a health plan between April 1, 2015 and December 31, 2015.

On June 27, 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) You testified that you updated your application on March 10, 2015.
- 2) Between March 10, 2015 and November 10, 2015, you were found eligible for APTC, CSR and to enroll in a health plan outside of open enrollment period.
- 3) You testified that you attempted several times during 2015 to enroll in a health plan, but were unable to do so due to a technical defect with NYSOH.
- 4) You were not insured through NYSOH between April 1, 2015 and December 31, 2015 as a result of being unable to select a plan

- 5) NYSOH acknowledged that a defect existed that prevented you from selecting health plan through NYSOH during 2015. This defect has a NYSOH internal reference of [REDACTED]
- 6) NYSOH's records indicate that you contacted NYSOH multiple times in 2015; when you called in July, 2015, a representative from NYSOH confirmed there appeared to be a defect on the system preventing you from enrolling, even though you had been given a special enrollment period. Later notes in October repeated this comment.
- 7) You testified that you were penalized on your 2015 tax return because you were not enrolled in a health plan during the majority of 2015.
- 8) You testified that you were seeking an exemption for 2015 in order to recoup the penalty that you were assessed by the IRS for not having health insurance for a portion of 2015.

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

Applicable Law and Regulations

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR § 155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR § 155.605(g)(1)(iii)).

Legal Analysis

Based on the facts in the record and the Appellant's testimony, the Appeals Unit finds that NYSOH erred in preventing you from enrolling in a health plan between April 1, 2015 and December 31, 2015 due to a known technical defect. We, therefore, find that the appellant did not enroll in a QHP between April 1, 2015 and December 31, 2015 because of this error.

New York has opted not to provide determinations on whether applicants are eligible for exemptions to the shared responsibility payment. Therefore, if you

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wish to be considered for an exemption, which would exempt you from paying a penalty for not having health insurance, check the Federal Marketplace website (www.healthcare.gov) for further information.

You may wish to submit a copy of this decision in your appeal of the penalty assessed against you.

Decision

NYSOH does not currently make determinations as to applicants' eligibility for an exemption from a shared responsibility payment.

However, it is acknowledged by New York State of Health that you were prevented from enrolling in health insurance through NYSOH by a defect in our system.

Effective Date of this Decision: July 22, 2016

How this Decision Affects Your Eligibility

If you wish to pursue an exemption, you must apply through the federal government. You may provide the federal government with a copy of this Decision to support your request for an exemption.

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)).

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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:
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Summary

NYSOH does not currently make determinations as to applicants' eligibility for an exemption from a shared responsibility payment.

If you wish to pursue an exemption, you must apply through the federal government. You may provide the federal government with a copy of this Decision to support your request for an exemption.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

