



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: AP000000006928

[REDACTED]

Dear [REDACTED]

On June 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 7, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006928



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 for a special enrollment period as of your February 6, 2016 application?

Procedural History

On February 6, 2016, NYSOH received your application for health insurance.

On February 7, 2016, NYSOH issued a notice of eligibility determination that stated that you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$150.00 per month, and eligible for cost-sharing reductions (CSR), effective March 1, 2016. It further stated that you had not qualified to select a health plan outside of the open enrollment period for 2016.

On February 8, 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 20, 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 at the end of the hearing so that you could submit documentation relating to your prior health insurance coverage. On July 7, 2016, you faxed a two-page document to the NYSOH Appeals Unit. The record is now closed.

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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 application for 2016 health insurance coverage on February 6, 2016.
- 2) You testified that previously had Medicaid through your local Department of Social Services (DSS), and had a Hudson Health Medicaid Managed Care plan.
- 3) You testified that you called your DSS office to recertify and did not hear back from them.
- 4) You testified that you did not know that your Medicaid coverage had ended until you went to the doctor sometime in January 2016 and were told that you had no coverage.
- 5) You testified that you called NYSOH sometime during January 2016 to inquire about applying for insurance, but you were told that you would need to pick a plan, and you had to do some research to find out what plans your doctors would accept.
- 6) You testified that you had a difficult time applying for coverage through NYSOH, as you had never applied for coverage through NYSOH before.
- 7) You testified that the people you spoke with at NYSOH only told you about a rule regarding applying before or after the fifteenth of the month, and that no one ever informed you that you needed to apply by January 31, 2016.
- 8) You testified that you could not recall whether you informed NYSOH that you had Medicaid coverage that ended on December 31, 2015.
- 9) The record reflects that the NYSOH representative who completed your application over the phone with you on February 6, 2016 entered "Loss of essential health coverage or will lose coverage" as a reason in the "Special Enrollment Period Reasons" section of the application. However, the representative indicated that your prior insurance coverage was ending on December 31, 2016, and not December 31, 2015.
- 10) You testified that you are seeking to be able to enroll in insurance coverage for yourself retroactive to January 1, 2016.
- 11) After the hearing, you faxed a two page document to the NYSOH Appeals Unit, consisting of a one page cover sheet, and a letter dated July 6, 2016

from a Senior Director in Customer Care at Hudson Health Plan This document states that you had health coverage with Hudson Health Plan until December 31, 2015. This two-page document is entered into the record as "Appellant's Exhibit One."

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 (45 CFR § 155.420(a)).

This is permitted when a qualified individual involuntarily loses health insurance considered to be minimum essential coverage (45 CFR § 155.420(d)(1)).

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)).

Effective Date of Coverage

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The issue under review is whether NYSOH properly denied you a special enrollment period as of your February 6, 2016 application.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application on February 6, 2016. Therefore, you did not complete your application 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.

You testified that you had previous insurance coverage that ended as of December 31, 2015, which is considered a triggering life event.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

Sixty days from December 31, 2015 was February 29, 2016; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until February 29, 2016.

The credible evidence of record indicates that you had Medicaid and Medicaid Managed Care coverage through December 31, 2015 (see Appellant's Exhibit One). The record also indicates that an error was made when this information was entered into your February 6, 2016 application in that the application indicates that your coverage is ending December 31, 2016, when it in fact ended December 31, 2015.

Therefore, NYSOH's February 7, 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 until 60 days from the date of this decision.

You testified that you want coverage going back to January 1, 2016. However, your application was filed on February 6, 2016. The date on which coverage in a qualified health plan goes into effect depends on the date on which an applicant selects a plan for enrollment. A plan that is selected between the first and the fifteenth of the month goes into effect the first day of the following month.

Had you been granted a special enrollment period at the time of your February 6, 2016 application, you could have picked a plan that day. Therefore, your plan

would have started on March 1, 2016 – the same date your eligibility for APTC and CSR began.

Therefore, your enrollment in a qualified health plan, should you choose one within 60 days of this decision, can begin no earlier than March 1, 2016.

Decision

The February 7, 2016 eligibility determination is MODIFIED to reflect 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 with an effective date no earlier than March 1, 2016, and to ensure that your APTC and CSR are applied as of the first day of your enrollment in coverage.

Effective Date of this Decision: July 22, 2016

How this Decision Affects Your Eligibility

You qualify for a special enrollment period, and should have qualified for one on February 6, 2016 when you filed your application.

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

Your enrollment in a plan will start no earlier than March 1, 2016, and your APTC and CSR will be applied as of the first day of your enrollment in your plan.

Your case is being returned to NYSOH to help you enroll in coverage.

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.

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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 7, 2016 eligibility determination is MODIFIED to reflect 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 with an effective date no earlier than March 1, 2016, and to ensure that your APTC and CSR are applied as of the first day of your enrollment in coverage.

You qualify for a special enrollment period, and should have qualified for one on February 6, 2016 when you filed your application.

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

Your enrollment in a plan will start no earlier than March 1, 2016, and your APTC and CSR will be applied as of the first day of your enrollment in your plan.

Your case is being returned to NYSOH to help you enroll in coverage.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

