



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

Notice of Decision

Decision Date: August 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006982



Dear [REDACTED],

On July 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 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).

This page intentionally left blank.



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

Decision

Decision Date: August 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006982



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 and your spouse were not eligible for a special enrollment period?

Procedural History

On February 10, 2016, NYSOH received your application for health insurance, and prepared a preliminary eligibility determination stating that you were eligible to receive up to \$73.00 in advance payments of the premium tax credit (APTC) per month, and eligible to receive cost-sharing reductions (CSR), effective March 1, 2016. It further stated that your spouse and children could enroll in a qualified health plan (QHP) at full cost, effective March 1, 2016.

On February 10, 2016, you spoke to NYSOH's Account Review Unit and filed an appeal insofar as you were not permitted to enroll in a health plan outside of open enrollment period.

On February 11, 2016, NYSOH issued a notice of eligibility determination that stated that you were eligible to receive up to \$73.00 per month in APTC, and eligible to receive cost-sharing reductions (CSR), effective March 1, 2016. It further stated that your spouse and children were eligible to purchase a QHP at full cost, effective March 1, 2016. Lastly, it stated that your family could still get coverage if you qualified for a special enrollment period, and gave you instructions on how to apply for one.

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).

On March 3, 2016, NYSOH issued another eligibility determination based on your February 10, 2016 application. The determination was identical to the February 11, 2016 eligibility determination notice, except that it now stated that your household did not qualify to select a health plan outside of open enrollment for 2016.

On July 5, 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) The record indicates that you submitted your initial application for 2016 health insurance coverage on February 10, 2016.
- 2) The record reflects that, on your February 10, 2016 application, you indicated that you lost essential health coverage as of December 31, 2015.
- 3) The record reflects that no determination as to your eligibility for a special enrollment period was made by NYSOH until March 3, 2016.
- 4) You testified that you had Medicaid coverage through your local Department of Social Services (DSS) during 2015.
- 5) You testified that you discovered that your Medicaid coverage had ended in January 2016 when you went to the doctor and were told that your Medicaid coverage was not active.
- 6) You testified that you never received any notices from DSS alerting you that your coverage was ending.
- 7) You testified that you went to DSS in January and that they gave you the phone number for NYSOH and told you that you needed to call the number to apply for insurance.
- 8) You testified that you had a difficult time getting through to NYSOH by phone. You testified that you do not have access to a computer so you could not do your application online.
- 9) You testified that your children have Medicaid coverage and do not need other insurance at this time.

- 10) You testified that your spouse has coverage through her union, but that it does not cover everything, and you are looking to enroll her in coverage through NYSOH as well.
- 11) NY State's Medicaid System confirms that you had Medicaid and Medicaid Managed Care coverage that ended December 31, 2015.
- 12) You testified that your household moved from Nassau County to Queens County in April 2016, but you have not changed your address with NYSOH.
- 13) You testified that your expected annual income has increased a little because you are working more hours, and estimated that it will probably be \$18,000.00, as opposed to the \$16,000.00 listed in your application. You testified that your spouse's income is the same as it was in your February 10, 2016 application.

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 certain triggering events occur, including the following:

- (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.

(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)).

Legal Analysis

The issue under review is whether NYSOH properly failed to allow you a special enrollment period as of your February 10, 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 10, 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 your Medicaid coverage ended on December 31, 2015, which is considered a triggering life event. Your testimony was confirmed by information NY State's Medicaid system. Moreover, the record reflects that you reported this information to NYSOH as of your February 10, 2016 application, but NYSOH failed to issue a determination as to your eligibility for a special enrollment period until March 3, 2016.

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

Because your February 10, 2016 application was submitted within 60 days of the loss of your coverage, you should have been given a special enrollment period at that time.

Therefore, NYSOH's February 11, 2016 and March 3, 2016 eligibility determinations are MODIFIED to reflect that you and your spouse are eligible for a special enrollment period until 60 days from the date of this decision.

Had you been allowed to enroll on February 11, 2016, your enrollment would have gone into effect on March 1, 2016. Therefore, you may elect to backdate your coverage to that date.

Additionally, since your spouse is considered a "dependent" for purposes of the law relating to insurance coverage through NYSOH, you are eligible to enroll in a qualified health plan for both yourself and your spouse. Be advised that your spouse is not eligible for any APTC, as she has coverage outside of NYSOH, so your tax credit will not increase regardless of whether you add her to your plan.

Please note that the amount of APTC you receive is affected by the county in which you live. Therefore, your eligibility for APTC will also need to be redetermined based on the fact that you have moved from Nassau County to Queens County, and based on the fact that you testified that you now believe your annual income will be \$18,000.00 as opposed to \$16,000.00.

The record indicates that NYSOH's failure to grant you a special enrollment period may result in you being without insurance coverage for part of the 2016 coverage year.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later

Decision

The February 11, 2016 and March 3, 2016 eligibility determinations are MODIFIED to reflect that you and your spouse are eligible for a special enrollment period until 60 days from the date of this decision.

Your case is RETURNED to NYSOH for a redetermination of your eligibility for APTC and CSR, based on a household of four in Queens County, NY, with an expected annual household income of \$55,000.00.

Your case is RETURNED to NYSOH to assist you in enrolling into a plan for 2016 health coverage; you may elect for coverage to begin retroactively as early as March 1, 2016.

Effective Date of this Decision: August 2, 2016

How this Decision Affects Your Eligibility

You and your spouse qualify for a special enrollment period.

Your eligibility for APTC and CSR will be redetermined based on the fact that your expected annual income has increased and you have moved to Queens County.

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 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).

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 11, 2016 and March 3, 2016 eligibility determinations are MODIFIED to reflect that you and your spouse are eligible for a special enrollment period until 60 days from the date of this decision.

Your case is RETURNED to NYSOH for a redetermination of your eligibility for APTC and CSR, based on a household of four in Queens County, NY, with an expected annual household income of \$55,000.00.

Your case is RETURNED to NYSOH to assist you in enrolling into a plan for 2016 health coverage; you may elect for coverage to begin retroactively as early as March 1, 2016.

You and your spouse qualify for a special enrollment period.

Your eligibility for APTC and CSR will be redetermined based on the fact that your expected annual income has increased and you have moved to Queens County.

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.

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).

A Copy of this Decision Has Been Provided To:

