



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

Notice of Decision

Decision Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006993



Dear [REDACTED],

On June 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 5, 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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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 do not qualify for a special enrollment period as of February 4, 2016?

Procedural History

On December 11, 2015, NYSOH issued a notice of eligibility determination that stated that you and your spouse were eligible to enroll in a qualified health and eligible to receive an advance premium tax credit of up to \$436.00 per month, effective January 1, 2016

Also on December 11, 2015, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a bronze level qualified health plan effective January 1, 2016.

On January 30, 2016, NYSOH issued a cancellation notice stating that you and your spouse's enrollment in your bronze level qualified health plan was cancelled effective January 1, 2016 because a premium payment had not been received by your health plan.

On February 5, 2016, NYSOH issued a notice of eligibility determination that stated that you and your spouse were conditionally eligible to receive an advance

premium tax credit of up to \$436.00 per month. It further stated that you do not qualify to select a health plan outside of the open enrollment period for 2016.

On February 10, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you and your spouse were not eligible to enroll in a health plan outside of the open enrollment period.

On June 16, 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 December 10, 2015 and you and your spouse enrolled into a qualified health plan.
- 2) You testified that you called your qualified health plan in December because you wanted to pay your premium but had not received cards or a billing statement from them.
- 3) You testified that you called your qualified health plan several times but they were unable to accept a premium payment over the phone because their system was down.
- 4) You testified that you called NYSOH several times seeking assistance and received conflicting information.
- 5) You testified that during one of the conversations you had with NYSOH in January and were informed that you could switch health plans.
- 6) The events tab in your NYSOH account indicates that on January 27, 2016 a NYSOH representative updated your enrollment in your qualified health plan.
- 7) The record indicates that on January 30, 2016 you and your spouse were retroactively terminated from your qualified health plan for failure to pay premiums.
- 8) You testified that you are concerned about you and your spouse having to pay a penalty for being without insurance coverage for part of 2016.

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 a triggering event occurs such as

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 (45 CFR § 155.420(d)(4)).

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 denied you and your spouse a special enrollment period, as of February 4, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that on December 10, 2015 you and your spouse were enrolled into a qualified health plan. The record indicates that on January 30, 2016 you and your spouse were retroactively terminated from that qualified health plan for failure to pay premiums.

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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.

A special enrollment period can be granted if a qualified individual's enrollment or non-enrollment into a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH or its instrumentalities as evaluated and determined by the NYSOH.

The credible evidence of record indicates that you called NYSOH several times seeking assistance with your qualified health plan. You testified that during one of the conversations you had with NYSOH in January you were informed that you could switch health plans and you indicated that you wished to do so. The events tab in your NYSOH account indicates that on January 27, 2016, a NYSOH representative updated your enrollment in your qualified health plan. However, the representative failed to enroll you into a different qualified health plan on that day.

Since January 27, 2016 was within the open enrollment period, the representative's failure to assist you in selecting a new qualified health plan for you and your spouse that day qualifies you for a special enrollment period.

Therefore, NYSOH's February 5, 2016 eligibility determination notice stating that you and your spouse do not qualify to select a health plan outside of the open enrollment period for 2016 is MODIFIED to reflect that you and your spouse are eligible for a special enrollment period for 60 days from the date of this decision.

The record indicates that NYSOH's failure to grant you a special enrollment period resulted in you being without insurance coverage for part of the 2016 coverage year. During the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage.

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 5, 2016 eligibility determination is MODIFIED to reflect that you are eligible for a special enrollment period for 60 days from the date of this decision.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage.

Effective Date of this Decision: June 21, 2016

How this Decision Affects Your Eligibility

You and your spouse qualify for a special enrollment period.

You and your spouse 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

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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 5, 2016 eligibility determination is MODIFIED to reflect that you are eligible for a special enrollment period for 60 days from the date of this decision.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

