



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

Notice of Decision

Decision Date: July 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007060

[REDACTED]

Dear [REDACTED]

On July 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4, 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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Decision

Decision Date: July 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007060

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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 were not eligible for a special enrollment period, as of March 4, 2016?

Procedural History

On December 10, 2015, NYSOH received your updated application for health insurance.

On December 11, 2015, NYSOH issued a notice of eligibility determination that stated that you are eligible to receive up to \$142.00 per month in advance payments of the premium tax credit (APTC) and eligible for cost-sharing reductions (CSR), effective January 1, 2016.

Also on December 11, 2015, NYSOH issued a notice of enrollment confirmation confirming your enrollment in a silver level qualified health plan (QHP) as of January 1, 2016, with your APTC applied to your monthly premium as of January 1, 2016.

On February 10, 2016, you updated your NYSOH account.

Also on February 10, 2016, you spoke to NYSOH's Account Review Unit and appealed the fact that you were verbally denied a special enrollment period to allow you to enroll into a different QHP.

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On March 4, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$142.00 in APTC, and eligible for CSR, effective April 1, 2016. The notice also stated that you did not qualify to select a health plan outside of the open enrollment period for 2016.

On July 12, 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 an application for 2016 health insurance coverage on December 10, 2015 and enrolled in a health plan on that day. The record reflects that you are still enrolled in this health plan.
- 2) You testified that, before you chose a plan, you reviewed the health plans online and chose a plan based on the information.
- 3) You testified that you cannot remember exactly what websites you visited when you were reviewing plans, but that you think you visited NYSOH's website and maybe the health plans' websites.
- 4) You testified that you did not speak with anyone from NYSOH when you were reviewing health plans.
- 5) You testified that you feel the information you relied on was not clear enough, and that the specific costs of certain services were not listed anywhere. You testified that when you spoke with your health plan, they kept telling you the costs in terms of percentages, not in specific dollar amounts.
- 6) You testified that there have been no major changes in your household since you applied, such as a birth, death, or marriage.
- 7) You testified you have lived in the same county since you applied for insurance.
- 8) You testified that you want to be able to change to a different health plan because the plan you are enrolled in is costing much more than you thought that it would when you selected it.

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 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
 - (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)).

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 a special enrollment period, effective March 4, 2016

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a completed application on December 10, 2015 and enrolled in a silver level QHP on that day. The record also reflects that you are still enrolled in that plan.

However, you testified that you tried to change plans in February because the plan you chose and in which you are currently enrolled is too costly. You further

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testified that, though you reviewed the plan information online before selecting it, you feel the information was incomplete and inadequate.

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.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2016, no other triggering events have occurred that would qualify you for a special enrollment period. Specifically, though you testified that you feel the information you reviewed about your health plan was not adequate, you testified that you reviewed the plans yourself and did not rely on any information from anyone from NYSOH when making your selection. Moreover, your testimony indicated that you thought the information you reviewed was insufficient, but not that it contained incorrect information. Therefore, the record is void of any evidence that your choice to enroll in your silver level health plan was the result of any action or misrepresentation on the part of NYSOH or any entity providing enrollment assistance on behalf of NYSOH.

Therefore, NYSOH's March 4, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

Decision

The March 4, 2016 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: July 19, 2016

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period 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

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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
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 4, 2016 eligibility determination is **AFFIRMED**.

You do not qualify for a special enrollment period 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:

