



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

## Notice of Decision

Decision Date: July 26, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007172

[REDACTED]

Dear [REDACTED]

On July 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 18, 2016 denial of a special enrollment period.

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 NY State of Health 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007172



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were eligible to receive advance payments of the premium tax credit and cost sharing reductions, effective March 1, 2016, but that you did not qualify to select a health plan outside the open enrollment period?

## Procedural History

On February 12, 2016, NY State of Health (NYSOH) received your updated application for financial assistance.

On February 13, 2016, NYSOH issued an eligibility determination notice, based on your February 12, 2016 updated application, stating that you are eligible to receive advance payments of the premium tax credit (APTC) and cost sharing reductions, effective March 1, 2016. The notice further stated that you might qualify to select a health plan outside of the open enrollment period and you needed to sign into your NYSOH account and answer the questions posed to see if you qualified for a special enrollment period.

On February 17, 2016, NYSOH made a preliminary redetermination and found that you did not qualify for a special enrollment period outside the open enrollment period to select a health plan.

Also on February 17, 2016, you spoke with a representative from NYSOH's Account Review Unit and requested an appeal of that eligibility redetermination

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insofar as you did not qualify for a special enrollment period to select and enroll in a qualified health plan.

On February 18, 2016, NYSOH issued another eligibility redetermination notice regarding your eligibility for APTC and cost sharing reductions, effective March 1, 2016. This notice stated that you did not qualify for a special enrollment period outside of the open enrollment period because you had not met the requirements known as triggering events.

On July 6, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to July 21, 2016, to allow you to submit supporting documentary evidence.

As of July 22, 2016, the Appeals Unit had not received any facsimile from you and there were no documents viewable in your NYSOH account. Therefore, the record was closed and this decision is based on the record as developed at hearing on July 6, 2016.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of single and will not be claiming any dependents on that return.
- 2) You are seeking insurance for yourself.
- 3) The application that was updated on February 17, 2016, in which you requested financial assistance, listed annual household income of \$29,120.00, consisting solely of earnings from your employment at a pay rate of \$14.00 per hour times 40 hours per week. You testified that this amount was correct at the time.
- 4) You testified that your monthly income changed as of mid-April 2016 because your place of employment slows down. You testified that your hours changed from 40 hours per week to 25 hours per week, for a weekly pay of \$350.00 or \$1,400.00 per month during May, June, and July 2016.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) You testified that you did not have health insurance coverage through NYSOH in 2015 and part of 2016 because you could not afford it after paying for your basic living needs with your net earnings.

- 7) You testified that you were seeking to gain coverage in 2016 to avoid being assessed a tax penalty by the IRS for not having health insurance this year.
- 8) Your application states that you live in Cayuga County, New York.

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)).

#### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the

expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NYSOH has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## **Legal Analysis**

The issue under review is whether NYSOH properly denied you a special enrollment period as stated in the February 18, 2016 eligibility redetermination notice.

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 18, 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.

The record reflects that you were denied a special enrollment period because you did not experience any of the specified qualifying life events, known as triggering events, necessary to qualify for a special enrollment period. You testified that you did not have health insurance in 2015 and were seeking to gain coverage in 2016 to avoid being assessed a tax penalty by the IRS at the end of the 2016 tax year. However, this is not a triggering event and the record, including your testimony, did not otherwise reveal that any of the triggering events had occurred.

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.

Therefore, NYSOH's February 18, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

Notwithstanding, you credibly testified that you could not afford to pay for health insurance after you paid for your basic living needs with your net earnings. This may qualify you for a hardship exemption. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

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Lastly, it is noted that you testified to working lesser hours in April, May, June, and July 2016, but did not submit the supporting documents as directed by the Hearing Officer. Therefore, no further action will be taken on your account at this time. If there is a change in your annual income in that \$29,120.00 as calculated by the system is no longer accurate, you will need to report this change to NYSOH or access your NYSOH account online to correct your 2016 projected income accordingly. NYSOH will then be able to redetermine your eligibility for financial assistance based on the updated information you provide.

## **Decision**

The February 18, 2016 eligibility redetermination notice is AFFIRMED.

**Effective Date of this Decision:** July 26, 2016

## **How this Decision Affects Your Eligibility**

You do not qualify for a special enrollment period to select a health plan outside the open enrollment period.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **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 after 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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The February 18, 2016 eligibility redetermination notice is **AFFIRMED**.

You do not qualify for a special enrollment period to select a health plan outside the open enrollment period.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

