



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

Notice of Decision

Decision Date: August 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007196



Dear [REDACTED]

On July 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 8, 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: AP000000007196



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 your child did not qualify to select a different health plan outside of the open enrollment period for 2016 effective April 1, 2016?

Procedural History

On January 20, 2016, NYSOH received your non-financial application for health insurance for your child.

On January 21, 2016, NYSOH issued a notice of eligibility determination that stated that your child was eligible to purchase a qualified health plan at full cost effective March 1, 2016.

Also on January 21, 2016, an enrollment confirmation notice was issued confirming your child's enrollment in a Platinum level qualified health plan starting March 1, 2016.

On February 18, 2016, you spoke to NYSOH's Account Review Unit and requested to change your child's health plan outside of the open enrollment period. This request was denied. You then filed an appeal.

On February 19, 2016, a notice was issued confirming your request for an appeal hearing on the issue of denying a special enrollment period.

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On March 8, 2016, an eligibility determination notice was issued finding your child eligible to purchase a qualified health plan at full cost. However, you did not qualify to select a health plan outside of the open enrollment period for 2016.

On March 15, 2016, NYSOH issued a cancellation notice cancelling your child's Platinum level health plan effective March 1, 2016. This was because a premium payment had not been received.

On July 27, 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 child's initial non-financial application for 2016 health insurance coverage on January 20, 2016.
- 2) The record indicates your child was found eligible to purchase a qualified health plan at full cost effective March 1, 2016. You then chose a plan and enrolled her in a Platinum level qualified health plan on January 20, 2016.
- 3) You testified that your child still resides in a three-person household, with yourself and your spouse.
- 4) The record reflects she resides in Kings County.
- 5) You testified that her address has remained the same, and that she has not moved since initially applying for health insurance for 2016.
- 6) You testified that your daughter attends college in Pennsylvania.
- 7) You testified that your household income has not changed since initially applying for health insurance for your child.
- 8) You testified that your daughter had lost her prior private health insurance effective February 29, 2016, because you believed it did not fit her current health needs.

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)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

- (1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or
- (2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128”

(45 CFR § 155.420(e)).

De Novo Review

The NYSOH Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR §

155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Legal Analysis

The issue under review is whether NYSOH properly determined that your daughter was not eligible for a special enrollment period.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates your child was found eligible to purchase a qualified health plan at full cost effective March 1, 2016. You then chose a plan and enrolled her in a Platinum level qualified health plan on January 20, 2016.

On February 18, 2016, you contacted NYSOH and attempted to switch your daughter’s qualified health plan.

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.

Your testimony supports that your daughter attends college in Pennsylvania, however, her state of residence remains as New York and her address has remained the same. You further testified that your household’s income has not changed significantly since your application.

You further testified that your daughter’s previous private health insurance coverage ended on February 29, 2016, which is considered a triggering life event. However, you explained that this was done voluntarily due to your daughter’s current health needs. Because your termination of your daughter’s health insurance was your own choice, and not the result of circumstances outside of your control, it does not meet the standard described in federal regulation requiring a qualified individual or his or her dependent who involuntarily loses certain health insurance coverage considered to be minimum essential coverage be done so unwillingly.

NYSOH issued a cancellation notice on March 15, 2016, cancelling your child’s Platinum level health plan effective March 1, 2016. This was because a premium payment had not been received. Just as voluntary termination of coverage is not considered qualifying event for the granting of a special enrollment period, so too is loss of coverage due to failure to pay premiums on a timely basis.

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.

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).

Therefore, NYSOH's March 8, 2016, eligibility determination that your child does not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The March 8, 2016, eligibility determination is AFFIRMED.

Effective Date of this Decision: August 16, 2016

How this Decision Affects Your Eligibility

Your child does 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 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:

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- By calling the Customer Service Center at 1-855-355-5777
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Summary

The March 8, 2016, eligibility determination is AFFIRMED.

Your child does 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:

