



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: AP000000007270

[REDACTED]

Dear [REDACTED]

On July 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 23, 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: July 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007270



## 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 to enroll in a qualified health plan outside of the open enrollment period?

## Procedural History

On December 15, 2015 NYSOH received your application for health insurance.

On December 16, 2015, NYSOH issued a notice of eligibility determination that stated that you were newly eligible to receive an advance premium tax credit of up to \$174.00 per month and cost-sharing reductions, effective January 1, 2016.

On December 19, 2015, you enrolled into a qualified health plan.

On December 20, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled into a silver level qualified health plan and that your coverage would start January 1, 2016.

On February 4, 2016, NYSOH issued a cancellation notice stating that your enrollment in your silver level qualified health plan had been cancelled because your health plan did not receive a premium payment from you.

On February 22, 2016, you updated your NYSOH application. That day, you attempted to reenroll into a qualified health plan but were unable to.

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).

Also on February 22, 2016 you spoke to NYSOH's Account Review Unit and appealed insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On February 23, 2016, NYSOH issued a notice of eligibility determination that stated that you were eligible to receive an advance premium tax credit of up to \$174.00 per month and cost-sharing reductions, effective April 1, 2016. It further stated that you do not qualify to select a health plan outside of the open enrollment period 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 left open for 15 days to allow you time to submit documentation of your previous insurance coverage end date. On July 14, 2016, the Appeals Unit received a fax containing the requested documentation and the record was closed upon receipt. Your fax was marked as Appellant's Exhibit #1 and it was incorporated into the record.

## **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 in December 2015.
- 2) You testified that in December you selected a health plan under the impression that you were "holding it in place" until you decided if that is the health plan you wanted to stay with. You testified that you did not pay any premiums to that health plan.
- 3) You testified that you were told by your accountant that because you lost health insurance through your partner as of December 31, 2015, you would have 60 days from that date to enroll through NYSOH.
- 4) You provided documentation stating that your previous health plan through your partner's employer terminated on December 31, 2015.

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

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).

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:

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 determined that you were not eligible to enroll in a qualified health plan outside of the open enrollment period.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted an application for health insurance through NYSOH on December 15, 2015. You testified that in

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).

December you selected a health plan under the impression that you were “holding it in place” until you decided if that is the health plan you wanted to stay with. You testified that you did not pay any premiums to that health plan. The record indicates that on December 19, 2015 you enrolled into a silver level health plan however your enrollment in that plan was cancelled because a premium payment had not been received by your health plan. On February 22, 2016 you updated your NYSOH application and attempted to reenroll into a qualified health plan but were unable to.

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. They have 60 days from the triggering event to enroll into a qualified health plan through NYSOH.

You testified that your previous insurance coverage through your partner’s employer ended on December 31, 2015. You provided documentation from your previous health plan that confirms your health plan termination date of December 31, 2015. The loss of minimum essential coverage through a private health plan is considered a triggering event.

Therefore, NYSOH’s February 23, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is MODIFIED to reflect that you are eligible for a special enrollment period until 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.

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 23, 2016 eligibility determination is MODIFIED to reflect that you are eligible for a special enrollment period until 60 days from the date of this decision.

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

**Effective Date of this Decision:** July 19, 2016

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

You qualify for a special enrollment period.

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 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

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).

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 23, 2016 eligibility determination is MODIFIED to reflect that you are eligible for a special enrollment period until 60 days from the date of this decision.

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

You qualify for a special enrollment period.

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.



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

