



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

Notice of Decision

Decision Date: August 25, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007290



Dear [REDACTED],

On August 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 11, 2016 eligibility determination notice.

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

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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Decision

Decision Date: August 25, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007290



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 did not qualify to select a health plan outside of open enrollment for 2016?

Procedural History

On December 14, 2015, NYSOH received your application for health insurance.

On December 15, 2015, NYSOH issued a notice of eligibility determination that stated that you are eligible to purchase a qualified health plan at full cost effective January 1, 2016.

Also on December 15, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Silver level health plan and dental plan starting January 1, 2016.

On February 22, 2016, you spoke to NYSOH's Account Review Unit and requested to change your health plan, and you were told you were not eligible to enroll in a health plan outside of the open enrollment period. You then filed an appeal of this denial.

On February 23, 2016, a written notice was issued confirming your request for a telephone hearing for a denial of a special enrollment period.

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On March 11, 2016, an eligibility determination notice was issued finding you eligible to purchase a qualified health plan at full cost effective April 1, 2016. The notice further found you did not qualify to select a health plan outside of the open enrollment period for 2016.

On August 2, 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. The record was opened for an additional five day period for you to provide documentation of the end of your health care coverage through your employer until August 17, 2016. No documentation was received within the requested timeframe.

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 14, 2015.
- 2) The record supports you enrolled in a silver level qualified health plan on December 14, 2015.
- 3) You testified that you lost your employer sponsored insurance after you lost your job effective December 31, 2015.
- 4) You testified that you are seeking to change your qualified health plan.
- 5) You testified that your primary care physician is not participating in your currently enrolled silver level qualified health plan.
- 6) You testified that your income has not changed significantly since your last application.
- 7) You testified you reside with your spouse and dependent child. You testified that your household has not changed since initially applying for insurance.
- 8) The records shows and your testimony supports that you reside in Onondaga County, NY.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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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)).

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 you do not qualify to select 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 a completed application on December 14, 2015, and then requested to change your qualified health plan on February 22, 2016. Therefore, you did not request to change your qualified health plan during the open enrollment period.

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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.

You testified that your previous insurance coverage through your employer ended on December 31, 2015, which is considered a triggering life event.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

Sixty days from December 31, 2015 was February 29, 2016; therefore, you would have qualified to select or change your qualified health plan outside of the open enrollment period until February 29, 2016.

The credible evidence of record indicates that you contacted NYSOH on February 22, 2016, to change your qualified health plan. You testified that your primary care physician was not participating in your currently enrolled silver level qualified health plan. Because you contacted NYSOH on February 22, 2016, you were still within the 60 day period required by law to allow you to seek a change in your health plan due to your involuntary loss of minimum essential coverage on December 31, 2015.

The record was developed during your telephone hearing and was opened for an additional five day period for you to provide documentation to provide evidence of the end date of your health care coverage through your employer.

The NYSOH Appeals Unit did not receive the requested information within the time period requested in order to have a complete record of evidence to make a determination on your testimony.

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 23, 2016, appeal notice that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

Decision

The March 11, 2016 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: August 25, 2016

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How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period.

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:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
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- By fax: 1-855-900-5557

Summary

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The March 11, 2016 eligibility determination notice is AFFIRMED.

You do not qualify for a special enrollment period.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



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