



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

Notice of Decision

Decision Date: July 13, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007413

[REDACTED]

Dear [REDACTED]

On July 7, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 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

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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Appeal Identification Number: AP000000007413



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 do not qualify to select a health plan outside of the open enrollment period as of February 25, 2016?

Procedural History

On October 25, 2015 NYSOH issued a renewal notice stating that based on the information from federal and state data sources a decision could not be made about whether you qualify for financial assistance. You were asked to update your NYSOH account by December 15, 2015 or the financial assistance you were receiving might end.

On December 31, 2015 NYSOH issued an eligibility determination notice stating that you were newly conditional eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016. The notice stated that you were not eligible for financial assistance because you did not respond to the renewal notice in the required time frame.

On December 31, 2015 NYSOH issued an enrollment confirmation notice stating that you were enrolled into a silver level qualified health plan, with \$0.00 advance premium tax credits applied, and that your coverage would start January 1, 2016.

On January 15, 2016 NYSOH issued an eligibility determination notice stating that you were newly eligible to receive up to \$182.00 per month in advance

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premium tax credits and eligible to receive cost-sharing reductions, effective February 1, 2016.

On February 10, 2016 NYSOH issued a disenrollment notice stating that you requested to end your insurance on February 9, 2016 and that your coverage through your silver level qualified health plan would end effective February 29, 2016.

On February 25, 2016, NYSOH received your updated application. That day, you attempted to select a health plan for enrollment but were denied.

Also on February 25, 2016, you spoke to NYSOH's Account Review Unit and appealed because you were not eligible to enroll in a health plan outside of the open enrollment period.

On February 26, 2016, NYSOH issued a notice of eligibility determination, based on your February 25, 2016 application that stated that you were eligible to receive an advance premium tax credit of up to \$237.00 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 7, 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) You testified, and the events tab in your account confirms, that you accessed your account numerous times to renew your application for the 2016 insurance year.
- 2) The record indicates that there was defect on your account that prevented you from updating your NYSOH account prior to the December 15, 2015 deadline.
- 3) The record indicates that you were automatically enrolled into your qualified health plan at full cost effective January 1, 2016.
- 4) The record indicates that the defect was resolved and you were able to submit an application for financial assistance on January 14, 2016.

- 5) You testified that you called on February 9, 2016 to voluntarily cancel your health plan because the premiums for January and February coverage were too expensive and you did not want to pay them.
- 6) You testified that you called back at the end of February in order to reenroll into a health plan but you were denied.

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)).

Legal Analysis

The issue under review is whether NYSOH properly denied you a special enrollment period as of February 25, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. You were automatically reenrolled into your qualified health plan at full cost effective January 1, 2016. The record indicates that you submitted a complete application for financial assistance on January 14, 2016.

You testified that you called on February 9, 2016 to voluntarily cancel your health plan because you did not want to pay the expensive premiums for January and February coverage. The record indicates that you were cancelled from your health plan as of February 29, 2016 at your request.

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.

Generally, the loss of health insurance coverage is considered a triggering event. Here, your enrollment was terminated effective February 29, 2016 because you voluntarily requested for your coverage to end. Since a voluntary action caused the termination of your coverage; you would not be entitled to a special enrollment period in which to enroll in new coverage on this basis.

The record indicates that there was a technical error on your account that prevented you from submitting an updated application for financial assistance. However, this error did not prevent you from enrolling into a health plan and the error itself was resolved prior to the end of the annual open enrollment period and thus had no effect on your ability to enroll into coverage.

The credible evidence of record indicates that, since the open enrollment period closed, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's February 26, 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 February 26, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 13, 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 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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Summary

The February 26, 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:

