



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

## Notice of Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007517

[REDACTED]

Dear [REDACTED]

On July 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 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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## Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007517

[REDACTED]

## 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, your spouse, and your son did not qualify to select a qualified health plan outside of the open enrollment period for 2016?

## Procedural History

On November 20, 2015 NYSOH received a non-financial application for health insurance.

On November 22, 2015, NYSOH issued an eligibility determination notice, stating that you, your spouse, and your son were eligible to purchase a qualified health plan (QHP) at full cost through NYSOH. It further instructed you to select a plan; after you selected a plan, you would receive confirmation of your enrollment. This eligibility determination was effective January 1, 2016.

On February 29, 2016, NYSOH received a revised non-financial application. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you, your spouse, and your son were each eligible to enroll in a qualified health plan through NYSOH.

Also on February 29, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were unable to select a plan outside of open enrollment period for 2016.

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On March 1, 2016, NYSOH issued an eligibility determination notice based on the February 29, 2016 application. It stated that you, your spouse, and your son were eligible to purchase a QHP at full cost through NYSOH. It further stated that your family might qualify to select a plan outside of the open enrollment period for 2016, but you needed to sign into your account and answer questions about the Special Enrollment Period (SEP). This eligibility determination was effective April 1, 2016.

On March 10, 2016, NYSOH received a letter issued to your spouse by [REDACTED], dated September 30, 2015, reflecting a request to make an appointment for a six-month follow up.

March 14, 2016, NYSOH received a further revised application, this time asking for financial assistance.

On March 15, 2016, NYSOH issued an eligibility determination notice based on the information you provided in the March 14, 2016 application. It stated that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, and that your child was newly eligible to enroll in a Child-Only QHP. It further stated, however, that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2016. This eligibility determination was effective April 2016.

Your son was subsequently enrolled in a plan; however, his enrollment was cancelled due to your failure to pay premiums.

On July 8, 2016, NYSOH received a letter issued to your spouse by [REDACTED], dated December 21, 2015, reflecting an offer of employment. Your employment was scheduled to begin effective February 1, 2016.

On July 12, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse, [REDACTED] also attended the hearing to act as your Authorized Representative. The record was developed during the hearing and closed at the end of the hearing.

Your son was enrolled in a plan effective September 1, 2016.

## **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 November 20, 2015. At that time, your

family was found eligible to enroll in a qualified health plan at full cost, effective January 1, 2016.

- 2) Your spouse testified, and provided documentation on July 8, 2016, reflecting that she had received an offer of employment from [REDACTED]. She testified that your family refrained from enrolling in a plan through NYSOH beginning January 1, 2016 because you anticipated enrolling in an employer-based insurance plan, with such benefits to begin February 1, 2016.
- 3) Your spouse testified that shortly after receiving the offer of employment from [REDACTED], this offer was rescinded.
- 4) Your spouse testified, and the record reflects, that your NYSOH account was updated on February 29, 2016 in order to enroll your family in a health plan.
- 5) Your spouse testified, and the record reflects, that you, your spouse, and your son were unable to select a plan at that time because you had not qualified to select a plan after the open enrollment period.
- 6) You further revised your application on March 14, 2016 in order to request a special enrollment period to select a plan outside of the open enrollment period.
- 7) NYSOH issued a letter on March 15, 2016 formally denying your family a special enrollment period.
- 8) Your spouse testified that you were seeking to enroll your family in a health plan outside of the open enrollment period since you were seeking insurance coverage associated with appointments she anticipated with her [REDACTED], and your son's [REDACTED] diagnosis.
- 9) You testified that you believed a special enrollment period was warranted based on having not enrolled in a health plan through NYSOH in reliance upon [REDACTED] offer of employment and the anticipated benefits, which were later rescinded.

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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly denied you, your spouse and your son a special enrollment period, effective April 1, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application on November 20, 2015. Therefore, you completed your application during the open enrollment period. However, you did not select a plan at that time, because you having anticipated gaining health insurance coverage through a prospective employer.

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.

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While you credibly testified that you refrained selecting a health plan through NYSOH in reliance upon the offer of employment from [REDACTED] the rescinding of an offer of employment does not qualify as a triggering event that would qualify your family for a special enrollment period.

The credible evidence of record indicates that, after the open enrollment period closed on January 31, 2016, no other triggering events occurred that would qualify your family for a special enrollment period.

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

## **Decision**

The March 15, 2016 eligibility determination notice is **AFFIRMED**.

**Effective Date of this Decision:** August 19, 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

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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 March 15, 2016 eligibility determination notice is AFFIRMED.

Your family 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:**

