



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

Notice of Decision

Decision Date: August 08, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007606

[REDACTED]

Dear [REDACTED],

On July 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 3, 2016 and March 9, 2016 eligibility determination notices.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: August 08, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007606

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

Procedural History

On March 2, 2016, NYSOH received your application for health insurance. That day, NYSOH made a preliminary eligibility determination stating that you were eligible to purchase a qualified health plan at full cost. That day you also attempted to select a health plan but you were unable to enroll.

Also on March 2, 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 March 3, 2016, an eligibility determination notice was issued based on the March 2, 2016 application stating that you were eligible to purchase a qualified health plan at full cost effective April 1, 2016. It further stated that you did not qualify to select a health plan at full cost outside of the open enrollment period for 2016.

On March 9, 2016, NYSOH issued a determination after your additional eligibility run. That notice found you qualified to select a health plan outside of the open

enrollment period for 2016. You were asked to review your health plan options and confirm your selections no later than April 30, 2016.

On July 14, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days, until July 29, 2016, for you to provide documentation related to the end date of your health insurance through your college. On July 26, 2016, you faxed a 3 page document to NYSOH's Appeals Unit and it was incorporated into the record as (Appellant's Exhibit 1).

Findings of Fact

A review of the record support the following findings of fact:

- 1) You are seeking insurance for yourself.
- 2) The record indicates that you submitted your initial application for 2016 health insurance coverage on March 2, 2016.
- 3) You testified that you lost health insurance coverage on December 31, 2015, as a result of no longer being enrolled in your college.
- 4) You testified that there has been no changes to your immediate household.
- 5) You testified that your income has not changed since your initial application.
- 6) You testified that you have not recently moved.
- 7) You testified that you contacted NYSOH after you application in March, as you believed you were not eligible for a special enrollment period. You believe you selected the wrong life event on your online application. You testified that your family resides in Italy, but that you had stayed after college in New York.
- 8) The two page document that you faxed to NYSOH on July 26, 2016, shows that your third party health insurance through your college was terminated effective December 31, 2015. (Appellant's Exhibit 1, pg. 1).
- 9) The two page document you faxed to NYSOH shows that you attended [REDACTED] located in New York, New York. Your current address is also in that borough. (Appellant's Exhibit 1, pg. 1).

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 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 March 2, 2016. Therefore, you did not complete your application during the open enrollment period.

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

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health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

On March 3, 2016, an eligibility determination notice was issued finding you eligible to purchase a qualified health plan at full cost effective April 1, 2016. It further stated that you did not qualify to select a health plan at full cost outside of the open enrollment period for 2016.

After you had been denied the ability to enroll in a plan outside of the open enrollment period in that determination, the NYSOH ran your eligibility again on March 8, 2016 in which you answered a question affirmatively to a triggering life event.

On March 9, 2016, NYSOH issued a determination after your additional eligibility run. That notice found you qualified to select a health plan outside of the open enrollment period for 2016. You were asked to review your health plan options and confirm your selections no later than April 30, 2016. However, this determination was based on your answer to a question of whether you experienced a triggering life event. Specifically that you had recently had a permanent move into New York, or moved from one county or borough to another.

During your telephone hearing, you testified that you contacted NYSOH after your application in March, as you believed you were not eligible for a special enrollment period. You believe you selected the wrong life event on your online application, and that you in fact did not recently have a permanent move to New York. You testified that your family resides in Italy, but that you had stayed after college in New York and had not recently moved but just had graduated, and decided to stay in New York. Your prior college attendance was also in New York. The two page document you faxed to NYSOH shows that you attended [REDACTED] located in New York, New York. Your current address is also in that borough. (Appellant's Exhibit 1, pg. 1).

This move would not be considered a qualifying life event, as you previously resided in New York while attending college before your March 2, 2016 application.

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

The two page document that you faxed to NYSOH on July 26, 2016, shows that your third party health insurance through your college was terminated effective December 31, 2015 (Appellant's Exhibit 1, pg. 1).

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

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Sixty days from December 31, 2015 was February 29, 2016; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until February 29, 2016. The record reflects that your application was not complete until March 2, 2016, which was after your special enrollment period expired.

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 March 3, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

NYSOH's March 9, 2016 eligibility determination is **MODIFIED** to reflect you do not qualify to select a health plan outside of the open enrollment period for 2016.

Decision

The March 3, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

The March 9, 2016 eligibility determination is **MODIFIED** to reflect you do not qualify to select a health plan outside of the open enrollment period for 2016.

Effective Date of this Decision: August 08, 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.

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 3, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

The March 9, 2016 eligibility determination is **MODIFIED** to reflect you do not qualify to select a health plan outside of the open enrollment period for 2016.

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:

