



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

Notice of Decision

Decision Date: October 25, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007615



Dear [REDACTED],

On September 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 16, 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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NY State of Health Account ID: [REDACTED]
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Issues

The issues 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?

Procedural History

As of the writing of this decision, you have two open NYSOH accounts.

On February 26, 2016, you created two NYSOH accounts.

Also on February 26, 2016, NYSOH received your initial application for health insurance in account number [REDACTED], in which you attested that you lost your essential health coverage as of December 31, 2015.

On February 27, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 26, 2016 application in [REDACTED]. It stated that you were eligible to enroll in coverage through NYSOH and to receive \$0.00 in advance payments of the premium tax credit, effective April 1, 2016. The notice advised you that you were required to confirm your selection of a plan by February 29, 2016.

Also on February 27, 2016, NYSOH issued a notice of enrollment confirming your selection on February 26, 2016 of a bronze level qualified health plan (QHP). The notice stated that your QHP coverage would begin as of March 1,

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2016, and that you needed to pay the monthly premium to start and continue coverage.

Also on February 27, 2016, NYSOH received a revised application for health insurance under [REDACTED] in which you attested that neither you nor your spouse were seeking health insurance through NYSOH. NYSOH subsequently issued a notice confirming the cancellation of your previously selected coverage in this account.

On February 27, 2016, NYSOH received your initial application for health insurance under your second account, number [REDACTED] 7. You attested in this application that you lost your essential health coverage as of December 31, 2015.

On February 28, 2016, NYSOH issued an eligibility determination notice in account [REDACTED] based on the information contained in your February 27, 2016 application. The notice stated that you were eligible to purchase a QHP at full cost. The notice further stated that you qualified to select a health plan outside of the open enrollment period for 2016, but that you needed to select a plan by February 29, 2016. This eligibility determination was effective April 1, 2016.

On March 2, 2016, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not able to select a QHP outside of the open enrollment period.

On March 15, 2016, NYSOH redetermined your household's eligibility for health insurance under account [REDACTED], which was based on the information contained in that account as of February 27, 2016.

On March 16, 2016, NYSOH issued a notice of eligibility determination under [REDACTED] that stated that you were eligible to purchase a QHP at full cost. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 2016. This eligibility determination was effective April 1, 2016.

On September 9, 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) Two NYSOH accounts were created for you on February 26, 2016.

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- 2) The record indicates that you submitted your initial application for 2016 health insurance coverage on February 26, 2016 under [REDACTED] for coverage through NYSOH. In this application, you attested to having lost your health insurance as of December 31, 2015.
- 3) You selected a health plan on February 26, 2016, with coverage under that plan to begin March 1, 2016.
- 4) On February 27, 2016, your application under [REDACTED] was revised to reflect that you and your spouse were no longer seeking health insurance.
- 5) You were subsequently disenrolled from your QHP effective March 1, 2016.
- 6) You testified that you had no intention of disenrolling from the QHP you initially enrolled in under [REDACTED], and you were assisted by a NYSOH representative in creating what you understood to be a new account.
- 7) You testified that you attempted to reenroll in your QHP under [REDACTED] on March 2, 2016, but were prevented from doing so.
- 8) You testified during the hearing that not only were you seeking to reenroll in a health plan during 2016, but were also concerned about incurring a tax penalty as a result of being without coverage.

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 certain triggering life events occur, including the involuntarily loss of health insurance considered to be minimum essential coverage and an unintentional disenrollment from coverage caused by an error made by a NYSOH representative (45 CFR § 155.420(d)(1) & (4)).

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. 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.

In your applications, you attested to a loss of health insurance as of December 31, 2016. Based on your loss of health insurance, which is a triggering event to qualify for a special enrollment period, you enrolled in a QHP with coverage as of February 26, 2016, with such coverage to take effect on March 1, 2016.

The record further reflects that a new account, [REDACTED], was created for you by a NYSOH representative on February 27, 2016. As a result of the creation of this account, it appears that you were inadvertently disenrolled from your previously selected QHP, effective March 1, 2016.

You credibly testified that you had no intention of disenrolling from the QHP you and your spouse initially enrolled in under [REDACTED], and you were assisted by a NYSOH representative in creating what you understood to be a new account.

You testified that by the time you realized that you had been disenrolled from your QHP, it was March 2, 2016. Since the special enrollment period awarded to you under that account expired as of February 29, 2016, you were precluded from reenrolling the QHP at that time.

A special enrollment period can be granted if a qualified individual's enrollment or non-enrollment into a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH or its instrumentalities as evaluated and determined by the NYSOH.

The credible evidence of record indicates that the action by the NYSOH representative in creating a new account for you apparently caused your disenrollment from your QHP effective March 1, 2016. Such an action taken by a NYSOH representative to cause an inadvertent disenrollment of you and your spouse from your QHP is a triggering event.

Therefore, NYSOH's March 16, 2016 eligibility redetermination notice that you did 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. During the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage.

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 March 16, 2016 eligibility determination notice 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: October 25, 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 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

The March 16, 2016 eligibility determination notice 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:

