



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

Notice of Decision

Decision Date: October 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007738

[REDACTED]

Dear [REDACTED],

On August 31, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's denial of a Special Enrollment Period.

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]
Appeal Identification Number: AP000000007738



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 were not eligible for a Special Enrollment Period (SEP)?

Procedural History

On November 16, 2015, NYSOH issued a renewal notice stating that you were qualified to buy a health plan (QHP) at full cost as of January 1, 2016. The notice also stated that you and your children had been re-enrolled into your current QHP, an Oscar Platinum plan, for another year, with a plan start date of January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment confirmation notice, confirming your family's re-enrollment in a family's platinum-level Oscar QHP, at full cost, with a plan start date of January 1, 2016.

On March 7, 2016, you spoke to NYSOH's Account Review Unit and appealed the fact that you were verbally denied a SEP so that you could change to a different QHP outside of the 2016 open enrollment period.

On March 8, 2016, NYSOH issued an eligibility determination notice stating that you and your children were eligible to purchase a QHP at full cost, effective January 1, 2016. The notice also stated that you and your children qualified to select a health plan outside of the open enrollment period for 2016. The notice informed you that you had until May 6, 2016 to select a plan for enrollment.

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On March 21, 2016, your NYSOH account was updated.

On March 22, 24, and 29, 2016, NYSOH issued eligibility determination notices stating that you and your children were eligible to purchase a QHP at full cost, effective May 1, 2016. The notices also stated that you and your children did not qualify to select a health plan outside of the open enrollment period for 2016.

On August 31, 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) The record indicates that your application for health insurance was renewed on November 16, 2015, and you and your children were automatically re-enrolled into an Oscar platinum-level QHP, with an enrollment start date of January 1, 2016.
- 2) You testified that you originally chose this QHP when your Health Republic coverage ended as of November 30, 2015, and you had to pick a new plan for December 2015.
- 3) You testified that you specifically chose the Oscar plan for yourself and your children because your children's doctors participated in the plan.
- 4) You testified that your received a letter in February 2016 informing you that your children's doctors would no longer be participating in your plan. You uploaded two documents consisting of a letter from Oscar dated February 29, 2016 to your NYSOH account on March 7, 2016. The letter outlined certain hospitals and providers that would no longer be in Oscar's network as of April 1, 2016 (Documents [REDACTED] and [REDACTED]).
- 5) You testified that you contacted NYSOH to change your family's enrollment to a different health plan, but were informed that it was outside of open enrollment period, and that you could not change to a new plan.
- 6) You testified that you filed this appeal to change to a new plan going forward, as you need a plan that covers your children's doctors.

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

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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 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 SEPs to certain qualified individuals. During an SEP, 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 life 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

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- (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.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that your NYSOH application was renewed on November 16, 2015, and you and your children were automatically re-enrolled into a platinum-level QHP. Therefore, you initially completed your application and enrolled in a health plan 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 health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

You testified during the hearing that you wanted to change to a new plan because the doctors you take your children to were no longer participating in

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your current plan, and you provided documentation to NYSOH from your health plan. Though credible, your testimony did not support a finding that you have experienced a triggering event that would qualify you and your family for a SEP.

Nevertheless, the record shows that NYSOH granted you a SEP in a notice dated March 8, 2016. That notice further stated that you had until May 6, 2016 to choose a plan. Notwithstanding this notice, NYSOH verbally told you that you were not qualified for a SEP on March 7, 2016, and issued three more notices in March 2016 stating that you did not qualify for a SEP. Because of this, you were prevented from utilizing the SEP granted to you in the March 8, 2016 notice.

Once a determination is issued by NYSOH granting you an SEP, it is generally improper for NYSOH to refuse to honor that SEP.

Therefore, in the absence of any basis for disregarding the March 8, 2016 notice, NYSOH's March 22, 24, and 29, 2016 eligibility determination notices stating that you did not qualify for a SEP for 2016 are MODIFIED to reflect that you are currently eligible for a SEP until 60 days from the date of this decision.

Decision

The March 22, 24, and 29, 2016 eligibility determinations are 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 selecting a new health plan for enrollment for 2016.

Effective Date of this Decision: October 12, 2016

How this Decision Affects Your Eligibility

You qualify for a special enrollment period, in accordance with the March 8, 2016 eligibility determination notice.

You have 60 days from the date of this decision to enroll into a new 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.

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

Summary

The March 22, 24, and 29, 2016 eligibility determinations are 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 selecting a new health plan for enrollment for 2016.

You qualify for a special enrollment period, in accordance with the March 8, 2016 eligibility determination notice.

You have 60 days from the date of this decision to enroll into a new plan.

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Legal Authority

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

A Copy of this Decision Has Been Provided To:

