



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

## Notice of Decision

Decision Date: September 9, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007840

[REDACTED]

Dear [REDACTED],

On August 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 7, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: September 9, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007840



## 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 to select a qualified health plan for yourself and your spouse outside of the open enrollment period for 2016?

## Procedural History

On October 24, 2015, NYSOH issued a notice that it was time to renew your family's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your family would qualify for financial help paying for their health coverage, and that you needed to update your account by December 15, 2015, or your family might lose the financial assistance they were currently receiving.

On December 14, 2015, NYSOH received your updated application for health insurance.

On December 15, 2015, NYSOH issued a notice of eligibility determination that stated that you and your spouse were eligible to receive an advance premium tax credit of up to \$373.00 per month, and eligible for cost-sharing reductions, effective January 1, 2016. The notice further directed you to pick a health plan.

Also on December 15, 2015, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a Child Health Plus plan, and informing

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you and your spouse that your health coverage with a Qualified Health Plan would not begin until you picked a plan.

On March 10, 2016, you spoke to NYSOH's Account Review Unit and appealed NYSOH's verbal determination that you and your spouse were not eligible to enroll in a health plan outside of the open enrollment period.

On April 7, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$373.00 per month in advance premium tax credits, and eligible for cost-sharing reductions, effective January 1, 2016. The notice further stated that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2016.

On August 26, 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 you renewed your family's application for health insurance coverage for 2016 on December 14, 2015.
- 2) The record reflects that no health insurance plan was selected for yourself or your spouse on that day.
- 3) You testified that you completed your renewal online, and that you do not recall having any problems or encountering any issues with the online system.
- 4) You testified that you intended to select a health plan for yourself and your spouse when you completed your renewal, and believed that you had done so.
- 5) You testified that you were under the impression that, if you did not select a health plan, you would automatically be enrolled into the same plan in which you were enrolled the previous year.
- 6) The record reflects that, when you updated your account for the 2015 insurance year, you selected "Do not renew my eligibility automatically."
- 7) The record further reflects that your and your spouse's 2015 enrollment was cancelled on April 3, 2015, effective January 1, 2015, for nonpayment

- of premiums. No further enrollments in 2015 are reflected in your account for yourself and your spouse.
- 8) The record reflects that you receive email alerts regarding notices in your NYSOH account.
  - 9) You testified that you received emails after you renewed your coverage for 2016, but did not read them because you had heard on the news and from other people to be careful of emails about health insurance.
  - 10) You testified that, because you did not open these emails, you did not see the notices that informed you to pick a health plan for 2016 for yourself and your spouse.
  - 11) The record indicates that you filed this appeal because you wanted to be able to enroll in coverage for yourself and your spouse with a March 1, 2016 start date because your spouse had urgent medical needs at that time.

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)).

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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 you submitted a complete application on December 14, 2015. Therefore, you did complete your application during the open enrollment period. However, you did not select a health plan for yourself and your spouse by 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.

You testified that you thought that you selected a health plan for yourself and your spouse when you renewed your application for coverage on December 14, 2015, and that you fully intended to do so. You further testified that you thought, if you did not select a plan, you would be automatically enrolled into the plan you had last year. However, the record reflects that you and your spouse did not have coverage in a health plan last year, as your coverage was cancelled for nonpayment of premiums, effective January 1, 2015. Lastly, you testified that you did not read the notices that NYSOH sent to you regarding selecting a health plan for 2016 because you had heard that you should be careful about opening emails regarding health insurance. Therefore, you did not read the email alerts from NYSOH notifying you that there were important notices in your NYSOH account.

There is nothing in the record, nor in your testimony, to indicate that you have experienced a triggering event that would qualify you to choose a health plan for yourself and your spouse outside of the open enrollment period for 2016. The fact that you mistakenly believed that you had enrolled in a plan is not an event that triggers a special enrollment period.

Therefore, NYSOH's April 7, 2016 eligibility determination that you and your spouse do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

## **Decision**

The April 7, 2016 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** September 9, 2016

## **How this Decision Affects Your Eligibility**

You and your spouse 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:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

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- By fax: 1-855-900-5557

## **Summary**

The April 7, 2016 eligibility determination is AFFIRMED.

You and your spouse 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:**

