



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

Notice of Decision

Decision Date: September 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007932

[REDACTED]

Dear [REDACTED],

On August 30, 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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007932



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 for a special enrollment period to enroll in a qualified health plan outside the open enrollment period?

Procedural History

According to your NYSOH account, you were enrolled in a qualified health plan at full cost, effective January 1, 2016.

On March 13, 2016, NYSOH issued a disenrollment notice stating that your coverage in that qualified health plan ended effective January 31, 2016, due to non-payment of the monthly premium for the month of February 2016.

On March 15, 2016, you updated your NYSOH account and were verbally denied a special enrollment period to enroll in a health plan outside the open enrollment period.

Also on March 15, 2016, you spoke to NYSOH's Account Review Unit and appealed NYSOH's denial of a special enrollment period.

On March 16, 2016, NYSOH issued a notice of eligibility determination that in relevant part stated you did not qualify to select a health plan outside of the open enrollment period for 2016.

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On August 30, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit supporting documentation.

On September 7, 2016, the Appeals Unit received a two-page facsimile from you consisting of identical payment confirmation statements. That same day, this two-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) According to your NYSOH account and your testimony, your enrollment in a qualified health plan through NYSOH was terminated effective January 31, 2016 due to nonpayment of premium.
- 2) You testified that you thought you had set up automatic payment arrangement when you made your initial payment for health insurance coverage to begin on January 1, 2016.
- 3) You testified that you made this initial payment using a credit card.
- 4) The payment confirmation notice from Empire Blue Cross, dated November 30, 2015, acknowledges receipt of your initial payment and provided a payment reference number, as well as additional welcoming information (see Appellant's Exhibit A). The notice did not confirm that you had elected to set up automatic monthly payments with your insurance company.
- 5) You testified that you did not realize that your February 2016 payment was not automatically paid and did not receive any invoice informing you that premium payment was past due.
- 6) You testified that you contacted Empire Blue Cross on March 15, 2016, and requested to make full payment to bring your premium payments current, but they declined to allow you to do so.
- 7) You further testified that you contacted NYSOH on March 15, 2016, and were verbally denied a special enrollment period, as was confirmed in the March 16, 2016 eligibility redetermination notice.

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 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

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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)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

- (1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or
- (2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128”

(45 CFR § 155.420(e)).

Legal Analysis

The issue under review is whether NYSOH properly denied you a special enrollment period as stated in the March 16, 2016 eligibility redetermination notice.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application during open enrollment and were enrolled in a qualified health plan with coverage beginning on January 1, 2016. The record reflects that you were later disenrolled from your qualified health plan due to nonpayment of premium, effective 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.

Failure to pay premiums on a timely basis is considered to be a voluntary termination of coverage and does not qualify as a triggering event to qualify for a special enrollment period. The record reflects that your qualified health plan terminated your coverage because you did not timely pay the February 2016 premium and NYSOH issued a disenrollment notice to this effect. It is not enough that you thought you had set up an automatic payment arrangement and, although this was your intention, there is no evidence in the record to support that this occurred. Therefore, it is concluded that you voluntarily terminated your coverage by not timely paying the February 2016 premium and NYSOH properly determined that you do not qualify for a special enrollment period to enroll in a qualified health plan outside of open enrollment.

Further, 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 16, 2016 eligibility determination notice that stated you do not qualify for a special enrollment period to enroll in a qualified health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The March 16, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: September 15, 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 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
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Summary

The March 16, 2016 eligibility determination notice is **AFFIRMED**.

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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:

