



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

Notice of Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007935



Dear [REDACTED],

On August 31, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 8, 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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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) as of March 8, 2016?

Procedural History

On November 9, 2015, NYSOH received your updated application for health insurance.

On November 10, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$143.00 per month in advance payments of the premium tax credit (APTC), and eligible for cost-sharing reductions (CSR), effective January 1, 2016. The notice further advised you to select a health plan.

On February 16, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$143.00 per month in APTC, and eligible for CSR, effective January 1, 2016. The notice also stated that you did not qualify to select a health plan outside of the open enrollment period for 2016.

On March 7, 2016, you updated your NYSOH account.

On March 8, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$143.00 per month in APTC, and eligible for

CSR, effective April 1, 2016. The notice also stated that you did not qualify to select a health plan outside of the open enrollment period for 2016.

On March 15, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

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 you submitted your initial application for 2016 health insurance coverage on November 9, 2015.
- 2) The record reflects you did not select a health plan for enrollment during the 2016 open enrollment period.
- 3) You testified that you were exploring your options at the time you initially filed your application, as you were still researching what plans were accepted by your doctors, and were also considering private insurance.
- 4) You testified that you were not aware that you were up against a deadline for enrolling in coverage.
- 5) You testified that you've received a lot of spam emails about health insurance, so you were not well informed about the deadline for enrollment.
- 6) You testified that it was difficult to figure out what health plan would work for you because some of your doctors told you that they do not accept "Obamacare."
- 7) You are requesting a SEP so that you can enroll in health coverage through NYSOH.
- 8) You testified that you have no had health insurance coverage since June of 2015.
- 9) You testified you have not had any changes in your immediate household since you applied for health insurance.

10) You testified that there are still three people in your household, and that your income has not changed since you filed your application for health insurance for 2016.

11) You testified that you are still residing in Kings County.

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 SEP's to qualified individuals. During a 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 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 SEP as of March 8, 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 November 9, 2015. Therefore, you did complete your application

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during the open enrollment period. However, you did not select a health plan for enrollment prior to the end of the open enrollment period for 2016, which ended on January 31, 2016.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a SEP in order to enroll in, or change to another health plan offered in NYSOH. In order to qualify for a SEP, a person must experience a triggering event.

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 SEP. Though you testified that you were not aware of the deadline and were having some difficulty choosing a plan, these are not considered triggering events that would give rise to a SEP.

Therefore, NYSOH's March 8, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

Decision

The March 8, 2016 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: October 14, 2016

How this Decision Affects Your Eligibility

You do not qualify for a SEP 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

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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 8, 2016 eligibility determination is **AFFIRMED**.

You do not qualify for a SEP 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:

