



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: AP000000007961

[REDACTED]

Dear [REDACTED],

On September 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 17, 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]
Appeal Identification Number: AP000000007961

[REDACTED]

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 switch health plans after the open enrollment period ended on January 31, 2016?

Procedural History

On December 18, 2015, NYSOH received your application for health insurance in which you were seeking financial assistance.

On December 19, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 18, 2015 application. The notice stated that you were no longer eligible for Medicaid; however, your Medicaid coverage would continue until January 31, 2016.

On December 22, 2015, NYSOH received a revised application for health insurance in which you were not seeking financial assistance. That day, a preliminary eligibility determination was prepared with regard to that application. It stated that you were eligible to enroll in a qualified health plan (QHP) through NYSOH at full cost, effective February 1, 2016. No written eligibility determination notice was issued formalizing the findings contained in the December 22, 2015 preliminary eligibility determination notice.

On December 24, 2015, NYSOH issued a disenrollment notice stating that your Medicaid coverage with UnitedHealthcare of New York, Inc. (UHC) was

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terminated effective January 31, 2016. This was because you were no longer eligible to remain enrolled in that health insurance plan.

On January 3, 2016, NYSOH issued a notice of enrollment confirming your selection of UnitedHealthcare Compass Silver ST INN Pediatric Dental (UHC Compass) as your QHP as of January 2, 2016. The notice also confirmed that your coverage under this plan would begin effective February 1, 2016.

On March 16, 2016, NYSOH received a revised application for health insurance in which you were not seeking financial assistance. That day, a preliminary eligibility determination was prepared with regard to that application. It stated that you were eligible to enroll in a QHP through NYSOH at full cost, effective May 1, 2016.

Also on March 16, 2016, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as you were not found eligible to switch health plans outside of the open enrollment period.

On March 17, 2016, NYSOH issued an eligibility determination notice based on the information contained in the March 16, 2016 application. The notice stated that you were eligible to enroll in a QHP at full cost, effective May 1, 2016. It also stated that you did not qualify to select a health plan outside of the open enrollment period for 2016.

On September 7, 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 non-financial assistance application for 2016 health insurance coverage on December 22, 2015.
- 2) On December 22, 2015, you were found eligible to enroll in a QHP at full cost, effective February 1, 2016.
- 3) Your Medicaid coverage with UHC was terminated effective January 31, 2016.
- 4) The record reflects that you selected UHC Compass as your health plan on January 2, 2016. Your coverage under this plan was effective February 1, 2016.

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- 5) You testified that you selected UHC Compass as your QHP at the suggestion of a provider within [REDACTED]. You further testified, however, that on or about February 1, 2016 you were informed by your provider that [REDACTED] had dropped UHC Compass as an accepted insurance plan as of December 31, 2015.
- 6) You testified that you contacted NYSOH immediately after learning that UHC Compass was no longer accepted by [REDACTED], in order to switch to a plan that was accepted so as to avoid paying out-of-pocket costs.
- 7) The record reflects that a revised application was received on March 16, 2016.
- 8) You testified that you believed that you are entitled to switch plans due to the misinformation given to you by [REDACTED] on health plans accepted by their facility, and based on the inaction by NYSOH and UHC in not informing you upon selecting UHC Compass that it was not accepted by providers you were seeing at that time.
- 9) You testified that the inability to switch plans not only caused you a financial hardship since you were forced to incur out-of-pocket medical expenses you had not anticipated, but also a logistical hardship insofar as you are forced to have tests and lab work processed outside of [REDACTED] [REDACTED] since they would not otherwise be covered under UHC Compass.

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)).

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 to switch health plans for the remainder of the 2016 plan year.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete non-financial assistance application on December 22, 2015. Therefore, you completed your application during the open enrollment period.

The record reflects that you selected UHC Compass as your QHP on January 2, 2016. Your coverage under this QHP began effective February 1, 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.

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.

You testified that a provider at [REDACTED] told you that the hospital network accepted UHC Compass, and that you relied upon this information in selected this plan for your coverage during 2016. However, [REDACTED] is not an instrumentality or agent of NYSOH. Accordingly, a special enrollment period cannot be granted on this basis.

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You also testified that you ought to be entitled to a special enrollment period based on both NYSOH and UHC having not informed you that UHC Compass was not accepted by providers you were seeing at that time. Since NYSOH and UHC are under no affirmative obligation to notify you that a plan is not accepted by your provider, a special enrollment period cannot be granted on this basis.

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 17, 2016 eligibility determination notice that you do not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The March 17, 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 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)).

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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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 17, 2016 eligibility determination is AFFIRMED.

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:

