



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: AP000000008039

[REDACTED]

Dear [REDACTED],

On September 9, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 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: AP000000008039

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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 do not qualify for a special enrollment period?

Procedural History

On January 31, 2016 NYSOH received your application for health insurance.

On February 1, 2016, NYSOH issued a notice of eligibility determination that stated that you were eligible to purchase a qualified health plan at full cost through NYSOH effective March 1, 2016.

Also on February 1, 2016 NYSOH issued an enrollment confirmation notice stating that you were enrolled in a bronze level qualified health plan with a plan start date of March 1, 2016.

On March 17, 2016 you contacted NYSOH and requested to change the qualified health plan you were enrolled in. This request was denied.

Also on March 17, 2016, you spoke to NYSOH's Account Review Unit and appealed that denial insofar as you were ineligible to enroll in a health plan outside of the open enrollment period.

On March 19, 2016, NYSOH issued a notice of eligibility determination that stated that you were eligible to purchase a qualified health plan at full cost

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through NYSOH effective May 1, 2016. It further stated that you do not qualify to select a health plan outside of the open enrollment period for 2016.

On September 9, 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 January 31, 2016.
- 2) You testified that you looked on an online database that stated your doctor accepted the qualified health plan you enrolled in.
- 3) You testified that after contacting your doctor you realized that he did not accept the qualified health plan you enrolled in.
- 4) You testified that you did not take any additional steps to confirm whether or not your doctor accepted the qualified health plan you selected.
- 5) You testified that you recently moved from Kings County to Richmond County.
- 6) The record indicates that on September 8, 2016 you updated your NYSOH account to reflect your recent move.

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)).

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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, effective March 17, 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 January 31, 2016 and enrolled into a qualified health plan. On March 17, 2016 you contacted NYSOH to switch health plans. Therefore, you did not request to change your 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.

A special enrollment period can also 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 NYSOH.

You testified that you requested to change your health plan in March, 2016 because your doctor did not accept the plan you had initially enrolled in. You testified that you selected your health plan because you looked on an online database that stated your doctor accepted the qualified health plan you enrolled in but that after contacting your doctor you realized that he did not accept that

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plan. You testified that you did not take any additional steps to confirm whether or not your doctor accepted the qualified health plan before you selected it.

Since a review of health plan offerings is the sole responsibility of the enrollee to confirm the doctor of their choice participates in the plan and because there is no proof in the record that the information you relied on was created by NYSOH, you did not qualify for a special enrollment period at the time of the March 19, 2016 eligibility determination.

Therefore, the March 19, 2016 eligibility determination notice is **AFFIRMED**.

However, prior to the hearing you updated the address information in your NYSOH account. You testified that you just recently moved from Kings County to Richmond County and called to update your NYSOH account on September 8, 2016, which is considered a triggering life event.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

Therefore, you are now 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 enrolling into a health plan.

Decision

The March 19, 2016 eligibility determination is **AFFIRMED**.

You now qualify for a special enrollment period based on your recent move. Your case is **RETURNED** to NYSOH to assist you in enrolling into a plan for 2016 health coverage.

Effective Date of this Decision: September 15, 2016

How this Decision Affects Your Eligibility

You now qualify for a special enrollment period.

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

If You Disagree with this Decision (Appeal Rights)

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

Summary

The March 19, 2016 eligibility determination is **AFFIRMED**.

You now qualify for a special enrollment period based on your recent move. Your case is **RETURNED** to NYSOH to assist you in enrolling into a plan for 2016 health coverage.

You now qualify for a special enrollment period.

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

