



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: AP000000008054

[REDACTED]

Dear [REDACTED],

On September 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 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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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 and your spouse did not qualify for a special enrollment period to permit you to switch health plans during the 2016 plan year?

Procedural History

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

On December 16, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 14, 2015 application. It stated that you and your spouse were eligible to receive advance payments of the premium tax credit (APTC) of up to \$723.00 per month and, if you selected a silver-level plan, for cost-sharing reductions (CSR), effective January 1, 2016. You and your spouse enrolled in a qualified health plan (QHP) that same day, with coverage to begin January 1, 2016.

On March 18, 2016, NYSOH received a revised application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you and your spouse were to receive an APTC of up to \$723.00 per month and, if you selected a silver-level plan, eligible for CSR, effective May 1, 2016. It did not make a determination on whether you qualified for a special enrollment period to enable you to switch your health plan.

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Also on March 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not able to switch your health plan after the open enrollment period had ended.

On March 19, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the March 18, 2016 application. It stated that you and your spouse were eligible to receive an APTC of up to \$723.00 per month and, if you selected a silver-level plan, eligible for CSR, effective May 1, 2016. The notice also stated that you must have a qualifying event in order to select a plan outside of the open enrollment period.

On September 13, 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 December 14, 2015.
- 2) You testified that you selected a platinum-level health plan for you and your spouse for coverage beginning January 1, 2016.
- 3) You live in Ulster County, New York.
- 4) You testified that most of the healthcare providers you see are located in Orange County. This is the case since while you live in Ulster County, you live only a few miles from the border with Orange County.
- 5) You testified that you selected the platinum-level health plan for you and your spouse under the impression that this plan was accepted by your healthcare providers located in Orange County. You further testified that there were no apparent limitations on this plan within your locality when selecting the plan through NYSOH.
- 6) You testified that you later found out that while this plan was accepted by providers in Ulster, Dutchess and Putnam counties, it was not available for use in Orange County.
- 7) You testified that prior to selecting your health plan on December 14, 2015, you did not perform any independent investigation on whether you

providers in Orange County accepted or were able to participate in this health plan.

- 8) You later revised your application on March 17, 2016 to attempt to switch health plans for the remainder of the 2016 plan year, but were prevented from doing so.
- 9) You testified that as a result of your health plan not being accepted in Orange County, you and your spouse have incurred out-of-pocket medical costs for attending some appointments with providers located in Orange County. You further testified that you have incurred additional costs and time associated with increase travel to healthcare provides located in your home county.
- 10) You testified that you were seeking to switch plans for the remainder of the 2016 plan year.

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.

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.

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 you selected the platinum-level health plan for you and your spouse for coverage beginning January 1, 2016 under the impression that this plan was accepted by your healthcare providers located in Orange County. You further testified, however, that while this plan was accepted in your home county of Ulster, it was not accepted in Orange County which caused you financial and logistical difficulties. You further testified that there wasn't sufficient information provided when you selected the health plan through NYSOH to inform you of this plan restriction. However, you conceded that you did not contact any of your healthcare providers located within Orange County to advise you on whether they accepted this plan.

Since the record does not indicate that NYSOH, by action or inaction, made an error or misrepresented information, 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 19, 2016 eligibility determination notice which did not award you special enrollment period to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The March 18, 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)).

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 18, 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:

