



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

Notice of Decision

Decision Date: November 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008085

[REDACTED]

Dear [REDACTED],

On November 3, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 20, 2016 cancellation notice and March 20, 2016 enrollment 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).

This page intentionally left blank.



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

Decision

Decision Date: November 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008085



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Does NY State of Health (NYSOH) have the authority to review the disenrollment of you and your spouse from your qualified health plan due to non-payment of premiums?

Did NYSOH properly determine that the enrollment of you and your spouse in a qualified health plan was effective May 1, 2016, rather than February 1, 2016, such that you and your spouse may be exposed to a tax penalty for not having had coverage during a portion of the 2016 plan year?

Procedural History

On December 31, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 30, 2015 application. The notice stated that that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost, effective February 1, 2016.

Also on December 31, 2015, NYSOH issued an enrollment notice confirming your selection of a QHP for you and your spouse as of December 30, 2015 with a monthly premium of \$1,130.50. The notice further stated that your coverage could begin as soon as February 1, 2016, provided that your premium payment was timely received.

On February 20, 2016, NYSOH issued a cancellation notice stating that the QHP coverage for you and your spouse was cancelled effective February 1, 2016 due to non-payment of premiums.

On February 29, 2016, NYSOH received a revised application for health insurance.

On March 1, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 29, 2016 application. The notice stated that that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost, effective April 1, 2016. However, the notice stated that you must have a qualifying event in order to select a plan outside of the open enrollment period. The notice advised you to sign into your account and answer the questions about the Special Enrollment Period.

On March 17, 2016, NYSOH received a revised application for health insurance.

On March 19, 2016, NYSOH issued an eligibility determination notice based on the information contained in the March 17, 2016 application. The notice stated that that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost, effective May 1, 2016. The notice further stated that you and your spouse qualified to select a health plan outside of the open enrollment period for 2016.

Also on March 19, 2016, you spoke to NYSOH's Account Review Unit and appealed insofar as your plan could begin no earlier than May 1, 2016.

On March 20, 2016, NYSOH issued an enrollment notice confirming your selection of a QHP for you and your spouse as of March 19, 2016. The notice further stated that coverage for you and your spouse would begin effective May 1, 2016.

On November 3, 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) You selected a QHP for coverage for you and your spouse on December 30, 2015. The monthly premium for such coverage was \$1,130.50. Your QHP coverage began was scheduled to begin February 1, 2016.

- 2) You testified that the insurance carrier provided you with erroneous information on the due date by which your premium could be received for coverage to begin on February 1, 2016. You further testified that the insurance carrier has rejected all of your attempts at payment, and has rebuffed any arguments that the payment should be accepted within a certain grace period.
- 3) Coverage under the QHP for you and your spouse was cancelled effective February 1, 2016 for non-payment of premiums.
- 4) You testified, and the record reflects, that you reenrolled in the QHP on March 19, 2016.
- 5) You testified that you while you and your spouse did not incur any medical expenses for the period between February 1, 2016 and April 30, 2016, you were mainly concerned about not having had insurance for a period of three months. You further testified that you believed such a gap in coverage would subject you and your spouse to a tax penalty for not having had for a period of time during 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

Appealable Issues

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination, and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit (45 CFR § 155.505).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether the NYSOH has the authority to review the disenrollment of you and your spouse from your QHP due to non-payment of premiums.

On February 20, 2016, NYSOH issued a disenrollment notice stating the coverage of you and your spouse under the QHP had been cancelled effective February 1, 2016 because of non-payment of premiums.

You testified that the insurance carrier provided you with erroneous information on the due date by which your premium could be received for coverage beginning February 1, 2016. You further testified that the insurance carrier has since rejected all of your attempts at payment, and has rebuffed any arguments that the payment should be accepted within a certain grace period.

The NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination, and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit.

Since the NYSOH Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your Essential Plan for non-payment of premiums. Therefore, your appeal of the February 20, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined the enrollment of you and your spouse in a QHP was effective no earlier than May 1, 2016, rather than February 1, 2016, such that you and your spouse may be exposed to a tax penalty for not having had coverage during a portion of the 2016 plan year.

The record shows that on March 17, 2016 you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan on March 19, 2016. On March 20, 2016, NYSOH issued an enrollment notice stating that the enrollment of you and your spouse in your QHP was effective May 1, 2016.

When an individual changes information in their application after the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the sixteenth day to and including the last day of a month goes into effect on the first day of the second following month.

Therefore, NYSOH's March 20, 2016 enrollment notice is **AFFIRMED** because it properly began the enrollment of you and your spouse in your QHP on May 1, 2016.

Decision

Your appeal of the February 20, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The March 20, 2016 enrollment notice is **AFFIRMED**.

Effective Date of this Decision: November 8, 2016

How this Decision Affects Your Eligibility

This Decision does not change your eligibility.

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).

The effective date of coverage for you and your spouse under the QHP is May 1, 2016.

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

Your appeal of the February 20, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

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).

The March 20, 2016 enrollment notice is AFFIRMED.

This Decision does not change your eligibility.

The effective date of coverage for you and your spouse under the QHP is May 1, 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

