



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

## Notice of Decision

Decision Date: September 29, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008086

[REDACTED]

Dear [REDACTED],

On September 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 20, 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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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008086



## 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 select a health plan through NYSOH outside the open enrollment period?

## Procedural History

On March 19, 2016, NYSOH received your application for health insurance.

Also on March 19, 2016, you spoke to NYSOH's Account Review Unit and appealed NYSOH's verbal denial of a special enrollment period.

On March 20, 2016, NYSOH issued a notice of eligibility determination that stated that you are eligible to receive an advance premium tax credit of up to \$60.00 per month, 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 12, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit supporting documentation.

As of September 27, 2016, the Appeals Unit had not received any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed and this decision is based on the record as developed at the hearing.

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## Findings of Fact

A review of the record supports the following findings of fact:

- 1) The record indicates that you submitted your initial application for 2016 health insurance coverage on March 19, 2016.
- 2) According to your NYSOH account, you were born on [REDACTED] and turned 26 years of age on [REDACTED].
- 3) You testified that you lost health insurance coverage through your father's health plan as of December 1, 2015 because you turned 26 years old the month before.
- 4) You testified that you and your parents did not realize that your coverage would end when you turned 26 years old and thought you would remain covered until your 27<sup>th</sup> birthday.
- 5) You testified that your father does not go through the mail often and the notice that your health insurance coverage ended was in a stack of unread mail.
- 6) You testified that you first learned you were not insured when you went for a diagnostic test on or about January 10, 2016.
- 7) You are seeking to qualify for a special enrollment period so that you can enroll in a health plan and get the medical treatment you need.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## Applicable Law and Regulations

### Enrollment Periods

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)).

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)).

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals if a triggering event occurs. During a special

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enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. One instance in which this is permitted is when the qualified individual or his or her dependent involuntarily loses certain health insurance coverage that is considered to be minimum essential coverage, such as employer-sponsored health insurance (45 CFR § 155.420(d)(1)(a); 26 CFR § 1.36B-2(c)(1)).

Generally, if a triggering life event occurs, as when a qualified individual loses minimum essential coverage, advance availability of a special enrollment period is provided. In such circumstances, the qualified individual or enrollee has 60 days before and after the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1) and (2)(i)).

If a qualified individual who is losing minimum essential coverage selects a QHP prior to or on the date of loss of coverage, the Exchange (NYSOH) “must ensure that the coverage effective date is on the first day of the month following the loss of coverage” (45 CFR § 155.420(b)(2)(iv)).

## **Legal Analysis**

The issue under review is whether NYSOH properly denied you a special enrollment period on March 19, 2016, as stated in the March 20, 2016 eligibility determination notice.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application on March 19, 2016. Therefore, you did not 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.

You testified that your previous insurance coverage ended on December 1, 2015, which is considered a triggering life event.

In the case where the triggering life event is loss of health insurance, the qualified individual has sixty days before and after the date of that event to select a qualified health plan through NYSOH.

Sixty days from December 1, 2015 was January 30, 2016. Therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until January 30, 2016. The record reflects that your application was not

complete until March 19, 2016, which was after your special enrollment period expired.

The credible evidence of record indicates that you did not select a health plan by January 30, 2016 and no other triggering events have occurred that would qualify you for a special enrollment period. It is not sufficient that you and your parents did not understand that you aged out of your father's health plan at 26 years of age or that your father did not review the health plan notice when it was received.

Therefore, NYSOH's March 20, 2016 eligibility determination notice stating that you do not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

## **Decision**

The March 20, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** September 29, 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 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).

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 20, 2016 eligibility determination notice 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:**

