



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

Notice of Decision

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008221

[REDACTED]

Dear [REDACTED],

On August 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 22, 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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NY State of Health Account ID: [REDACTED]
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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 were not eligible for a special enrollment period as of March 22, 2016?

Procedural History

On February 25, 2016, NYSOH received your application for health insurance.

On February 26, 2016, NYSOH issued a notice of eligibility determination that stated that you and your spouse are conditionally eligible to receive advance payments of the premium tax credit (APTC) of up to \$222.00 per month, effective April 1, 2016. It further stated that you and your spouse may be eligible for a special enrollment period (SEP) so that you could still enroll in coverage outside of open enrollment.

On March 22, 2016, NYSOH issued a notice of eligibility determination that again stated that you and your spouse were conditionally eligible to receive up to \$222.00 per month in APTC, effective April 1, 2016. The notice further stated that you and your spouse did not qualify for an SEP.

On March 23, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period. You also appealed the amount of APTC for which you and your spouse were determined eligible.

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On April 14, 2016, you updated your NYSOH account.

On April 15, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible for up to \$309.00 per month in APTC, effective May 1, 2016, and that you did not qualify for an SEP.

On April 16, your application was updated again.

On April 17, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$309.00 per month in APTC, effective May 1, 2016, and eligible for an SEP. The notice further stated that you and your spouse had until April 29, 2016 to select a plan for enrollment.

Also on April 17, NYSOH issued a notice of enrollment confirmation confirming your enrollment, and your spouse's enrollment, in a couple's bronze-level qualified health plan, with an enrollment start date of March 1, 2016. The notice also stated that your APTC would be applied to your health plan premium effective March 1, 2016.

On April 20, 2016, NYSOH issued a cancellation notice stating that your enrollment and your spouse's enrollment in your couple's bronze-level qualified health plan was cancelled effective March 1, 2016 because a premium payment had not been received.

On May 20, 2016, your NYSOH account was updated.

On May 21, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible for up to \$403.00 per month in APTC, and newly conditionally eligible for cost-sharing reductions (CSR), effective July 1, 2016. The notice further stated that you and your spouse qualified for an SEP, and directed you to choose a plan no later than June 19, 2016.

On May 24, 2016, your NYSOH account was updated.

On May 25, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$403.00 per month in APTC, and eligible for CSR, effective July 1, 2016. The notice further stated that you and your spouse qualified for an SEP, and directed you to choose a plan no later than July 23, 2016.

On May 25, 2016, your NYSOH account was updated.

On May 26, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$413.00 per

month in APTC, and conditionally eligible for CSR, effective July 1, 2016. The notice further stated that you and your spouse qualified for an SEP, and directed you to choose a plan no later than July 24, 2016.

On June 29, 2016, your NYSOH account was updated.

On June 30, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$413.00 per month in APTC, and conditionally eligible for CSR, effective August 1, 2016. The notice further stated that you and your spouse qualified for an SEP, and directed you to choose a plan no later than August 28, 2016.

On August 4, 2016, your eligibility was re-determined by NYSOH.

On August 5, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$413.00 per month in APTC, and conditionally eligible for CSR, effective September 1, 2016. The notice further stated that you and your spouse qualified for an SEP, and directed you to choose a plan no later than October 3, 2016.

On August 17, 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 February 25, 2016.
- 2) The record does not reflect that you submitted a request for an SEP in that application.
- 3) The record reflects that, on February 25, 2016, NYSOH's system received information showing that you and your family had Medicaid coverage that was ending on February 29, 2016.
- 4) The record further reflects that, when you updated your application on April 14, 2016, you submitted a request for a SEP based on the fact that your insurance coverage had ended on February 29, 2016.
- 5) Your testimony confirmed that you and your family were enrolled in Medicaid coverage outside of NYSOH, and that this coverage ended February 29, 2016.

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- 6) You testified during the hearing that you are looking to be able to enroll in coverage going forward.
- 7) You testified that you have tried to enroll in a health plan several times since receiving the multiple eligibility determinations that granted you and your spouse an SEP, and that you have been told by NYSOH representatives each time that they are unable to enroll you in coverage.
- 8) You testified that you are no longer appealing the amount of APTC for which you and your spouse were found eligible, as you are satisfied with the determination stating that you and your spouse are now eligible for up to \$413.00 per month.

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 certain triggering events occur, including the following:

- (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

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(c) Pregnancy-related coverage; or

(d) Medically needy coverage.

(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 22, 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 February 25, 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.

The record reflects that NYSOH's system received information on February 25, 2016 showing that you and your family had Medicaid coverage that was ending on February 29, 2016. Although the record does not contain information to indicate that you specifically requested an SEP in your February 25, 2016 application, NYSOH had information on record as of February 25, 2016 indicating that your family's previous insurance coverage was ending as of February 29, 2016, which is considered a triggering life event. Additionally, it is reasonable to assume that you and your spouse wanted to enroll in coverage, as you filed an application for yourself and your spouse and indicated that you both needed health insurance.

Therefore, NYSOH's March 22, 2016 notice of eligibility determination is MODIFIED to state that you and your spouse were eligible for an SEP as of February 25, 2016. The eligibility determination issued on April 15, 2016 is likewise MODIFIED to state that you and your spouse were eligible for an SEP as of April 14, 2016.

You testified at the hearing that you are not looking to enroll in coverage retroactively, but only prospectively. Further, the record reflects that you and your

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spouse were granted an SEP in the eligibility determination notices dated May 21, 2016, May 25, 2016, May 25, 2016, June 30, 2016, and August 5, 2016. However, you testified that, when you have contacted NYSOH to try to enroll in a plan, you have been unable to do so.

Therefore, the May 21, 2016, May 25, 2016, May 26, 2016, June 30, 2016, and August 5, 2016 eligibility determination notices are AFFIRMED, insofar as each of them granted you and your spouse a SEP. You have 60 days from the date of this decision to select a health plan.

Your case is RETURNED to NYSOH to facilitate your immediate enrollment into a qualified health plan for yourself and your spouse, effective as early as September 1, 2016, with the application of your APTC and CSR effective the day your enrollment begins.

Decision

The March 22, 2016 and April 15, 2016 eligibility determinations are MODIFIED to reflect that you and your spouse were eligible for a SEP.

The May 21, 2016, May 25, 2016, May 26, 2016, June 30, 2016 and August 5, 2016 eligibility determinations are AFFIRMED, insofar as each of them granted you and your spouse a SEP.

You have 60 days from the date of this decision to select a health plan for yourself and your spouse.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage with a start date as early as September 1, 2016, and to ensure that your APTC and CSR is applied when your enrollment, and your spouse's enrollment, begins.

Effective Date of this Decision: August 30, 2016

How this Decision Affects Your Eligibility

You and your spouse qualified for a special enrollment period at the time of your application and at the time of the March 22, 2016 and April 15, 2016 eligibility determinations.

You and your spouse currently qualify for a special enrollment period.

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You have 60 days from the date of this decision to enroll into a plan, with coverage beginning as early as September 1, 2016. Your APTC and CSR will be applied when your enrollment begins.

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

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Summary

The March 22, 2016 and April 15, 2016 eligibility determinations are MODIFIED to reflect that you and your spouse were eligible for a SEP.

The May 21, 2016, May 25, 2016, May 26, 2016, June 30, 2016 and August 5, 2016 eligibility determinations are AFFIRMED, insofar as each of them granted you and your spouse a SEP.

You have 60 days from the date of this decision to select a health plan for yourself and your spouse.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage with a start date as early as September 1, 2016, and to ensure that your APTC and CSR is applied when your enrollment, and your spouse's enrollment, begins.

You and your spouse qualified for a special enrollment period at the time of your application and at the time of the March 22, 2016 and April 15, 2016 eligibility determinations.

You and your spouse currently qualify for a special enrollment period.

You have 60 days from the date of this decision to enroll into a plan, with coverage beginning as early as September 1, 2016. Your APTC and CSR will be applied when your enrollment begins.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

