



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: AP000000008242

[REDACTED]

Dear [REDACTED],

On September 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 24, 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

Decision Date: September 29, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008242

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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 did not qualify for a special enrollment period outside the open enrollment period to select a qualified health plan?

## Procedural History

On February 4, 2016, NYSOH received your initial application for health insurance. You updated your application on March 23, 2016.

On March 23, 2016, NYSOH made a preliminary redetermination of your eligibility and, in part, determined that you did not qualify to enroll in a health plan outside of the open enrollment period.

Also on March 23, 2016, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility redetermination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On March 24, 2016, NYSOH issued a notice of eligibility determination that stated that you are newly eligible to receive an advance premium tax credit of up to \$182.00 per month. It further confirmed that you do not qualify to select a health plan outside of the open enrollment period for 2016 because you did not experience a qualifying life event.

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On September 26, 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 updated application for 2016 health insurance coverage on March 23, 2016.
- 2) You testified that you lost health insurance through your local Department of Social Services (LDSS) in Westchester County in November 2015, but were unaware that your coverage ended until you were seen by your doctor.
- 3) You testified that you contacted your LDSS and were told you failed to recertify on time and therefore your coverage under your Medicaid managed Care plan had terminated.
- 4) You testified that you submitted the required recertification documentation to another LDSS office and that you did not receive a "drop out" letter from your LDSS.
- 5) You testified that your income did not change since your initial application on February 4, 2016 and your household size, residence, and citizenship status also remained the same.
- 6) You are seeking to have coverage starting February 1, 2016 through August 31, 2016 to cover medical expenses you incurred during that period.

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 as of March 23, 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 4, 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 with Medicaid through your LDSS ended in November 2015, which ordinarily is considered a triggering life event.

When a triggering life event occurs, the qualified individual has 60 days from the date of that event to select a qualified health plan. Although you did not provide a definitive date of your coverage ending in November 2015 through LDSS, assuming it ended as of November 30, 2015, you had 60 days to complete your

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application and select a qualified health plan through NYSOH. Sixty days from November 30, 2015, was January 29, 2016. The record reflects that your initial application was completed on February 4, 2016, which is outside the 60 day period to select a health plan after losing health insurance outside NYSOH. Therefore, you were properly found not to qualify for a special enrollment period on March 23, 2016 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 24, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Notwithstanding, you credibly testified that you had Medicaid through your LDSS and did not receive notice that your coverage was being terminated in November 2015, in order for you to timely react. NYSOH Appeals Unit does not have jurisdiction over such issues, but there is a fair hearing process that you can avail yourself of through NYS Office of Temporary Disability Assistance. To learn more about this process, you can access its websites at [otda.ny.gov/oah](http://otda.ny.gov/oah) and <https://otda.ny.gov/hearings/faq.asp>.

## **Decision**

The March 24, 2016 eligibility redetermination notice is AFFIRMED.

This decision does not affect any subsequent determinations made by NYSOH.

**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.

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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:

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### **Summary**

The March 24, 2016 eligibility redetermination notice is AFFIRMED.

This decision does not affect any subsequent determinations made by NYSOH.

You do not qualify for a special enrollment period at this time.

### **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

