



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

Notice of Decision

Decision Date: October 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008290

[REDACTED]

Dear [REDACTED],

On September 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 25, 2016 eligibility redetermination 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: October 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008290



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 within which to select a health plan outside the open enrollment period?

Procedural History

On January 30, 2016, NYSOH received your application for health insurance.

On January 31, 2016, NYSOH issued a notice of eligibility determination that stated that you are eligible to purchase a qualified health plan at full cost, effective March 1, 2016.

Also on January 31, 2016, NYSOH issued an enrollment notice confirming your platinum-level qualified health plan (QHP) selection, your monthly premium responsibility of \$555.72, no annual deductible, and a plan enrollment start date of March 1, 2016. The notice further stated that, if you have a monthly premium, you will receive an invoice from your QHP and you must pay the monthly premium to start and keep your coverage.

On March 19, 2016, NYSOH issued a cancellation notice informing you that your platinum-level QHP was cancelled, effective March 1, 2016, because a premium payment had not been received by your health plan. The notice further stated

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).

that you must pay your premium responsibility within the required timeframe in order for coverage to begin.

On March 24, 2016, NYSOH prepared a preliminary eligibility redetermination finding you eligible to purchase a QHP at full cost, effective May 1, 2016; however, you did not qualify for a special enrollment period outside of the open enrollment period.

Also on March 24, 2016, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On March 25, 2016, NYSOH issued an eligibility redetermination notice that was consistent with the March 24, 2016 preliminary redetermination.

On September 22, 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 15 days to allow you to submit supporting documentation.

On September 29, 2016, the Appeals Unit received a two-page facsimile from you consisting of a cover letter and an email, dated February 10, 2016. This two-page facsimile was made part of the record as "Appellant's Exhibit A." The record remained open until October 7, 2016, for you to submit a copy of the February 2016 premium invoice you received from your QHP for March 2016 coverage.

On September 30, 2016, the Hearing Officer contacted you and instructed you to submit a certificate of coverage from your employer-sponsored health insurance plan showing your termination of coverage was March 31, 2016. The record closed date was extended until October 15, 2016, to allow you to obtain and submit this document.

As of October 15, 2016, the Appeals Unit had not received any additional documentation from you and there were no documents uploaded to your NYSOH account that were viewable. Therefore, that same day, the record was closed and this decision is based on the record as developed, including your Exhibit A.

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 January 30, 2016.

- 2) You testified that you are the employer and were discontinuing group health coverage for yourself and employees as of March 31, 2016.
- 3) You testified that, when you received notice that your QHP coverage through NYSOH was to be effective March 1, 2016, you contacted your QHP and were told you would have to go through NYSOH to change the start date to April 1, 2016.
- 4) You testified that the invoice you received in February 2016 did not state that you needed to provide proof of your employer-sponsored health insurance (ESI) termination date.
- 5) On March 3, 2016, you filed a complaint with NYSOH because you were not able to change your enrollment start date after locking into a QHP.
- 6) You testified that you did not pay any premium to your QHP for March 2016, because your complaint to NYSOH was still open and you had health insurance coverage through your ESI until March 31, 2016.
- 7) NYSOH closed the complaint because you did not provide ESI information indicating that the end date of coverage would be March 31, 2016.
- 8) You provided your email statement that you sent to your employees, which informed them that their ESI through your business was no longer being offered as of April 1, 2016, as proof that you would not have health insurance coverage as of April 1, 2016 (see Appellant's Exhibit A).
- 9) You testified that you continued coverage through an individual plan outside NYSOH and had to pay a higher monthly premium and had a \$3,500.00 deductible to meet; whereas the QHP through NYSOH had a lower premium and no deductible.
- 10) You testified that you are seeking to have your coverage effective through NYSOH at the lower premium and without a deductible.

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)).

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).

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 determined that you were not eligible to enroll in a qualified health plan outside of the open enrollment period.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted an application for health insurance through NYSOH on January 30, 2016. You testified that you attempted to change the start date of your QHP from March 1, 2016 to April 1, 2016 with the health plan and NYSOH because your ESI was not due to end until March 31, 2016. You testified that you did not pay any premiums to that health plan for coverage to start on March 1, 2016 because you expected that the issue would be resolved based on your March 3, 2016 complaint to NYSOH.

The record indicates that on January 30, 2016, you selected and were enrolled into a platinum-level QHP, effective March 1, 2016; however your enrollment in that plan was cancelled because a premium payment had not been received by your health plan. On March 25, 2016 you updated your NYSOH application and attempted to re-enroll into a qualified health plan but were denied a special enrollment period on the basis that your coverage was cancelled due to nonpayment of premium, which is considered a voluntary act and not a qualifying life event for purposes of a special enrollment period.

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).

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. They then have 60 days from the triggering event to enroll into a qualified health plan through NYSOH. Ordinarily, the loss of minimum essential coverage through a private health plan is considered a triggering event.

You testified that your previous insurance coverage ended on March 31, 2015. You provided an email that you sent to your employees to confirm that the ESI you were offering them terminated as of March 31, 2016. You did not provide proof that your coverage ended as well, despite being given an extended period to do so. You also testified that you continued your health coverage through an individual private plan thereafter. Based on the record as developed, there is no evidence that you lost minimum essential coverage.

Therefore, NYSOH's March 25, 2016 eligibility redetermination notice that stated you do not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The March 25, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 24, 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

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).

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 25, 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:

