



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

Notice of Decision

Decision Date: November 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008379

[REDACTED]

Dear [REDACTED],

On September 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 31, 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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Appeal Identification Number: AP000000008379

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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 were not eligible to enroll in a plan outside of the open enrollment period for 2016?

Procedural History

On March 24, 2016, NYSOH received your application for health insurance.

On March 25, 2016, NYSOH issued a notice of eligibility determination that stated that you are eligible to purchase a qualified health plan at full cost through NYSOH. It further stated that you could still get coverage for 2016 if you qualified for a Special Enrollment Period.

On March 28, 2016, you spoke to NYSOH's Account Review Unit and were told that you were found preliminarily not eligible to enroll in a health plan outside of the open enrollment period. You 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 31, 2016, NYSOH issued an eligibility determination notice that stated you did not qualify to select a health plan outside of the open enrollment period for 2016.

On September 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and

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held open for 15 days for you to submit proof of the termination date of your employer-sponsored health insurance. On September 30, 2016, the Appeal Unit received via fax a copy of a document entitled "Important: Certificate of Group Health Plan Coverage" dated September 30, 2016. This document was made part of the record as "Appellant's Exhibit # 1" and the record is now closed.

Findings of Fact

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

- 1) According to your NYSOH account, you submitted your initial application for 2016 health insurance coverage on March 24, 2016.
- 2) You testified that you worked for an agency and they provided health insurance coverage. However, as of September 2015, you were no longer considered full time and lost the employer sponsored health insurance.
- 3) You testified that you then went to work at another agency at the end of October 2015. You testified the new employer told you they were going to put you on their health plan.
- 4) You testified that in December 2015 you were told you would not be a full time employee, but that you would be considered an independent contractor.
- 5) You testified that you investigated on the internet how to get insurance through the government website. You testified you spoke to a couple certified account counselors (CAC) but never initiated setting up an account through them.
- 6) You testified and your account reflects that you applied on-line through the NYSOH website on March 24, 2016.
- 7) You testified that your income, household size, marital status and residence has not changed since your initial application on March 24, 2016.
- 8) Appellant's Exhibit #1 entitled "Important: Certificate of Group Health Plan Coverage" with a date of September 30, 2016 indicates that your group health plan coverage began April 1, 2015 and ended July 1, 2015.

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 31, 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 March 24, 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.

While you were unsure of the date your previous health insurance coverage ended, according to your Appellant's Exhibit #1, dated September 30, 2016, your employer-sponsored health insurance ended July 1, 2015.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

The record reflects that your employer-sponsored health coverage ended July 1, 2015. You, therefore, had 60 days from that date to select a qualified health plan through NYSOH, which would have still been within the 2015 coverage year. Since you did not apply within sixty days of July 1, 2015, that is by August 30, 2015, you did not qualify to enroll outside the 2015 open enrollment period for health insurance coverage that year.

However, open enrollment for the 2016 coverage year was from November 1, 2015 to January 31, 2016. The record, as developed, demonstrates that you knew sometime in December 2015 that your new agency considered you to be an independent contractor and that they were not going to provide you with their employer-sponsored health insurance plan. Since December 2015 was within the 2016 open enrollment period, you still had up to January 31, 2016 within which to enroll for health insurance in 2016. However, the record reflects that you did not avail yourself of this opportunity.

Further, the credible evidence of record indicates that you enrolled on March 24, 2016, after the open enrollment period closed on January 2016 and well after your employer-sponsored insurance ended on July 1, 2015, and no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's March 31, 2016, eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

Decision

The March 31, 2016 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: November 16, 2016

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period for 2016 health insurance coverage at this time.

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 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
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Summary

The March 31, 2016 eligibility determination is **AFFIRMED**.

You do not qualify for a special enrollment period for 2016 health insurance coverage at this time.

Legal Authority

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A Copy of this Decision Has Been Provided To:

