



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

Notice of Decision

Decision Date: October 31, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008440

[REDACTED]

Dear [REDACTED],

On October 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 22, 2016 denial of a special enrollment period.

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: October 31, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008440

[REDACTED]

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?

Procedural History

On March 21, 2016, NYSOH received your application for health insurance.

On March 22, 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 do not qualify to select a health plan outside of the open enrollment period for 2016.

On March 29, 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.

On October 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until October 22, 2016 for you to submit proof of premium payment(s) to your health plan and proof of the termination date of your employer-sponsored COBRA health insurance. As of October 23, 2016, you had not provided proof of premium payment to your health plan or proof of your termination date of your employer-sponsored COBRA health insurance. The record is now closed.

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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 21, 2016.
- 2) You testified that you applied online through the NYSOH website on January 31, 2016, and made your initial payment for health insurance that same date.
- 3) You testified that you received an email receipt for payment from the qualified health plan but never received your insurance cards or any other documents from the health plan.
- 4) You testified you would submit the premium payment receipt to prove you enrolled in coverage and paid your first premium installment on January 31, 2016.
- 5) You testified you have no medical bills for the months you were without coverage.
- 6) You testified that you had lost your employer-sponsored COBRA coverage as of December 31, 2015.
- 7) You testified you would submit a certificate of coverage from your previous health plan to prove your employer-sponsored COBRA coverage terminated as of December 31, 2015.
- 8) You did not provide proof of premium payment to your health plan, proof of email receipt of payment of premium, or proof of that your employer-sponsored COBRA health insurance terminated December 31, 2015.
- 9) According to your NYSOH account, there were no other changes in your household since your March 21, 2016 application.

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)).

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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, effective March 22, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. You testified that you completed your application for health insurance and made your initial health insurance premium payment on January 31, 2016. You testified you received an email receipt for proof of premium payment to the health plan. The record was kept open until October 22, 2016, to allow you time to submit proof of enrollment in coverage and your first premium installment payment. You did not submit proof of payment or receipt of premium payment by the health plan. Therefore, the record on this issue is incomplete and there is no other evidence available to be considered.

According to your NYSOH account, you submitted a complete application on March 21, 2016. Therefore, the record reflects, you completed your application after the open enrollment period for 2016 had ended.

In some cases, once the annual open enrollment period ends, a health plan enrollee may 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 your employer-sponsored COBRA health insurance terminated on December 31, 2015, which if involuntary could be 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.

You testified you would submit a certificate of coverage from your previous health plan to prove your employer-sponsored COBRA coverage terminated as of December 31, 2015. The record was kept open until October 22, 2016, to allow you time to submit proof of the termination date of employer-sponsored health coverage. You did not comply and provide the documentary evidence; therefore, it is unclear whether that coverage terminated involuntarily or voluntarily by you. Lacking such evidence, the record is incomplete and this issue cannot be addressed.

Notwithstanding, if your COBRA coverage had ended by involuntary means, you would have had 60 days from that date to select a qualified health plan through NYSOH, which date was March 1, 2016. The record as developed demonstrates that you did not select a health plan until March 21, 2016, which is beyond 60 days from the triggering life event.

Further, 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 22, 2016 eligibility determination stating that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

Decision

The March 22, 2016 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: October 31, 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)

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 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

Summary

The March 22, 2016 eligibility determination is AFFIRMED.

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:

