



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

Notice of Decision

Decision Date: November 18, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008501

[REDACTED]

Dear [REDACTED],

On October 5, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: November 18, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008501

[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 October 29, 2015, NYSOH issued a notice stating that you had been re-enrolled in your current health plan for another year and you did not have to do anything more.

On November 23, 2015, NYSOH issued a notice that stated your 2015 coverage in your bronze-level qualified health plan would end effective December 31, 2015. That notice further stated that you would be automatically renewed in the same plan for 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming that you were enrolled in a bronze-level qualified health plan with a premium of \$435.02 per month, effective January 1, 2016. That notice also stated you must pay your monthly premium to start and keep your coverage.

On March 31, 2016, NYSOH issued a notice of eligibility redetermination 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.

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Also on March 31, 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 April 1, 2016, NYSOH issued a cancellation notice stating your coverage with your bronze-level qualified health plan was cancelled effective January 1, 2016. This was because a premium payment was not received by your health plan and that you must pay your premium responsibility within the required timeframe in order for coverage to begin.

On October 5, 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 supports the following findings of fact:

- 1) The November 25, 2015 enrollment notice confirmed that you were enrolled in a bronze-level qualified health plan, effective January 1, 2016, and further stated you must pay your monthly premium to start and keep your coverage.
- 2) You testified that your mother passed away in October 2015 and you were in a state of shock for an extended period of time.
- 3) You testified that you did not even start opening mail until mid-January 2016 and even then you did not respond to the premium bills received from the health plan.
- 4) You testified that you had no knowledge of NYSOH re-enrolling you for coverage year 2016 in the same health plan that you had during the 2015 coverage year.
- 5) You testified that you seeking insurance only for yourself.
- 6) You testified that when you learned you had no health insurance, you first contacted the bronze-level qualified health plan and appealed to them for reinstatement, which was denied. You testified that the qualified health plan told you to contact NYSOH.
- 7) You testified that you are 62 years old and need health insurance. You are requesting to be granted a special enrollment period so you can enroll in qualified health plan.

- 8) You testified that there have been no changes in your immediate household such as a birth, death, marriage, or permanent move.
- 9) You confirmed that your income has not changed substantially.
- 10) You reside in Kings County, New York.

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)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128”

(45 CFR § 155.420(e)).

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. 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.

On November 25, 2015, NYSOH issued an enrollment confirmation notice confirming you were re-enrolled in a Bronze level qualified health plan effective January 1, 2016. The record reflects that this notice further stated you must pay your monthly premium to start and keep your coverage.

Ordinarily, the loss of health insurance coverage is considered a triggering event. Here, you testified you were overwhelmed with grief upon the passing of your mother in October 2015. You admitted that you did not even open your mail for several months. You testified that, when you did begin to open mail in mid-January 2016, you did not respond to bills including invoices received from the health insurance plan for premiums due in 2016. When you did eventually contact the qualified health plan, they refused to reinstate you and instead directed you to contact NYSOH.

Your NYSOH account indicates that you did not contact NYSOH until March 31, 2016. At that time, NYSOH issued an eligibility redetermination that denied your request for a special enrollment period based on the information you provided to them.

On April 1, 2016, NYSOH issued the cancellation notice that stated your bronze-level qualified health plan was cancelled effective January 1, 2016 because the health plan had not received premium payments.

NYSOH considers the failure to pay premiums a voluntary action, which resulted in your coverage being terminated. Therefore, you would not be entitled to a special enrollment period in which to enroll in new coverage on this basis.

The credible evidence of record further 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 31, 2016, eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

This Decision does not affect your eligibility to enroll during open enrollment for a plan for the benefit year beginning on January 1, 2017, which open enrollment period began on November 1, 2016, and will extend through January 31, 2017.

Decision

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

Effective Date of this Decision: November 18, 2016

How this Decision Affects Your Eligibility

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

This Decision does not affect your eligibility to enroll during open enrollment for a plan for the benefit year beginning on January 1, 2017, which open enrollment period began on November 1, 2016, and will extend through January 31, 2017.

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 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 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 31, 2016 eligibility determination is AFFIRMED.

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

This Decision does not affect your eligibility to enroll during open enrollment for a plan for the benefit year beginning on January 1, 2017, which open enrollment period began on November 1, 2016, and will extend through January 31, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

