



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: AP000000008514

[REDACTED]

Dear [REDACTED]

On October 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 20, 2016 eligibility determination and April 1, 2016 notice of appeal.

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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NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your eligibility for financial assistance and enrollment in a qualified health plan ended effective March 31, 2016?

Did NYSOH properly deny you the ability to enroll in a health plan outside of the open enrollment period for 2016?

Procedural History

On December 15, 2015, NYSOH issued a notice of eligibility determination based on your December 14, 2015 application, stating that you were conditionally eligible to receive advance premium tax credits up to \$191.00 per month as well as cost-sharing reductions. The determination was based on the condition that you confirm your citizenship status by providing documentation before March 13, 2016.

That same day an enrollment confirmation notice was issued confirming your enrollment in a Silver level qualified health plan with a premium responsibility of \$217.00 per month, and a start date of January 1, 2016.

On March 20, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost because you had not confirmed your

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citizenship status within the required timeframe. Your eligibility for coverage ended effective March 31, 2016.

On March 20, 2016, a disenrollment notice was issued terminating you and your spouse's enrollment in a Silver level qualified health plan effective March 31, 2016.

On March 31, 2016, contacted NYSOH's Account Review Unit and appealed the March 20, 2016, eligibility determination insofar as it ended your eligibility and enrollment in a qualified health plan on March 31, 2016. You also appealed the denial of the ability to enroll in a new health plan outside of the open enrollment period for 2016. A notice was issued confirming this on April 1, 2016.

On October 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide proof of the end date of your enrollment with your parent's health plan. This documentation was received on October 18, 2016, in the form of a one page upload to your account and incorporated into the record as (Appellant's Exhibit 1).

Findings of Fact

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

- 1) You testified you are seeking insurance for yourself.
- 2) Your NYSOH account indicates you receive your notices via regular U.S. Mail.
- 3) You testified that you did not receive any notices from NYSOH stating that your eligibility was only conditional and that you needed to provide documentation of your citizenship status by March 13, 2016.
- 4) You testified your address has not changed since initially applying for health insurance with NYSOH.
- 5) The record supports you submitted your initial December 14, 2015 application with the aid of an Application Counselor.
- 6) You testified you were not told by your Application Counselor that your eligibility was conditional, and that you had to provide citizenship documentation showing your citizenship status.
- 7) The record reflects on March 31, 2016, NYSOH received a one page document showing proof of your U.S. Passport, this document was

scanned to your account on April 1, 2016. The document was verified by NYSOH on April 8, 2016 (See Document [REDACTED]).

- 8) You testified you are United States Citizen. Your passport indicates your place of birth is Albania.
- 9) Your application states you are a U.S. Citizen.
- 10) You testified that you are seeking to be found eligible for a special enrollment period for 2016.
- 11) You testified your income has not changed significantly since initially applying for insurance.
- 12) You testified your household size has remained the same since initially applying for health insurance. You will be filing your taxes for 2016 as single, and will claim no dependents on that return.
- 13) NYSOH Appeals Unit received your supporting documentation showing the end of your prior coverage under your parent's health plan on October 18, 2016, showing your prior health coverage ended on December 14, 2015 (Appellant's Exhibit 1).

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through NY State of Health (NYSOH), an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a),(c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of

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inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period. (45 CFR § 155.315(c)(3),(f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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:

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

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 you were no longer eligible to enroll in a qualified health plan through NYSOH, effective March 31, 2016.

NYOSH received your initial application for financial assistance on December 14, 2015. On December 15, 2015, NYSOH issued an eligibility determination stating you were conditionally eligible to receive advance premium tax credits up to \$191.00 per month as well as cost-sharing reductions. The determination was based on the condition that you confirm your citizenship status by providing documentation before March 13, 2016.

No updates were made to your account, and no documentation was received by NYSOH before March 13, 2016.

After NYSOH did not receive the requested documentation, it issued an eligibility determination notice stating that you were because you had not confirmed your citizenship status within the required timeframe. Your eligibility for coverage ended effective March 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on December 15, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 13, 2016 which is 90 days from December 15, 2015. The end date for those documents would therefore be by March 20, 2016.

You testified you are a U.S. Citizen. You provided NYSOH a copy of your U.S. Passport on March 31, 2016, this document was scanned to your account on April 1, 2016, and then verified by NYSOH on April 8, 2016 (See Document [REDACTED]).

You testified you did not receive a regular mail notice stating your need to provide citizenship documentation or that your eligibility had ended March 31, 2016, for failing to provide citizenship documentation despite your address remaining the same since your initial application. However, no notices were returned to NYSOH as undeliverable, and are therefore determined to it is concluded that NYSOH did give you the proper notice that you needed to submit documentation of your citizenship.

Therefore the March 20, 2016, eligibility determination notice stating your eligibility had ended March 31, 2016, for failing to provide citizenship documentation is proper and is AFFIRMED.

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The second issue under review is did NYSOH properly deny you the ability to enroll in a health plan outside of the open enrollment period for 2016.

A review of the record demonstrates that you spoke with NYSOH's Account Review Unit and requested a special enrollment to select a new health plan. The record does not contain a notice of eligibility determination or redetermination on the issue of special enrollment period. It does contain an April 1, 2016, notice in which the NYSOH acknowledges receipt of an appeal request and identifies one of the issues on appeal as "Denial of Special Enrollment Period (SEP)."

Here, the lack of a notice of eligibility determination on the issue of special enrollment periods does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH's failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination.

The text of the April 1, 2016, notice, which acknowledges the appeal on the issue of special enrollment period denial, permits an inference that the NYSOH did deny your special enrollment request.

Since the Appeals Unit review of determinations are performed on a de novo basis, no deference would have been granted to the notice of eligibility determination had it been issued. Therefore, the issue under review is whether you were properly denied a special enrollment period.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. After being disenrolled for failing to provide citizenship status effective March 31, 2016, you then applied for a special enrollment period. NYSOH received your new application on April 1, and then on April 8, 2016. Therefore you applied outside of the open enrollment period for 2016.

When a qualified individual loses coverage considered to be minimum essential coverage, that individual may be entitled to a special enrollment period in which to reenroll. However NYSOH Appeals Unit received your supporting documentation showing the end of your prior coverage under your parent's health on October 18, 2016. The documentation demonstrated your prior health coverage ended on December 14, 2015 (Appellant's Exhibit 1). Therefore, you would have had 60 days from December 14, 2015, to reapply for health insurance and qualify for a special enrollment period. NYSOH did not receive your updated application until April 1, 2016.

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.

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Therefore, NYSOH's April 1, 2016 notice of appeal denying you the ability to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The March 20, 2016 eligibility determination notice is AFFIRMED.

The April 1, 2016 notice of appeal is AFFIRMED.

Effective Date of this Decision: October 31, 2016

How this Decision Affects Your Eligibility

Your eligibility for enrollment in your qualified health plan ended on March 31, 2016.

You do not qualify to select a health plan outside of the open enrollment period for 2016.

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.

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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 20, 2016, eligibility determination notice is AFFIRMED.

The April 1, 2016, notice of appeal is AFFIRMED.

Your eligibility for enrollment in your qualified health plan ended on March 31, 2016.

You do not qualify to select a health plan outside of the open enrollment period for 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

