



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

Notice of Decision

Decision Date: October 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008566

[REDACTED]

Dear [REDACTED],

On October 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 7, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008566

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Issue

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

Did NY State of Health (NYSOH) properly determine you were not eligible to purchase a qualified health plan outside of the open enrollment period for 2016, effective April 1, 2016?

Procedural History

On October 24, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015, or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, an eligibility determination notice was issued finding you newly eligible to purchase a qualified health plan at full cost effective January 1, 2016.

On December 22, 2015, a disenrollment notice was issued stating your coverage with your catastrophic health plan was terminated effective December 31, 2015.

On February 23, 2016, NYSOH received your updated application for health insurance.

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On February 24, 2016, an eligibility determination notice was issued finding you eligible to purchase a qualified health plan at full cost effective April 1, 2016. The notice further stated you would need a qualifying event in order to select a plan outside of the open enrollment period to get coverage for 2016. The determination was based on your attested household income of \$95,000.00.

On April 1, 2016, you contacted NYSOH's Account Review Unit and appealed the denial of a special enrollment period.

On April 7, 2016, an eligibility determination notice was issued finding you eligible to purchase a qualified health plan at full cost effective April 1, 2016. The notice further stated you did not qualify to select a plan outside of the open enrollment period for 2016. The determination was based on your attested household income of \$95,000.00.

On October 12, 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. During your hearing you testified you are seeking to be reimbursed for medical costs incurred in February 2016, or to be re-enrolled into your health plan effective January 1, 2016.

Findings of Fact

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

- 1) You testified that you did not know that you needed to update your account for renewal of your health plan for January 2016.
- 2) The record reflects your application on December 12, 2014, stated you authorized an automatic renewal of your coverage for one year.
- 3) The record reflects that on February 23, 2016, NYSOH received your updated application for health insurance.
- 4) You testified that you are now seeking to be found eligible for a special enrollment period to enroll back into a qualified health plan as of February 1, 2016.
- 5) You testified that you incurred medical costs of approximately \$2,000.00 for the month of February, 2016 due to not being covered by a health plan.
- 6) You testified you did not realize your coverage had lapsed until after you had lab work done in February, 2016, prompting you to reapply on February 23, 2016.

- 7) You testified your address has not changed since initially applying for health insurance with NYSOH.
- 8) You testified that your household size has not changed since initially applying for health insurance.
- 9) You testified that your income has not changed significantly since your application for health insurance on February 23, 2016.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g),(h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Enrollment in a Qualified Health Plan and Automatic Enrollments

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)).

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NYSOH may automatically enroll qualified individuals, at such time and in such manner as HHS may specify, and subject to the Exchange demonstrating to HHS that it has good cause to perform such automatic enrollments (45 CFR §155.410 (g)).

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 April 1, 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 February 23, 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.

A special enrollment period can be granted if a qualified individual's enrollment or non-enrollment into a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH or its instrumentalities as evaluated and determined by NYSOH.

You testified that your previous insurance coverage ended on December 31, 2015, as a result of your annual enrollment coming to an end. You stated you did

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not receive the October 24, 2015, renewal notice asking you to update the information in your account by December 15, 2015. You explained you did not know that you needed to update your account for renewal of your health plan for January 2016, until you had gone to the doctor in February, 2016 for lab work.

The record supports that your application on December 12, 2014, stated you authorized an automatic renewal of your coverage for one year. Enrollments are good for one year. You relied on the fact that you believed your insurance would continue through the open enrollment period for 2016. However, since you had previously enrolled in a qualified health plan for 2014, it was your responsibility to ensure that you had renewed coverage for the 2016 period during the open enrollment period to ensure your coverage would continue.

Since the record does not indicate that NYSOH, by action or inaction, made an error or misrepresented information, a special enrollment period cannot be granted on this basis.

The credible evidence of record indicates that, since the open enrollment period closed on February 29, 2016, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's February 23, 2016, and April 7, 2016, eligibility determination notices stating that you do not qualify to select a health plan outside of the open enrollment period for 2016 are AFFIRMED.

Decision

The April 7, 2016 eligibility determinations are AFFIRMED.

Effective Date of this Decision: October 27, 2016

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period.

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.

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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:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 7, 2016, eligibility determinations are AFFIRMED.

You do not qualify for a special enrollment period.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

