



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

Notice of Decision

Decision Date: November 08, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008714

[REDACTED]

Dear [REDACTED],

On October 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 27, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: October 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008714

[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 did not qualify to select a health plan outside of the open enrollment period for 2016?

Procedural History

On December 12, 2015, NYSOH received your initial application for health insurance in which you attested to an expected yearly income of \$0.00.

On December 13, 2015, NYSOH issued a notice stating that based on the information contained in the December 12, 2015 application, you might be eligible for health insurance; however, more information was needed to make a determination. The notice directed you to submit income documentation for your household by December 28, 2015 to confirm that the information you provided in your application was accurate.

On January 13, 2016, NYSOH received a letter issued by your employer, [REDACTED], dated December 28, 2015 ([REDACTED]), stating your gross weekly earnings.

On January 22, 2016, NYSOH issued a notice acknowledging receipt of documentation to resolve the inconsistency in your application; however the documentation appeared to be insufficient to resolve the request. The notice requested that you provide additional information to prove your income level,

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though did not specify the kind of income documentation required or the date by which such documentation was required to be received by NYSOH.

On February 18, 2016, NYSOH received a revised application for health insurance. This application reflected that you had an expected yearly income of \$36,400.00.

On February 19, 2016, NYSOH issued an eligibility determination based on the information contained in the February 18, 2016 application. The notice stated that you were conditionally eligible to receive an advance premium tax credit (APTC) of up to \$75.00 per month, effective April 1, 2016. Your eligibility for APTC was pending receipt of additional documentation to confirm your income before May 18, 2016. The notice further stated that you could still get coverage for 2016 if you qualified for a Special Enrollment Period.

On February 25, 2016, NYSOH received a duplicate copy of the [REDACTED].

On April 6, 2016, NYSOH received a revised application in which you attested to a further increase in your expected yearly income to \$40,300.00. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible for an APTC of up to \$91.00 per month, effective May 1, 2016. This preliminary eligible determination did not make a decision on whether you qualified for a Special Enrollment Period.

Also on April 6, 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 7, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the April 6, 2016 application, stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$91.00 per month, effective May 1, 2016. The notice further stated that you could still get coverage for 2016 if you qualified for a Special Enrollment Period.

On April 27, 2016, NYSOH an eligibility redetermination notice based on the information received as of April 26, 2016, stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$91.00 per month, effective May 1, 2016. The notice also stated that you did not qualify to select a health plan outside of the open enrollment period for 2016.

On October 13, 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 support the following findings of fact:

- 1) The record indicates that you submitted your initial application for 2016 health insurance coverage on December 7, 2015. This application reflected that your expected annual income was \$0.00.
- 2) On December 13, 2015, you submitted the [REDACTED] to NYSOH to prove that your weekly gross income was \$775.00, and that your employment had begun as of April 2015.
- 3) NYSOH issued a letter on January 21, 2016 requesting additional documentation to confirm the income provided in your application, since there was still a discrepancy between the application you provided on December 7, 2015 and the income documentation provided.
- 4) You revised your application on February 18, 2016 to reflect an increase in your expected annual income from \$0.00 to \$36,400.00.
- 5) On February 19, 2016, you were found conditionally eligible for APTC effective April 1, 2016; however, you were not found eligible to enroll in a plan outside of the open enrollment period.
- 6) You testified that you were seeking to enroll in a plan for the remainder of the 2016 plan year, and you did not feel it was fair that you were prevented from doing so since you provided the documentation that was requested of you prior to the end of the open enrollment period.

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.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted your initial application on December 7, 2015 reflecting an expected annual income of \$0.00; however, that application was deemed not complete since additional documentation was requested by NYSOH to confirm the information in your account was accurate. The record reflects that on January 13, 2016, you provided the [REDACTED] reflecting a weekly gross income of \$775.00. Since this document did not resolve the inconsistency referenced in your application, NYSOH issued an additional letter to you on January 22, 2016 to request additional documentation to support your attestation of an income of \$0.00. Ultimately, you further revised your application as of February 18, 2016 to reflect that you had an expected annual income of \$36,400.00. Based on this application, you were found conditionally eligible for APTC, effective April 1, 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 the record reflects you provided documentation to prove your income on January 13, 2016, this documentation did not match the expected annual income you were attesting to in your December 7, 2015 application. Accordingly,

NYSOH was correct in not determining your eligibility or allowing you to enroll in a qualified health plan at that time.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2016, no triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's April 27, 2016 eligibility determination notice stating that you do not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The April 27, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 20, 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)

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:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 27, 2016 eligibility determination is AFFIRMED.

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

Legal Authority

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

A Copy of this Decision Has Been Provided To:

