



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

Notice of Decision

Decision Date: December 9, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008770

[REDACTED]

Dear [REDACTED],

On November 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 9, 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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Decision

Decision Date: December 9, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008770

[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, such that you may be subject to a tax penalty for not having had insurance for a portion of the 2016 plan year?

Procedural History

On January 26, 2016, a copy of your NYS driver license was submitted to NYSOH; it is not an "enhanced" driver license.

On January 27, 2016, NYSOH issued a notice of eligibility determination notice stating that you were conditionally eligible to enroll in a qualified health plan (QHP) at full cost, effective March 1, 2016. You were directed to submit proof of citizenship and to pick a plan.

Also on January 27, 2016, NYSOH issued an enrollment notice confirming your selection of a QHP as of January 26, 2016. The notice confirmed that your QHP coverage was scheduled to begin on March 1, 2016.

On February 4, 2016, NYSOH issued a notice, stating you needed to submit proof of citizenship.

On February 26, 2016, NYSOH received a revised application for health insurance.

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Also on February 26, 2016, NYSOH received another copy of your NYS Driver License.

On February 27, 2016, NYSOH issued a notice confirming receipt of your February 26, 2016 application. The notice also stated that you may be eligible for health insurance but more information was needed to make determination. You were requested to provide income documentation by March 13, 2016 to confirm your eligibility.

Also on February 27, 2016, NYSOH issued a cancellation notice confirming that your QHP coverage was cancelled effective March 1, 2016.

On March 8, 2016, NYSOH issued a notice confirming receipt of documentation; however, the documentation you provided was insufficient to show citizenship. The notice directed you to provide documentation to prove your citizenship as well as documentation to prove your income. The notice did not specify the time by which these documents were required to be received by NYSOH.

On March 11, 2016, NYSOH received (1) two earnings statements issued to you by your employer, [REDACTED], on January 29, 2016 and February 12, 2016 and (2) a copy of a U.S. Passport issued to you on January 27, 2006 and expired as of January 26, 2016.

On March 18, 2016, NYSOH redetermined your eligibility for health insurance.

On March 19, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a QHP at full cost, effective May 1, 2016. The notice further stated that you must have a qualifying event in order to select a plan outside of open enrollment. It advised you to sign into your account and answer the questions about the Special Enrollment Period.

On April 8, 2016, NYSOH redetermined your eligibility for health insurance.

On April 9, 2016, NYSOH issued an eligibility determination notice. The notice stated that you were eligible to enroll in a QHP at full cost, effective May 1, 2016. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 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 November 1, 2016, prior to the telephone hearing, NYSOH received a letter from your employer, dated October 28, 2016, stating that the last day of your employment was February 19, 2016.

On November 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony a letter issued by your former employer-based insurance company reflecting the termination of your coverage under that plan. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided the above referenced documents document to the NYSOH Appeals Unit through online account.

Accordingly, the record was closed on November 1, 2016.

Findings of Fact

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

- 1) The record indicates that your initial application for 2016 health insurance coverage was submitted on January 26, 2016. As a result of that application, you were found conditionally eligible to enroll in a health plan at full cost. You subsequently enrolled in a QHP with coverage scheduled to begin effective March 1, 2016.
- 2) You revised your application on February 26, 2016, in which you attested to a decrease of expected yearly income from approximately \$90,000.00 to \$0.00. In response to this application, NYSOH requested that you provide income documentation to confirm your eligibility.
- 3) Your enrollment with your QHP was cancelled effective March 1, 2016.
- 4) On March 11, 2016, you provided to NYSOH two earnings statements reflecting that you received from [REDACTED] (1) \$3,744.00 on January 29, 2016 and (2) \$3,744.00 on February 12, 2016.
- 5) Also on March 11, 2016, you provided a copy of your expired U.S. Passport.
- 6) Your eligibility for health insurance was redetermined by NYSOH on March 18, 2016 reflecting an increase income insofar as your expected yearly income increased from \$0.00 to \$97,344.00. Based on this application, you were found eligible to enroll in a QHP, effective May 1, 2016.

- 7) On November 1, 2016, you provided to NYSOH a letter reflecting that your employment with [REDACTED] ended as of February 19, 2016.
- 8) On November 1, 2016, you provided a letter issued by your employer-based insurance plan that your coverage had ended as of February 1, 2016.
- 9) You testified, and your application reflects, that you have been subsequently employed by [REDACTED] beginning on or about April 11, 2016. You further testified that after a mandatory 90-day waiting period, you were finally able to enroll in that employer's health insurance plan beginning during the month of July 2016.
- 10) You testified that while you did not incur any out-of-pocket medical expenses between March 1, 2016 and June 30, 2016, you were concerned that you may be assessed a tax penalty as a result of not having been insured during that time.
- 11) You testified that you believed you took the steps to remain insured during that time, and should receive an exemption from any tax penalty during 2016 as a result.

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:

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- (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 sole issue under review is whether NYSOH properly denied you a special enrollment period, such that you may be subject to a tax penalty for not having had insurance for a portion of the 2016 plan year.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application on January 26, 2016. Therefore, you did complete your application during the open enrollment period.

The record reflects that while you enrolled in a QHP for coverage beginning March 1, 2016, that coverage never took effect because you subsequently revised your application to reflect a total loss of income for 2016 from \$90,000.00 to \$0.00. You were placed in a pending Medicaid status and requested to provide documentation to confirm your attested income of \$0.00. Shortly thereafter, you provided two earning statements reflecting that you received \$3,744.00 on January 29, 2016 and February 12, 2016 from [REDACTED] but nothing to support your attestation of \$0.00 in income.

NYSOH redetermined your application on March 18, 2016, based in part on the earning statements you previously provided. That resulted in your being found eligible to enroll in a QHP at full cost; however, NYSOH did not find that you qualified to enroll in a health plan outside of the open enrollment period at that time.

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 you testified that you experienced a loss of health insurance as of February 1, 2016, you did not produce documentation reflecting this until the date of the hearing. Indeed, the eligibility determination notice issued on March 19, 2016 advised you to “[s]ign into your account and answer the questions about the Special Enrollment Period.”

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The record reflects your eligibility was redetermined by NYSOH on April 8, 2016 based on information included within your application at that time, but did not include a loss of insurance as basis for requesting a special enrollment period. Accordingly, NYSOH acted properly in not granting you special enrollment period at that time.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2016, there was no claim of any triggering event that would qualify you for a special enrollment period until your hearing.

Therefore, NYSOH's April 9, 2016 eligibility determination that you did not qualify to select a health plan outside of the open enrollment period for 2016 was proper based upon the evidence available at the time, and the decision is AFFIRMED.

Decision

The April 9, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 9, 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)).

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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 9, 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:

