



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

Notice of Decision

Decision Date: December 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009246

[REDACTED]

Dear [REDACTED],

On November 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 14, 2016 enrollment notice and to seek an exemption to avoid paying a tax penalty on your 2016 tax return.

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).

This page intentionally left blank.



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

Decision

Decision Date: December 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009246



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 your qualified health plan coverage began March 1, 2016, rather than May 1, 2016?

Procedural History

On September 14, 2015, NYSOH issued a notice, advising you that it was time to renew your health insurance coverage for the upcoming year. You were directed to update your account by October 15, 2015, so a determination on your eligibility could be made.

No updates were received by October 15, 2015, and on October 17, 2015, NYSOH issued a notice of eligibility determination and a disenrollment notice, stating you were no longer eligible for health insurance or financial assistance through NYSOH, and that your coverage would end on October 31, 2015.

On January 25, 2016, NYSOH received an updated application for health insurance.

On January 26, 2016, NYSOH issued an eligibility determination notice based on the January 25, 2016 application. The notice stated that you were eligible to enroll in a qualified health plan (QHP) and to receive advance payments of the premium tax credit (APTC) of up to \$107.00 per month. This eligibility determination was effective March 1, 2016.

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).

On January 28, 2016, NYSOH received an updated application for health insurance, with lower expected annual earnings listed.

On January 29, 2016, NYSOH issued an eligibility determination notice based on the January 28, 2016 application, stating that you were only *conditionally* eligible to enroll in a QHP and to receive up to \$188.00 per month in APTC, effective March 1, 2016. You were directed to produce documentation of your income by April 27, 2016.

You did not select a plan before the end of the open-enrollment period on January 31, 2016.

On February 2, 2016, NYSOH issued another eligibility determination notice based on the January 28, 2016 application, stating again that you were only conditionally eligible to enroll in a QHP and to receive up to \$188.00 per month in APTC, effective March 1, 2016. You qualified to enroll in a plan outside of the open-enrollment period, if you made your selection no later than February 29, 2016. You were directed to produce documentation of your income by April 27, 2016, and you were directed to pick a health plan.

You did not pick a plan by February 29, 2016.

Income documentation was submitted to NYSOH on March 8, 2016.

On March 17, 2016, NYSOH issued a notice of eligibility determination based on information available as of March 16, 2016. It stated you were eligible to receive up to \$167.00 per month in APTC and that you had qualified for another open enrollment period. You had until May 15, 2016 to select a plan.

On April 14, 2016, you selected a plan.

On April 15, 2016, NYSOH issued an eligibility determination notice based on the April 14, 2016 application. The notice stated that you were eligible to enroll in a QHP and receive an APTC of up to \$167.00 per month. This eligibility determination was effective May 1, 2016.

Also on April 15, 2016, NYSOH issued an enrollment notice confirming your selection of a QHP as of April 14, 2016. The notice also stated that your QHP plan coverage would begin effective March 1, 2016, provided you paid the required premiums.

On April 27, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the enrollment notice insofar as your plan enrollment began as of March 1, 2016, rather than May 1, 2016.

On May 6, 2016, NYSOH issued a cancellation notice stating that your QHP coverage had been cancelled effective March 1, 2016 due to non-payment of premiums.

On November 10, 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) You revised your application on April 14, 2016, and were found eligible to enroll in a QHP, effective May 1, 2016.
- 2) You selected a QHP for coverage on April 14, 2016; however, the enrollment notice stated that your coverage would begin on March 1, 2016, provided you paid the monthly premium to the insurance carrier.
- 3) You testified that when you contacted the insurance carrier to confirm your coverage start date, you were billed for three months of coverage, because coverage was to begin March 1, 2016. You did not want your coverage to begin on March 1, 2016.
- 4) You testified that at the time of your appeal, you were seeking to begin your coverage effective May 1, 2016.
- 5) You testified that you did not make any payments to the insurance carrier during the pendency of your appeal. On May 6, 2016, NYSOH issued a cancellation notice stating that your plan coverage had been cancelled effective March 1, 2016 due to the non-payment of premiums.
- 6) You testified that you were no longer seeking a reinstatement of your coverage during 2016, but rather to avoid having to pay a tax penalty for not having had insurance, caused by the incorrect start date, as well as the delay in receiving a hearing to resolve the issue.

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

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR § 155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR § 155.605(g)(1)(iii)).

The Marketplace may adopt an exemption eligibility determination made by HHS for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR § 155.625(b)).

Legal Analysis

The issue under review is whether NYSOH properly determined that enrollment in a QHP was effective May 1, 2016, rather than March 1, 2016.

The record reflects that on April 14, 2016 you updated the information in your NYSOH account and submitted a request to enroll in a QHP on that date. On April 15, 2016, NYSOH issued an enrollment notice stating that your enrollment in your QHP was effective March 1, 2016.

When an individual changes information in their application after the 15th of any month, NYSOH must generally make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the sixteenth

day to and including the last day of a month goes into effect on the first day of the second following month.

Because you selected a plan on April 14, 2016, that coverage should have gone into effect on May 1, 2016, barring any agreement of an earlier start date between you and the plan. There is no evidence you requested an earlier start date.

Therefore, we find NYSOH's April 14, 2016 enrollment notice to have been in error, and it is MODIFIED to indicate that your enrollment in your QHP should have begun on May 1, 2016. (This will have no effect on any subsequent cancellation due to non-payment of premiums.)

You further testified at the hearing that you are no longer seeking to enroll in a QHP during 2016, but rather to avoid being responsible for a tax penalty during 2016 as a result of not having had coverage due to an error of NYSOH. You testified that you are concerned about receiving a tax penalty as a result of being without coverage.

NYSOH finds that your failure to have coverage from May 1, 2016 onwards can be attributed, at least in part, due to the incorrect start date noted on the enrollment confirmation issued on April 15, 2016. Any failure to have coverage prior to May 1, 2016 is unrelated to this appeal.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you did not have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The NYSOH's April 14, 2016 enrollment notice was in error, and is MODIFIED to indicate that your enrollment in your QHP should have begun on May 1, 2016.

Effective Date of this Decision: December 2, 2016

How this Decision Affects Your Eligibility

Your QHP plan should have properly begun on May 1, 2016, rather than March 1, 2016. This decision will have no effect on any subsequent cancellation due to non-payment of premiums.

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.

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 NYSOH's April 14, 2016 enrollment notice was in error, and is MODIFIED to indicate that your enrollment in your QHP should have begun on May 1, 2016.

Your QHP plan should have properly begun on May 1, 2016, rather than March 1, 2016. This decision will have no effect on any subsequent cancellation due to non-payment of premiums.

You might qualify for a health coverage exemption in 2016 if you did not have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

