



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

Notice of Decision

Decision Date: November 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009974

[REDACTED]

Dear [REDACTED],

On November 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 1, 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: AP000000009974



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 and your spouse did not qualify to select a health plan outside of the open enrollment period for 2016, effective July 1, 2016?

Procedural History

On May 19, 2016, NYSOH received your application for health insurance.

On May 20, 2016, NYSOH issued a notice of eligibility determination that stated that you and your spouse were eligible to receive an advance premium tax credit of up to \$489.00 per month. The eligibility was effective July 1, 2016. It further stated you could still get coverage if you qualify for a special enrollment period.

On May 31, 2016 you updated your application for health insurance and attempted to enroll into a qualified health plan.

On May 31, 2016, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On June 1, 2016, NYSOH issued a notice of eligibility determination that stated that you and your spouse were eligible to receive an advance premium tax credit of up to \$489.00 per month. It further stated that you do not qualify to select a health plan outside of the open enrollment period for 2016.

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On November 15, 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 supports the following findings of fact:

- 1) The record indicates that you submitted your initial completed application for 2016 health insurance coverage for you and your spouse on May 19, 2016.
- 2) You will be filing your 2016 taxes as married filing jointly. Your application states you will be claiming no dependents.
- 3) You are seeking to be found eligible for a special enrollment period to enroll in health coverage for 2016.
- 4) You testified that you lost your prior health insurance from your former employer in January, 2016. You stated this was approximately 90 days prior to April, 2016. You testified you could not provide documentation showing this.
- 5) You testified you applied with the assistance of a Navigator on May 19, 2016.
- 6) You testified you have not moved since initially applying for health insurance for 2016.
- 7) You testified your household size has not changed since initially applying for health insurance for 2016.
- 8) You testified you reside in Suffolk County.

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 and your spouse a special enrollment period, effective July 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 May 19, 2016, with the aid of a Navigator. 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.

You testified that your previous coverage ended when you lost your prior health insurance through your former employer in January, 2016. You stated this was approximately 90 days prior to April, 2016.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

Although involuntary loss of health insurance can be considered a triggering life event that would qualify you for the granting of a special enrollment period, the amount of time that passed since your prior loss of insurance is beyond the time limit allowed for by federal regulation.

You testified you could not provide documentation showing the end date of your prior health insurance through your employer. Though you were unable to provide the exact day your prior coverage ended, sixty days from the last day in January 2016, was March 31, 2016; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until March 31, 2016. The record reflects that your application was not complete until May 19, 2016, which was after your special enrollment period would have expired.

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.

Therefore, NYSOH's June 1, 2016 eligibility determination notice stating you that you and your spouse do not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The June 1, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 30, 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

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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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The June 1, 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:

