



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

Notice of Decision

Decision Date: August 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010265

[REDACTED]

Dear [REDACTED],

On August 2, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's June 15, 2016 eligibility determination.

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: August 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010265



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?

Procedural History

On December 12, 2015, NYSOH received your application for health insurance.

On December 13, 2015, NYSOH issued a notice of eligibility determination that stated that you were eligible to receive an advance premium tax credit of up to \$120.00 per month and you were eligible for cost sharing reductions. Your eligibility was effective January 1, 2016.

Also on December 13, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with a plan start of January 1, 2016.

On February 4, 2016, NYSOH issued a cancellation notice of your qualified health plan effective January 1, 2016. This was because a premium payment had not been received by the health plan.

On February 11, 2016 you updated your application for health insurance.

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 February 12, 2016, NYSOH issued a notice of eligibility redetermination based on your February 11, 2016 application that stated that you were eligible to receive an advance premium tax credit of up to \$120.00 per month and you were eligible for cost sharing reductions, effective March 1, 2016. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 2016.

On June 14, 2016, NYSOH received your updated application for health insurance and prepared a preliminary eligibility determination stating that you were eligible to receive up to \$153.00 in advance payments of the premium tax credit per month and eligible to receive cost-sharing reductions, effective July 1, 2016. You attempted to select a health plan but were unable to enroll.

Also on June 14, 2016, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On June 15, 2016, NYSOH issued a notice of eligibility redetermination, based on the June 14, 2016 application, that stated that you were eligible to receive an advance premium tax credit of up to \$153.00 per month and you were eligible for cost sharing reductions, effective July 1, 2016. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 2016.

On August 2, 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 12, 2015.
- 2) You testified that you are seeking insurance for yourself.
- 3) You testified that you live in a two person household.
- 4) You testified that your spouse has coverage through the Veterans Administration, but you do not qualify for coverage through that agency.
- 5) You testified that your qualified health plan was cancelled because you were late in making the January 2016 premium payment and the health plan would not reinstate you.

- 6) You need health insurance because you require medical tests and surgery.
- 7) You reside in Queens County.
- 8) You testified that the \$35,636.00 expected annual income for your household listed on your application is correct. However, the household income could be less if you have surgery and are out of work for an extended period of time.
- 9) You testified that there have not been any significant household changes (births, deaths, marriage, or change in county of residence) since your application for health insurance.

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

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).

(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)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128”

(45 CFR § 155.420(e)).

Legal Analysis

The issue under review is whether NYSOH properly denied you a special enrollment period, as of June 15, 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 December 12, 2015. You enrolled in a qualified health plan at that time with a plan enrollment start date of January 1, 2016. However, on February 4, 2016, NYSOH issued a cancellation notice stating that your coverage in your qualified health plan was terminated effective January 1, 2016 for nonpayment of premiums.

The record reflects that you contacted NYSOH on February 11, 2016 and a redetermination notice of your eligibility was issued on February 12, 2016. That notice stated that you were eligible for APTC of \$120.00 per month effective March 1, 2016. That notice also stated that you had not met the requirements to qualify for a special enrollment period outside of open enrollment period.

The record reflects that you again contacted NYSOH on June 14, 2016 and a redetermination notice of your eligibility was issued on June 15, 2016. That notice stated that you were eligible for APTC of \$153.00 per month effective July 1, 2016. That notice stated that you did not qualify to select a health plan outside of 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 when an individual loses minimum essential coverage, a special enrollment period cannot be granted if the loss of

that coverage was due to a failure to pay premiums, as this is considered a voluntary loss of coverage.

The record reflects that your health insurance coverage was terminated effective January 1, 2016. However, it was terminated because your health plan informed NYSOH that you had not paid your monthly premium. Therefore, your loss of coverage due to nonpayment of premiums was not an event that would have triggered a special enrollment period.

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 15, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

Decision

The June 15, 2016 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: August 3, 2016

How this Decision Affects Your Eligibility

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

It is noted that you testified that you have a medical condition that requires tests and possible surgery. This decision does not affect your ability to seek health insurance coverage using sources outside of NYSOH.

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.

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).

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 June 15, 2016 eligibility determination is AFFIRMED.

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

This decision does not affect your ability to seek health insurance coverage using sources outside of NYSOH.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

