



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

Notice of Decision

Decision Date: October 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010363

[REDACTED]

Dear [REDACTED]

On September 13, 2016, you and your girlfriend appeared by telephone at a hearing on your appeal of NY State of Health's May 12, 2016 disenrollment notice, and June 22, 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).

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Decision Date: October 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010363

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly disenroll you from your qualified health plan for non-payment of premium effective March 31, 2016?

Did NYSOH properly determine that you did not qualify to select a different health plan outside of the open enrollment period for 2016 effective August 1, 2016?

Procedural History

On December 20, 2015, NYSOH received your updated application for health insurance.

On December 21, 2015, NYSOH issued a notice of eligibility determination that stated that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016.

On December 22, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Bronze level qualified health plan effective January 1, 2016.

On May 12, 2016, NYSOH issued a disenrollment notice stating your coverage with your Bronze level qualified health plan was terminated effective March 31, 2016. This was because a premium payment was not received by your health plan.

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On June 20, 2016, you spoke to NYSOH's Account Review Unit and appealed a determination from NYSOH insofar as you were not eligible to enroll in a health plan outside of the open enrollment period, or to remain enrolled in your health plan starting April 1, 2016.

On June 22, 2016, an eligibility determination notice was issued finding you eligible to purchase a qualified health plan at full cost effective August 1, 2016. The notice further stated you did not qualify to select a health plan outside of the open enrollment period for 2016.

On August 15, 2016, you provided a letter from your physician in order to be found eligible for an expedited appeal. See Document: [REDACTED]

On August 16, 2016, your request for an expedited appeal was denied.

On September 13, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide documentation in regards to the billing issues you experienced with your health plan. That documentation was received on September 15, 2016 and incorporated into the record as Appellant's Exhibit 1. The record is now closed.

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 20, 2015.
- 2) You testified that you did not realize you had been disenrolled from your Bronze level health plan effective March 31, 2016.
- 3) You testified you had surgery performed on April 8, 2016.
- 4) You testified that your doctor's office had ran your insurance information prior to the surgery date, and that it appeared you were still covered.
- 5) You testified that since you were not covered under your Bronze level health plan in April 2016 during your surgery, you incurred unpaid medical costs in the amount of approximately \$10,000.00.
- 6) You testified you did not receive a thirty day notice from your health plan stating you would be terminated for failure to pay a premium payment in April, 2016.

- 7) You testified that your household has not changed since initially applying for health insurance.
- 8) You testified you have not moved since initially applying for health insurance.
- 9) You testified that your income has not changed significantly since initially applying for health insurance.
- 10) You testified that NYSOH did not make any representations to you that turned out to be untrue. You further explained that you did not know there was an option to request an expedited appeal based on medical necessity.
- 11) The record reflects you requested an expedited appeal on August 15, 2016, and was denied on August 16, 2016.
- 12) You testified you have previously been denied your request to backdate your coverage to April 1, 2016 from your health plan, the NYS Department of Financial Services, as well as the NYS Office of the Attorney General.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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)).

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 first issue presented for review is whether NYSOH properly disenrolled you from your qualified health plan for non-payment of premium effective March 31, 2016

Your appeal was requested to dispute your disenrollment from your Bronze level qualified health plan for non-payment of premium effective March 31, 2016. NYSOH issued a disenrollment notice dated May 12, 2016, which stated your insurance with your Bronze level qualified health plan was terminated effective March 31, 2016, as a premium payment was not received by your health plan

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issuer. This issue relates to payment of premiums to qualified health plan issuers which is not an issue that the NYSOH Appeals Unit is authorized to address.

Therefore, your appeal on this issue is DISMISSED.

The second issue under review is whether NYSOH properly denied you a special enrollment period, effective August 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 December 20, 2015, and subsequently enrolled in a Bronze level qualified health plan effective January 1, 2016. After your disenrollment effective March 31, 2016, you contacted NYSOH on June 20, 2016, to see if you could be enrolled in your same health plan.

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 insurance coverage ended on March 31, 2016, which is considered a triggering life event.

However, a loss of health insurance coverage such as that referenced above does not include voluntary termination of coverage or other loss due failure to pay premiums on a timely basis.

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 22, 2016, eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

Your appeal on the issue of disenrollment for non-payment of premium as described in the May 12, 2016 disenrollment notice is DISMISSED.

The June 22, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 3, 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.

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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- By fax: 1-855-900-5557

Summary

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Your appeal on the issue of disenrollment for non-payment of premium as described in the May 12, 2016, disenrollment notice is DISMISSED.

The June 22, 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:

