



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010639

[REDACTED]

Dear [REDACTED],

On January 3, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's July 1, 2016 eligibility determination notice, as well as the July 1, 2016, July 2, 2016, and July 20, 2016 enrollment confirmation notices.

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]
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Issues

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

Did NY State of Health (NYSOH) properly determine that you and your child were not eligible for a Special Enrollment Period as of the July 1, 2016 eligibility determination notice?

Did NYSOH properly determine that the start date for the new qualified health plan (QHP) for you and your child was September 1, 2016?

Procedural History

On January 13, 2016, NYSOH received your application for health insurance.

On January 14, 2016, NYSOH issued a notice of eligibility determination stating that you and your child were eligible to receive up to \$393.00 per month in advance payments of the premium tax credit (APTC), as well as cost-sharing reductions, effective February 1, 2016.

On January 28, 2016, NYSOH issued a notice of enrollment confirmation, based on your plan selection on January 27, 2016 stating that you and your child were enrolled in a QHP (SilverPlus-S1, ST, INN, Pediatric Dental, Dep25, hereinafter referred to as the S1 plan) with a plan enrollment start date of March 1, 2016.

On June 30, 2016, NYSOH issued a preliminary determination that stated that you and your child were eligible to receive APTC of up to \$393.00 per month and

cost-sharing reductions. It further stated that you did not qualify to select a QHP outside of the open enrollment period for 2016.

On June 30, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you and your child were not eligible to enroll in a QHP outside of the open enrollment period.

On July 1, 2016, NYSOH issued a notice of eligibility determination that stated that you and your child were eligible to receive APTC of up to \$393.00 per month and cost-sharing reductions, effective August 1, 2016. It further stated that you and your child did not qualify to select a health plan outside of the open enrollment period for 2016.

On July 2, 2016, NYSOH issued a notice of enrollment confirmation notice stating that you and your child were enrolled in a silver level QHP (the S1 plan) with a plan enrollment start date of March 1, 2016.

On July 14, 2016, NYSOH issued a notice of eligibility determination that stated that you qualified to select a QHP outside of the open enrollment period for 2016.

On July 20, 2016, NYSOH issued a disenrollment notice stating that you and your son's coverage in your QHP (the S1 plan) would end effective August 31, 2016.

Also, on July 20, 2016, NYSOH issued a notice of enrollment confirmation notice stating that you and your child were enrolled in a silver level QHP (SilverPlus-S2, NS, INN, Dep25, hereinafter referred to as the S2 plan) with a plan enrollment start date of September 1, 2016.

On December 21, 2016, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeal Unit. You requested that day that the hearing be adjourned to a later date.

On January 3, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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) Prior to January 1, 2016 you and your child were enrolled in a MetroPlus plan with NYSOH.

- 2) In January 2016 you contacted NYSOH and advised that you wanted you and your child reenrolled in the S2 plan.
- 3) NYSOH incorrectly enrolled you and your child in the S1 plan effective March 1, 2016.
- 4) You testified that you became aware that you did not have dental coverage while at a dentist appointment.
- 5) You contacted NYSOH by telephone on June 30, 2016 to request a special enrollment period to choose a health plan which included adult dental coverage. You indicated during that call that you disputed the plan selected for you and your child. You were verbally denied a special enrollment period due to not having a qualifying life event.
- 6) According to NYSOH records, you contacted NYSOH by telephone on July 1, 2016 by telephone and requested to change the S1 plan to the S2 plan.
- 7) NYSOH records include an incident numbered [REDACTED] dated July 1, 2016, that stated "When she called to renew on 1/14/2016 she advised the agent to enroll her in the same plan she had before (this is a result of a call pull) NYSOH AGENT ERROR: agent selected a MetroPlus Medical only policy. Consumers request to change plans (SEP) is valid to place."
- 8) NYSOH records dated July 13, 2016 state "SEP granted due to misinformation."
- 9) NYSOH records reflect that on June 22, 2016 NYSOH disenrolled you and your child from your S1 plan to correct coverage, then reenrolled you both in the correct S2 plan.
- 10) NYSOH records dated July 22, 2016 state "Backdating QHP, SilverPlus-S2, NS, INN, Family Dental, Family Vision, Dep25 effective July 1, 2016 for [REDACTED] and [REDACTED]".
- 11) NYSOH records dated July 22, 2016 state "Ending coverage in SilverPlus-S1,ST,INN, Pediatric Dental, Dep25 due to CSS error."
- 12) On July 14, 2016, NYSOH issued a notice of eligibility determination stating that you qualified to select a health plan outside of the open enrollment period for 2016.
- 13) You testified that you need your qualified health plan for you and your child to begin on August 1, 2016.

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 the qualified individual or a dependent is enrolled in an incorrect plan unintentionally, inadvertently, or erroneously, and the enrollment was the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS (45 CFR § 155.420(d)(4)).

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)).

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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your child were not eligible for a special enrollment period as of the July 1, 2016 eligibility determination notice.

NYSOH records reflect that in January 2016 you contacted NYSOH and advised that you wanted you and your child reenrolled in the S2 plan. According to NYSOH records you and your child were incorrectly enrolled in the S1 plan, effective March 1, 2016. You testified that you became aware that you did not have dental coverage while at a dentist appointment.

You contacted NYSOH by telephone on June 30, 2016 to request a special enrollment period to choose a health plan which included adult dental coverage. You indicated during that call that you disputed the plan selected for you and your child. You were verbally denied a special enrollment period due to not having a qualifying life event. On July 1, 2016, NYSOH issued a notice of eligibility determination stating that you and your child did not qualify to select a health plan outside of the open enrollment period for 2016. During the June 30, 2016 telephone call, you disputed the plan selected for you and your child.

Because your enrollment in the S1 plan was due to the error of a NYSOH representative, you were entitled to a special enrollment period at that time.

Therefore, the July 1, 2016 eligibility determination notice denying you and your child a special enrollment period was incorrect and is MODIFIED to reflect that you should have been granted a special enrollment period to enroll in the S2 plan at that time.

The second issue under review is whether NYSOH properly determined that the start date for the S2 plan for you and your child was September 1, 2016.

According to NYSOH records, you contacted NYSOH by telephone on July 1, 2016 by telephone and requested to change the S1 plan to the S2 plan. Incident # [REDACTED] dated July 1, 2016 states "When she called to renew on 1/14/2016 she advised the agent to enroll her in the same plan she had before (this is a result of a call pull) NYSOH AGENT ERROR: agent selected a MetroPlus Medical only policy. Consumers request to change plans (SEP) is valid to place."

Had you been granted a special enrollment period at that time, your new enrollment could have started as early as August 1, 2016.

Therefore, the July 1, 2016, July 2, 2016, and July 20, 2016 enrollment confirmation notices were incorrect and are MODIFIED to reflect that you and your child were enrolled in the S2 plan effective August 1, 2016.

Decision

The July 1, 2016 eligibility determination notice denying you and your child a special enrollment period was incorrect and is MODIFIED to reflect that you should have been granted a special enrollment period to enroll in the S2 plan at that time.

The July 1, 2016, July 2, 2016, and July 20, 2016 enrollment confirmation notices were incorrect and are MODIFIED to reflect that you and your child were enrolled in the S2 plan effective August 1, 2016.

Your case is RETURNED to NYSOH to correct your enrollment in the S2 plan, with a start date of your choosing as early as August 1, 2016.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

You and your child may elect to enroll into the SilverPlus-S2, NS, INN, Dep25 plan as early as August 1, 2016; however, you may owe an additional premium to cover any difference in cost between the two plans.

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 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).

If You Have Questions about this Decision (Customer Service Resources):

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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 1, 2016 eligibility determination notice denying you and your child a special enrollment period was incorrect and is MODIFIED to reflect that you should have been granted a special enrollment period to enroll in the S2 plan at that time.

The July 1, 2016, July 2, 2016, and July 20, 2016 enrollment confirmation notices were incorrect and are MODIFIED to reflect that you and your child were enrolled in the S2 plan effective August 1, 2016.

Your case is RETURNED to NYSOH to correct your enrollment in the S2 plan, with a start date of your choosing as early as August 1, 2016.

You and your child may elect to enroll into the SilverPlus-S2, NS, INN, Dep25 plan as early as August 1, 2016; however, you may owe an additional premium to cover any difference in cost between the two plans.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

