



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

Notice of Decision

Decision Date: March 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010816

[REDACTED]

Dear [REDACTED],

On January 6, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's June 13, 2016 eligibility redetermination and disenrollment notices and July 14, 2016 eligibility redetermination 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 NY State of Health 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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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 your spouse's eligibility for financial assistance and enrollment in a qualified health ended effective June 30, 2016?

Did NYSOH properly determine that your spouse was not eligible to enroll in a qualified health plan outside of the open enrollment period for 2016?

Procedural History

On January 28, 2016, NYSOH issued an eligibility determination notice stating that your spouse was conditionally eligible to receive advance premium tax credits of \$173.00 per month and cost sharing reductions, effective March 1, 2016. The notice further requested that you provide documentation confirming your spouse's citizenship status before April 26, 2016.

Also on January 28, 2016, NYSOH issued a notice confirming your spouse's enrollment in qualified health plan effective March 1, 2016.

On March 10, 2016, NYSOH issued an eligibility redetermination notice stating that your spouse was conditionally eligible to receive advance premium tax credits of \$173.00 per month and cost sharing reductions, effective April 1, 2016. The notice further requested that you provide documentation confirming your spouse's citizenship status before June 7, 2016.

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On June 13, 2016, NYSOH issued an eligibility determination notice stating that your spouse was not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your spouse also could not enroll in a qualified health plan at full cost because you had not confirmed your spouse's citizenship status within the required timeframe. Your spouse's eligibility for coverage ended effective June 30, 2016.

Also on June 13, 2016, NYSOH issued a disenrollment notice stating that your spouse's coverage in her qualified health care plan would end effective June 30, 2016.

On July 6, 2016, NYSOH updated your account based on information you submitted.

On July 7, 2016, NYSOH issued an eligibility determination notice that stated your spouse was eligible to receive an advance premium tax credit of up to \$173.00 per month and eligible for cost sharing reductions, effective August 1, 2016. This same notice indicated that your spouse could enroll in coverage for 2016 if she qualified to select a plan outside of open enrollment. To see if she had a qualifying event, the notice instructed you to sign into your NY State of Health account and answer the questions about the Special Enrollment Period.

On July 10, 2016, NYSOH issued an eligibility redetermination notice that stated your spouse was eligible to receive an advance premium tax credit of up to \$173.00 as well as cost sharing reductions, effective August 1, 2016. The notice further stated that your spouse did not qualify to select a health plan outside of the open enrollment period for 2016.

On July 13, 2016 you spoke to NYSOH's Account Review Unit and appealed your spouse's eligibility for financial assistance and enrollment in a qualified health plan on June 30, 2016 and that your spouse was not eligible to reenroll in a qualified health plan outside of the open enrollment period for 2016.

On July 14, 2016, NYSOH issued another eligibility redetermination notice that stated your spouse was eligible to receive an advance premium tax credit of up to \$173.00 as well as cost sharing reductions, effective August 1, 2016. The notice further stated that your spouse did not qualify to select a health plan outside of the open enrollment period for 2016.

On January 6, 2017, 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) According to your NYSOH account, you submitted the initial application for your spouse's 2016 health insurance on January 27, 2016.
- 2) You testified, and the record reflects, that you receive all of your notices from NYSOH via regular mail.
- 3) You testified that you did not receive the January 28, 2016 notice stating that your spouse's eligibility was only conditional and that you needed to provide documentation of her citizenship status.
- 4) You testified that you did receive the March 10, 2016 eligibility redetermination notice.
- 5) You testified that you left for [REDACTED] in May 2016 and did not return to the United States until late June 2016.
- 6) You testified that you did not know that you needed to submit documentation of your spouse's citizenship status until you returned to the United States and read the June 13, 2016 eligibility redetermination and disenrollment notices. You testified that you immediately contacted NYSOH.
- 7) According to your NYSOH account and your testimony, on June 29, 2016, you uploaded a copy of your spouse's passport as proof of her U.S. citizenship (see Document [REDACTED]).
- 8) According to your NYSOH account, your spouse's passport was verified on July 6, 2016 and her eligibility status was updated at that time.
- 9) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 10) You testified that there have been no changes in your immediate household, such as a birth, death, marriage, or permanent move.
- 11) You testified that your health plan allowed you to keep paying full price premiums for your spouse for the rest of 2016. You are seeking the advanced premium tax credits for the months of August through December of 2016.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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” such as failure to comply with other requirements (45 CFR § 147.128(b))

(45 CFR § 155.420(e)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your spouse was no longer eligible to enroll in a qualified health plan through NYSOH, effective June 30, 2016 and, therefore, was disenrolled from her qualified health plan, effective June 30, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual’s citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on January 28, 2016, you were advised that your spouse’s eligibility was only conditional, and that you needed to confirm her citizenship status before April 26, 2016.

In the eligibility redetermination issued on March 10, 2016 you were again advised that your spouse's eligibility was only conditional, and that the deadline to confirm her citizenship status was extended until June 7, 2016.

The record reflects that NYSOH did not receive the requested citizenship documentation before the extended deadline to June 7, 2016.

Therefore, NYSOH properly notified you of an inconsistency in your account and you did not submit the requested citizenship documentation before the deadline.

If NYSOH remains unable to verify the inconsistency after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship documentation was not received within the extended period, NYSOH was required to redetermine your spouse's eligibility without verification of her citizenship status. As a result, NYSOH properly determined that your spouse could not enroll in a qualified health plan through NY State of Health effective June 30, 2016 because you did not provide the information requested by NYSOH.

Therefore, NYSOH's June 13, 2016 eligibility redetermination notice finding your spouse ineligible to remain enrolled in health coverage through NYSOH and the June 13, 2016 disenrollment notice are correct and are AFFIRMED.

The second issue under review is whether NYSOH properly denied your spouse a special enrollment period, effective August 1, 2016.

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.

Generally, the loss of health insurance coverage is considered a triggering event. Here, your spouse's enrollment was terminated effective June 30, 2016 because you did not submit her citizenship documentation by June 7, 2016. NYSOH considers your failure to timely comply and provide proof of your spouse's citizenship to be a voluntary act that resulted in termination of her health insurance coverage. Therefore, your spouse would not be entitled to a special enrollment period in which to enroll in new coverage on this 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 your spouse for a special enrollment period.

Therefore, NYSOH's July 14, 2016 eligibility redetermination notice that stated your spouse did not qualify to select a health plan outside of the open enrollment period for 2016 is AFFIRMED.

Decision

The June 13, 2016 eligibility redetermination and disenrollment notices are AFFIRMED.

The July 14, 2016 eligibility redetermination notice is AFFIRMED.

Effective Date of this Decision: March 02, 2017

How this Decision Affects Your Eligibility

NYSOH properly found your spouse not eligible to enroll in a qualified health plan effective June 30, 2016 because you did not submit proof of her citizenship status.

NYSOH properly disenrolled your spouse from her qualified health plan effective June 30, 2016 because you did not submit proof of her citizenship status.

Your spouse did not qualify for a special enrollment period thereafter for 2016.

This decision does not affect any subsequent eligibility determinations made by 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 after 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

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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 13, 2016 eligibility redetermination and disenrollment notices are **AFFIRMED**.

The July 14, 2016 eligibility redetermination notice is **AFFIRMED**.

NYSOH properly found your spouse not eligible to enroll in a qualified health plan effective June 30, 2016 because you did not submit proof of her citizenship status.

NYSOH properly disenrolled your spouse from her qualified health plan effective June 30, 2016 because you did not submit proof of her citizenship status.

Your spouse did not qualify for a special enrollment period thereafter for 2016.

This decision does not affect any subsequent eligibility determinations made by NYSOH.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

