



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

Notice of Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010844

[REDACTED]

[REDACTED]

On December 17, 2016, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's July 15, 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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Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010844

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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 were not eligible to enroll in a qualified health plan outside of the open enrollment period?

Procedural History

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

On June 14, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan at full cost. The notice further stated that you and your spouse qualified to select a health plan outside of the open enrollment period. You were directed to select a health plan and confirm your selection no later than July 30, 2016.

Also on June 14, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled into a platinum-level qualified health plan (QHP) and that your coverage would start July 1, 2016.

On July 14, 2016, NYSOH issued a cancellation notice stating that your and your spouse's enrollment in your platinum-level QHP had been cancelled because your health plan did not receive a premium payment from you.

Also on July 14, 2016, you updated your NYSOH application. That day, you attempted to re-enroll into a QHP but were unable.

Finally on July 14, 2016, you spoke to NYSOH's Account Review Unit and appealed insofar as you and your spouse were not eligible to enroll in a health plan outside of the open enrollment period.

On July 15, 2016, NYSOH issued a notice of eligibility determination that stated that you and your spouse were conditionally eligible to receive an advance premium tax credit of up to \$325.00 per month, effective August 1, 2016. The notice further stated that you and your spouse qualified to select a health plan outside of the open enrollment period. You were directed to select a health plan and confirm your selection no later than September 12, 2016.

On December 27, 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 application for 2016 health insurance coverage in June 2016.
- 2) You testified that you lost insurance through your job at the end of May 2016.
- 3) You and your spouse were granted a special enrollment period to enroll into coverage. You and your spouse were given until July 30, 2016 to select a plan.
- 4) You and your spouse enrolled in a qualified health plan on June 13, 2016.
- 5) You and your spouse were cancelled for non-payment of premiums.
- 6) On July 14, 2016, you contacted NYSOH and attempted to re-enroll you and your spouse into a QHP.
- 7) You testified that you were unable to re-enroll you and your spouse into a QHP on July 14, 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 one of the following triggering events occur:

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.

(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 determined that you and your spouse were not eligible to enroll in a QHP outside of the open enrollment period.

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NYSOH provided an open enrollment period from November 1, 2015 until January 31, 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.

The record indicates that you submitted an application for health insurance through NYSOH on June 13, 2016. As a result of the June 13, 2016 application, you and your spouse were granted a special enrollment period. That day, you and your spouse enrolled into a platinum-level QHP; however, your enrollment in that plan was cancelled because a premium payment had not been received. On July 14, 2016, you updated your NYSOH application and attempted to re-enroll into a QHP but were unable.

In order to qualify for a special enrollment period outside of the annual open enrollment period, a person must experience a triggering event. A person has 60 days from the triggering event to enroll into a qualified health plan through NYSOH.

You testified that your and your spouse's previous insurance coverage through your employer ended at the end of May 2016. The loss of minimum essential coverage through a private health plan is considered a triggering event.

In the June 14, 2016, eligibility determination notice, you and your spouse were granted a special enrollment period and were directed to select a health plan and confirm your selection no later than July 30, 2016.

Since you attempted to re-enroll you and your spouse into a plan on July 14, 2016, you were still within your 60 day special enrollment period window as stated in the June 14, 2016 eligibility determination notice. Further, the July 15, 2016 eligibility determination notice that was issued as a result of your July 14, 2016 attempt to enroll in a plan confirms that you and your spouse had until July 30, 2016 in order to select a QHP.

Therefore, NYSOH's July 15, 2016 eligibility determination is MODIFIED to reflect that you and your spouse were eligible to select a QHP as of July 14, 2016 and had until July 30, 2016 to do so. As such, you and your spouse have 60 days from the date of this decision to enroll into a plan for 2016, as if you had done so on July 14, 2016.

The record indicates that NYSOH's failure to grant you a special enrollment period resulted in you and your spouse being without insurance coverage for part of the 2016 coverage year.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health

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coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The July 15, 2016 eligibility determination is MODIFIED to reflect that you and your spouse were eligible to select a QHP as of July 14, 2016.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage as if you had done so on July 14, 2016, if you so choose.

Effective Date of this Decision: January 17, 2017

How this Decision Affects Your Eligibility

You and your spouse qualify for a special enrollment period.

You and your spouse have 60 days from the date of this decision to enroll into a plan for 2016.

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.

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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:
NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The July 15, 2016 eligibility determination is MODIFIED to reflect that you and your spouse were eligible to select a QHP as of July 14, 2016.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage as if you had done so on July 14, 2016, if you so choose.

You and your spouse qualify for a special enrollment period.

You and your spouse have 60 days from the date of this decision to enroll into a plan for 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

