



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

## Notice of Decision

Decision Date: February 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011068

[REDACTED]

Dear [REDACTED],

On December 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 26, 2016 enrollment confirmation notice and subsequent action by NY State of Health.

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: February 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011068

[REDACTED]

## 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 enrolled in a Qualified Health Plan (QHP) effective May 1, 2016 or July 1, 2016?

## Procedural History

On June 20, 2016, NY State of Health (NYSOH) received multiple applications for health insurance.

On June 21, 2016, NYSOH issued a notice of eligibility determination that stated you and your spouse were eligible to purchase a QHP at full cost, effective August 1, 2016. The notice also stated that you and your spouse qualified to select a health plan outside of the 2016 open enrollment period. You had until August 28, 2016 to select a plan.

On June 26, 2016 and July 2, 2016, NYSOH issued enrollment confirmation notices, confirming your and your spouse's enrollment in a silver-level QHP plan, with an enrollment start date of May 1, 2016.

On July 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment start date for you and your spouse's QHP plan.

## Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing only your and your spouse's eligibility.
- 2) You submitted multiple applications for 2016 health insurance coverage on June 20, 2016. In those applications, you indicated that your prior coverage ended on April 29, 2016 and June 29, 2016. On your June 24, 2016 application, you indicated your prior coverage ended on April 30, 2016.
- 3) You testified that you selected a QHP for you and your spouse on June 25, 2016.
- 4) You testified that NYSOH incorrectly provided you and your spouse with a QHP start date of May 1, 2016.
- 5) NYSOH's records (incident # [REDACTED]) reflect that you contacted NYSOH on July 1, 2016 and stated that the start date for you and your spouse's QHP was incorrect, and that it should start on August 1, 2016 and not May 1, 2016.
- 6) NYSOH's records reflect that on July 5, 2016, NYSOH changed the coverage effective date for you and your spouse to July 1, 2016; the date could not be pushed later in the year to August 1, 2016 because the "start date must be within 60 days."
- 7) You testified that you are seeking a QHP coverage start date for you and your spouse of August 1, 2016.
- 8) You testified that you were unable to afford the July premium for your QHP.

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

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR § 155.410(a)(1)).

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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 (SEPs) to qualified individuals. During an SEP, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is permitted when certain triggering events occur, including the qualified individual (or his or her dependent) involuntarily losing certain health insurance coverage (45 CFR § 155.420(d)(1)). There are options for different start dates for selections that occur because of a special enrollment period.

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), emphasis added).

### Effective Date of Coverage

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 issue under review is whether NYSOH properly determined that you and your spouse were enrolled in a qualified health plan (QHP) effective either May 1, 2016 or July 1, 2016.

On June 20, 2016 you submitted applications for 2016 health insurance coverage. On June 21, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a QHP, effective August 1, 2016.

However, on June 26, 2016 NYSOH issued an enrollment confirmation notice, based on your plan selection of June 25, 2016, stating that you and your spouse's enrollment in your qualified health plan was effective May 1, 2016. This date was apparently selected so that you would have no gap in your health coverage.

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When you objected to this earlier start date, NYSOH agreed to push the date to July 1, 2016, but indicated that any further would be beyond the 60-day period of the SEP.

However, although federal regulations require that an individual must *select* a new plan within 60 days of the event that qualified that individual for an SEP, there is no rule that requires the *effective* date of any plan selected to also occur within that 60-day period.

In general, the date on which a qualified health plan takes effect depends on the day a person selects the plan for enrollment. A plan that is selected from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month. In the case of an enrollment that takes place because of an SEP, there may be occasions where a different start date occurs, but you should have been allowed to follow the general rules for an effective date as long as you selected your plan before the end of your 60-day SEP.

Based on your plan selection on June 25, 2016 you should have been able to select an enrollment start date of August 1, 2016.

Therefore, NYSOH's June 26, 2016 and July 2, 2016 enrollment confirmation notices are MODIFIED to reflect that coverage in your new plan for you and your spouse was effective August 1, 2016.

## **Decision**

The June 26, 2016 and July 2, 2016 enrollment confirmation notices are MODIFIED to reflect that you and your spouse are eligible to enroll in a QHP effective August 1, 2016.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage.

**Effective Date of this Decision:** February 14, 2017

## **How this Decision Affects Your Eligibility**

NYSOH erred in the start date of you and your spouse's original QHP.

You and your spouse may elect to enroll into a QHP effective August 1, 2016.

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

## **Summary**

The June 26, 2016 and July 2, 2016 enrollment confirmation notices are MODIFIED to reflect that you and your spouse are eligible to enroll in a QHP effective August 1, 2016.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a plan for 2016 health coverage if you so choose.

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).

NYSOH erred in the start date of you and your spouse's original QHP.

### **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

