



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

## Notice of Decision

Decision Date: January 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011210

[REDACTED]

[REDACTED]

On December 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 13, 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).

This page intentionally left blank.



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

## Decision

Decision Date: January 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011210

[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 were not eligible to enroll in a dental plan outside of the 2016 open enrollment period?

## Procedural History

On March 18, 2016, NYSOH received your application for health insurance.

On March 19, 2016, NYSOH issued a notice of eligibility determination that stated that you were eligible to receive up to \$161.00 per month in advance payments of the premium tax credit (APTC), and eligible for cost-sharing reductions, effective May 1, 2016. It further stated that you qualified to select a health plan outside of the 2016 open enrollment period, and that you had until May 17, 2016 to choose a plan.

Also on March 19, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Healthfirst silver-level qualified health plan (QHP) with an enrollment start date of May 1, 2016.

On June 18, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$161.00 per month in APTC, and eligible for cost-sharing reductions, effective May 1, 2016. The notice also stated that you qualified to select a health plan outside of the 2016 open enrollment period, and that you had until July 31, 2016 to select a plan.

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).

On July 11, 2016 and July 12, 2016, your NYSOH account was updated.

On July 12 and July 13, 2016, NYSOH issued notices of eligibility determination stating that you were conditionally eligible to receive up to \$161.00 per month in APTC, and conditionally eligible for cost-sharing reductions, effective August 1, 2016. The notices also stated that you did not qualify to select a health plan outside of the 2016 open enrollment period.

Also on July 12 and July 13, 2016, NYSOH issued notices of enrollment confirmation re-confirming your enrollment in your Healthfirst silver-level QHP, effective May 1, 2016.

On July 26, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$161.00 per month in APTC, and conditionally eligible for cost-sharing reductions, effective August 1, 2016. The notice further stated that you qualified to select a health plan outside of the 2016 open enrollment period, and that you had until July 31, 2016 to select a plan.

On August 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the July 13, 2016 eligibility determination, insofar as you were unable to enroll in a dental plan during your SEP.

On December 28, 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 support the following findings of fact:

- 1) Your NYSOH account indicates that you submitted your initial application for 2016 health insurance coverage on March 18, 2016.
- 2) You testified that you previously had Medicaid coverage through your local Department of Social Services.
- 3) You testified that you completed your NYSOH application with the assistance of an application counselor at Healthfirst.
- 4) You testified that, when the application counselor was helping you to select a plan, she told you that the plan you selected had dental coverage for you, but it turned out that the plan only had dental coverage for children.

- 5) You testified that you discovered you did not have dental plan coverage when you needed to seek dental care.
- 6) You testified that you contacted NYSOH to ask if you could enroll in dental coverage.
- 7) Your NYSOH account reflects that NYSOH granted you a Special Enrollment Period (SEP) in a notice dated June 18, 2016, giving you until July 31, 2016 to select a plan.
- 8) You testified that you went into your NYSOH account in July 2016 to try to select a plan and thought that you would be shown plan options that you could compare and choose from. You testified that, instead, you accidentally ended up re-selecting your QHP, instead of selecting a dental plan.
- 9) You testified that you called NYSOH in July 2016 to try to get a new SEP so that you could pick a dental plan.
- 10) NYSOH issued notices on July 12 and July 13 of 2016 reconfirming your enrollment in your QHP, and stating that you were not eligible for a SEP.
- 11) Your NYSOH account reflects that, on July 12, 2016, your NYSOH account was updated by a NYSOH representative. The application of that date reflects that a SEP was requested and denied. The SEP Denial Reason that shows on that application is "You are currently enrolled in coverage through NY State of Health." In the same section of the application, your account reads that you were granted an SEP that did not expire until July 31, 2016.
- 12) You testified that you eventually received notification that your SEP had been reauthorized, but that it expired a couple of days later, and you did not have sufficient time to research and select a dental plan.
- 13) NYSOH issued a notice on July 26, 2016 stating that you were qualified to select a health plan outside of the 2016 open enrollment, and that you had until July 31, 2016 to select a plan.
- 14) NYSOH's records indicate that you contacted NYSOH on August 1, 2016 to ask to select a plan, and filed an appeal that day when you were told you could not choose a dental plan. (Incidents [REDACTED] and [REDACTED])
- 15) You testified that you are looking to be eligible to retroactively enroll in dental coverage for 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 SEP's to qualified individuals. During a SEP, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when certain triggering events occur, including the following:

- (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'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.

(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 denied you a SEP as of July 13, 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 March 18, 2016. Therefore, you did not complete your application during the open enrollment period.

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.

When you applied on March 18, 2016, your application indicated that you lost insurance coverage, and you testified that you had been enrolled in Medicaid through the Department of Social Services. Therefore, NYSOH granted you a SEP, and you enrolled into a plan that began on May 1, 2016.

You testified that, once your coverage with your QHP began, you realized at some point that you did not have dental coverage, and that your application counselor had made a mistake in telling you that your plan would cover dental costs. You testified that you contacted NYSOH, and NYSOH issued a notice of eligibility determination on June 18, 2016 stating that you qualified to select a plan outside of the 2016 open enrollment period, and that you had until July 31, 2016 to do so.

You testified that you went online and tried to select a dental plan. You testified that you thought you were going to get to a point where different plans would be listed, and you would then be able to compare them and decide on a plan. However, you testified that, instead, you ended up re-selecting your QHP, and not selecting dental coverage.

You testified that you contacted NYSOH to ask for them to reauthorize you to select a plan. The record reflects that you spoke with NYSOH on July 12, 2016, and that a request for a SEP was made. However, the request was denied, according to information in your NYSOH account, because, "You are currently enrolled in coverage through NY State of Health." You testified that the person you spoke with on July 12, 2016 told you that they would try to get you a new SEP so that you could enroll in a dental plan.

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).

The record reflects that NYSOH subsequently issued a notice on July 26, 2016, informing you that you had been granted a SEP, and that you had until July 31, 2016 to select a plan. You testified that, by the time you received the notice, you did not have enough time to compare plans and make a selection. You testified that you contacted NYSOH, and were informed that you could not enroll in a dental plan, and so you filed an appeal. The record indicates that this occurred on August 1, 2016, one day after the SEP expired.

A special enrollment period can be granted if a qualified individual's enrollment or non-enrollment into a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH or its instrumentalities as evaluated and determined by the NYSOH.

The credible evidence of record indicates that you attempted to utilize the SEP granted to you on June 18, 2016 and, due to a mistake, re-enrolled in the same QHP without dental coverage. You credibly testified that you immediately contacted NYSOH, and the record shows that someone at NYSOH updated your application on July 12, 2016 and requested a SEP. However, that request was denied, even though the system, and the notice you were sent on June 18, 2016, indicated that the SEP you were granted did not expire until July 31, 2016.

As a result of NYSOH's actions in preventing you from selecting a dental plan during the SEP that you were granted, you were unable to enroll in dental coverage.

Therefore, NYSOH's July 13, 2016 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2016 is MODIFIED to reflect that you are eligible for a SEP until 60 days from the date of this decision.

Your case is RETURNED to NYSOH to facilitate your retroactive enrollment into a dental plan, with enrollment beginning as early as August 1, 2016, should you choose to retroactively enroll in 2016 dental coverage.

## **Decision**

The July 13, 2016 eligibility determination is MODIFIED to reflect that you are eligible for a SEP until 60 days from the date of this decision.

Your case is RETURNED to NYSOH to assist you in retroactively enrolling into a dental plan for 2016 health coverage, with an enrollment start date as early as August 1, 2016, should you choose to retroactively enroll in coverage.



**Effective Date of this Decision:** January 13, 2017

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

You qualify for a SEP.

You have 60 days from the date of this decision to enroll into a plan.

Your NYSOH case is being sent back to NYSOH to assist you in retroactively enrolling into a dental plan for 2016, with a start date as early as August 1, 2016, should you choose to retroactively enroll in coverage.

## **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 July 13, 2016 eligibility determination is MODIFIED to reflect that you are eligible for a SEP until 60 days from the date of this decision.

Your case is RETURNED to NYSOH to assist you in retroactively enrolling into a dental plan for 2016 health coverage, with an enrollment start date as early as August 1, 2016, should you choose to retroactively enroll in coverage.

You qualify for a SEP.

You have 60 days from the date of this decision to enroll into a plan.

Your NYSOH case is being sent back to NYSOH to assist you in retroactively enrolling into a dental plan for 2016, with a start date as early as August 1, 2016, should you choose to retroactively enroll in coverage.

.

## **Legal Authority**

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

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

