



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

Notice of Decision

Decision Date: January 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011604

[REDACTED]

[REDACTED]

On January 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 5, 2016 notice of disenrollment and August 6, 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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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 terminate your Qualified Health Plan (QHP) for non-payment of premium effective, June 30, 2016?

Did NYSOH properly determine that you were not eligible to enroll in a QHP outside of the open enrollment period for 2016?

Procedural History

On October 29, 2015, NYSOH issued a renewal notice stating that you were re-enrolled in your current health plan for another year.

On November 25, 2015, NYSOH issued a notice of enrollment confirmation stating you were enrolled in a silver level qualified health plan with a \$408.04 monthly premium, effective January 1, 2016.

On August 5, 2016, NYSOH issued a notice of disenrollment stating your QHP was terminated, effective June 30, 2016, because a premium payment had not been received by the health plan.

On August 6, 2016, NYSOH issued an eligibility determination notice stating you were eligible to purchase a qualified health plan at full cost through NYSOH, effective September 1, 2016. The notice further stated that you do not qualify to select a health plan outside of the open enrollment period for 2016.

On August 22, 2016, you spoke to NYSOH's Account Review Unit and appealed your disenrollment from your QHP and the denial of a special enrollment period to re-enroll into coverage.

On January 12, 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) You testified, and the record reflects, that you were reenrolled in a QHP for the 2016 coverage year with a monthly premium of \$408.04, effective January 1, 2016.
- 2) You testified that your monthly premium payments were automatically debited from your bank account by the health plan.
- 3) You testified that in July 2016 the automatic debit of your premium payment to the health plan did not go through. You testified that you do not know what happened.
- 4) You testified that you realized you had been dis-enrolled from your health plan when you tried to use your insurance card at the pharmacy and were denied.
- 5) You testified that you contacted the health plan to try to make a payment but you were denied because the representative said that the payment was over 30 days past due.
- 6) You testified that you contacted NYSOH in August 2016 to re-enroll into coverage but you were denied.
- 7) You testified that you were without health insurance for the remainder of 2016.
- 8) You testified that you enrolled in a QHP for 2017 during the open enrollment period.
- 9) You testified that there have been no changes to your immediate household or income and that you have not moved counties since applying for health insurance through NYSOH.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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)).

Legal Analysis

The first issue is whether NYSOH properly terminated your QHP for non-payment of premium effective, June 30, 2016.

The record reflects that you were reenrolled into a silver level qualified health plan with a \$408.04 monthly premium, effective January 1, 2016. You testified that your monthly premium payments were automatically debited from your bank account by the health plan.

At the hearing, you acknowledged that the July 2016 automatic debit of your premium payment to the health plan did not go through. You testified that once

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you realized you had been dis-enrolled from your health plan, you contacted the insurer to make a payment but you were denied because the payment was more than 30 days overdue.

The record reflects that you were dis-enrolled from your health plan for non-payment of the premium, effective June 30, 2016.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the August 5, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that you were not eligible to enroll in a QHP outside of the open enrollment period for 2016.

You testified that you called NYSOH to re-enroll in a health plan in August 2016, but was told by a NYSOH representative that you could not enroll in a plan outside of the open enrollment period. The record reflects that on August 6, 2016, NYSOH denied you a special enrollment period in which to enroll in a health plan outside of open enrollment for 2016

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted an updated application for financial assistance on August 5, 2016, which was outside of the open enrollment period for 2016.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll into a qualified health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

In the present case, there is no evidence in the record to establish grounds for a special enrollment period. You testified that there have been no changes to your household in 2016. Additionally, you testified that there have been no significant changes to your income and that you have not moved counties since applying for health insurance through NYSOH.

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Though you did lose health coverage as a result of the June 30, 2016 disenrollment, the loss of health insurance coverage in this case cannot be considered a triggering event for a special enrollment period, because it was a result of non-payment of your premiums which NYSOH considers a voluntary action causing the termination of your coverage.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2016, you did not experience a triggering event that would qualify you for a special enrollment period as of the date of the hearing.

Therefore, the August 6, 2016 eligibility determination, to the extent it denied you a special enrollment period, was correct and is AFFIRMED.

Decision

Your appeal of the August 5, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

The August 6, 2016 eligibility determination, to the extent it denied you a special enrollment period, was correct and is AFFIRMED.

Effective Date of this Decision: January 19, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You are not eligible for a special enrollment period.

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.

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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:
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- By fax: 1-855-900-5557

Summary

Your appeal of the August 5, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The August 6, 2016 eligibility determination, to the extent it denied you a special enrollment period, was correct and is **AFFIRMED**.

This decision does not change your eligibility.

You are not eligible for a special enrollment period.

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:

