



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: AP000000011783

[REDACTED]

Dear [REDACTED],

On January 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 30, 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 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

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011783



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 plan outside of the open enrollment period as of June 29, 2016?

Procedural History

On December 19, 2015, NYSOH issued an enrollment notice confirming that you were enrolled in a qualified health plan (QHP) with a premium of \$553.40 per month, effective January 1, 2016. That notice also stated that if you do not make your monthly premium payments on time, you could lose your health insurance.

On March 13, 2016, NYSOH issued a disenrollment notice stating your insurance with your QHP was terminated effective January 31, 2016, because a premium payment had not been received by the health plan. That notice directed you to contact your plan directly if you believed you made your premium payment.

On June 29, 2016 and June 30, 2016, NYSOH issued two notices of eligibility determination, based on your June 28, 2016 and June 29, 2016 updated applications, stating in part that you do not qualify to select a health plan outside of the open enrollment period for 2016.

On August 30, 2016, you spoke to NYSOH's Account Review Unit and appealed those notices of eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On January 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until January 28, 2017 for you to submit proof of signing up for automatic payments with your health plan.

On January 13, 2017, you submitted an email letter from your health plan, proof of payment for January 2016, a screenshot of your inbox and a written statement regarding your appeal (see Documents [REDACTED] and [REDACTED]). These documents were made part of the record as "Appellant's Exhibit A." Nothing further was received as of January 28, 2017. Therefore, the record closed that same day.

Findings of Fact

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

- 1) On June 28 and 29, 2016, you attempted to re-enroll in a health insurance plan through NYSOH, but were denied a special enrollment period.
- 2) According to your NYSOH account, you failed to pay your February 2016 and March 2016 premiums and were disenrolled from your QHP effective January 31, 2016. You testified that you did not pay your premium because you had to take care of a family member and, although you attempted to enroll in autopay, it did not work because your payments were not taken out of your bank account.
- 3) On January 13, 2017, you submitted, as proof of signing up for automatic payments, an email letter from your health plan that states you signed up for paperless billing. That letter directed you to "log on to [the health plan's website] and select Pay My Bill" (see Appellant's Exhibit A, [REDACTED]).
- 4) On January 13, 2017, you submitted, as proof of the health plan not sending you billing notices, a screenshot of your inbox search dated January 2017 of emails from the health plan. There are no bills from your health plan in that inbox search after January 14, 2016 (see Appellant's Exhibit A, [REDACTED]).
- 5) You testified that, although you do not have any medical bills, you are concerned about being exposed to an IRS tax penalty for not having health insurance the requisite number of months in 2016.

- 6) You testified that you sought reinstatement of your QHP through your health plan provider, but they refused to reinstate you and directed you to contact NYSOH.
- 7) According to your NYSOH account and your testimony, there have been no changes in your household since the open enrollment period ended on January 31, 2016.
- 8) You confirmed that your household income and size have not changed.

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 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...

(45 CFR § 155.420(d)).

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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”

(45 CFR § 155.420(e)).

Legal Analysis

The issue under review is whether NYSOH properly denied you a special enrollment period as of June 28 and 29, 2016.

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. In order to qualify for a special enrollment period, a person must experience a triggering event.

On December 19, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a health plan effective January 1, 2016. That notice further stated you must pay your monthly premiums on time or risk losing your health insurance.

On March 13, 2016, NYSOH issued a disenrollment notice stating that your health insurance was terminated effective January 31, 2016, because a premium payment had not been received by your health plan. That notice directed you to contact your plan directly if you believed you had made your premium payment. You testified that you contacted the health plan and requested reinstatement of your health insurance and the health plan refused and directed you to contact NYSOH.

On June 28 and 29, 2016, you contacted NYSOH and, as confirmed in the June 29 and 30, 2016 notices of eligibility redetermination, you were denied a special enrollment period within which to select a QHP for coverage to resume in 2016.

Ordinarily, the loss of health insurance coverage is considered a triggering event. Here, you testified you did not pay your premiums because you had to take care of a family member and, although you attempted to enroll in autopay, it did not work because your payments were not taken out of your bank account. The record was held open until January 28, 2017 for you to submit proof that you had signed up for automatic payments through your health plan.

On January 13, 2017, you submitted, as proof of signing up for automatic payments, an email letter from the health plan that states you signed up for paperless billing. That letter directed you to “log on to [the health plan’s website] and select Pay My Bill.” This letter reflects that you signed up for paperless billing, but there is no evidence to support that you signed up for automatic payments as directed by going to the health plan’s website to pay your bill (see Appellant’s Exhibit A, [REDACTED]).

That same day, you also submitted as proof of the health plan not sending you billing notices a screenshot of your inbox search dated January 2017 of emails sent to you from the health plan. There are no bills in that inbox search after January 14, 2016. However, it is unclear as to whether the bills could have been sent and the emails deleted or you changed your billing preference with the health plan (see Appellant’s Exhibit A, [REDACTED]). It is clear from your testimony and your health plan’s disenrollment that you failed to pay your February 2016 and March 2016 premiums.

NYSOH considers the failure to pay premiums resulting in the loss of health insurance coverage a voluntary action and not a qualifying or triggering event for a special enrollment period to be granted. Since you were terminated for not paying your February 2016 and March 2016 premiums, you would not be entitled to a special enrollment period in which to enroll in new coverage on this basis.

Your NYSOH account indicates that, since the open enrollment period closed on January 31, 2016, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, the June 30, 2016 eligibility determination notice is **AFFIRMED** because NYSOH properly denied your request for a special enrollment period.

Decision

The June 30, 2016 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: March 02, 2017

How this Decision Affects Your Eligibility

You did not qualify for a special enrollment period as of June 28 and 29, 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.

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 QHPs, 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 30, 2016 eligibility determination is **AFFIRMED**.

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You did not qualify for a special enrollment period as of June 28 and 29, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

