



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

## Notice of Decision

Decision Date: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012625



Dear [REDACTED],

On February 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 19, 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).

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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012625



## 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 October 18, 2016?

## Procedural History

On December 15, 2015, NYSOH issued an enrollment notice confirming that you were enrolled in a qualified health plan (QHP) with a premium of \$499.83 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 October 11, 2016, NYSOH issued a disenrollment notice stating your insurance with your QHP was terminated, effective August 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 October 18, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was made finding you eligible to purchase a QHP at full cost, but not eligible to select a health plan outside the open enrollment period.

Also on October 18, 2016, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On October 19, 2016, NYSOH issued a notice of eligibility determination that was consistent with the October 18, 2016 preliminary eligibility determination. In relevant part, it stated that you do not qualify to select a health plan outside of the open enrollment period for 2016.

On February 1, 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) Your coverage in your QHP was terminated, effective August 31, 2016, due to non-payment of premium.
- 2) On October 18, 2016, you attempted to re-enroll in a health insurance plan through NYSOH, but were denied a special enrollment period.
- 3) You failed to pay your August 2016 premium. 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.
- 4) You testified that, not realizing that your insurance had been terminated for non-payment of premiums, you had some medical procedures performed and are being billed directly for them.
- 5) 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.
- 6) 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.
- 7) You confirmed that your household income and size have not changed.

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 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.
- (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)).

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, effective October 18, 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).

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 15, 2015, NYSOH issued an enrollment confirmation notice confirming 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 October 11, 2016, NYSOH issued a disenrollment notice stating that your health insurance was terminated effective August 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 to do so and directed you to contact NYSOH.

On October 18, 2016 you contacted NYSOH and, as confirmed in an October 19, 2016 eligibility determination notice, 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. Therefore, you failed to pay your August 2016 premium.

However, NYSOH considers the failure to pay premiums a voluntary action. In your case, the credible evidence of record demonstrates that you failed to pay your monthly premium, which resulted in your coverage being terminated as of August 31, 2016. Therefore, 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, NYSOH properly denied your request for a special enrollment period and the October 19, 2016 eligibility determination notice is AFFIRMED.

## **Decision**

The October 19, 2016 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** February 9, 2017

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

You did not qualify for a special enrollment period as of October 18, 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:

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P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The October 19, 2016 eligibility determination is AFFIRMED.

You did not qualify for a special enrollment period as of October 18, 2016.

## **Legal Authority**

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

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



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