



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

Notice of Decision

Decision Date: June 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016061

[REDACTED]

Dear [REDACTED],

On May 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 10, 2017 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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Decision

Decision Date: June 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016061



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 do not qualify to enroll in a qualified health plan outside of the open enrollment period as of February 10, 2017?

Procedural History

On October 19, 2016, NYSOH issued a notice that it was time to renew your health insurance for 2016. That notice stated that you needed to select a different health plan between November 16, 2015 and December 15, 2016 because your current health plan is only for people who are 29 years old and younger.

On November 24, 2016, NYSOH issued a disenrollment notice stating that you were being disenrolled from your Catastrophic Plan, effective December 31, 2016.

On December 14, 2016, NYSOH issued a plan enrollment notice, based on your December 13, 2016 plan selection, confirming that you were enrolled in a bronze-level qualified health plan with a premium of \$424.52 per month, effective January 1, 2017.

On February 9, 2017, you updated your account and submitted to NYSOH a hardship certificate from the Department of Health and Human Services (see Document [REDACTED]).

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On February 10, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase of full price qualified health plan, effective March 1, 2017. It further stated that you do not qualify to select a health plan outside of the open enrollment period for 2017.

On February 21, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On May 25, 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) On December 13, 2016, you selected a health insurance plan for 2017.
- 2) According to your NYSOH account and your testimony, due to [REDACTED], you were disenrolled from your Catastrophic plan and unable to re-enroll in the Catastrophic plan for 2017. You enrolled in a bronze-level qualified health plan with a January 1, 2017 effective start date.
- 3) You testified that you attempted to apply for the hardship certificate in 2016, but only received a hardship certificate for the 2016 year. The Department of Health and Human Services would not allow you to apply for a 2017 hardship exemption until the 2017 year began.
- 4) You testified that you filed your hardship exemption with NYSOH immediately after you received it.
- 5) On February 9, 2017, you submitted to NYSOH a hardship certificate from the Department of Health and Human Services showing that on January 18, 2017 you were granted a hardship exemption from January 2017 through December 2017 (see Documents [REDACTED]).
- 6) Also on February 9, 2017, you attempted to enroll in a new health plan and were denied a special enrollment period.
- 7) You testified that you were granted the hardship exemption because the difference in the cost of the premiums, which have increased this year, between a bronze-level health plan and the Catastrophic plan makes the health insurance unaffordable to you.

- 8) You testified that you would like your coverage in a Catastrophic Plan to be backdated because you would like the difference in premiums refunded to you by the health plan.
- 9) You testified that because you were unable to obtain your hardship certificate before the new year, it made it impossible for you to purchase a Catastrophic Plan during the open enrollment period.

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 qualified health plan and enrollees may change qualified health plans (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (45 CFR § 155.410(e)(2)).

Catastrophic Plan Eligibility

An individual is eligible for enrollment in a Catastrophic Health Plan for any plan year if

- (1) Has not attained the age of 30 before the beginning of the plan year; or
- (2) Has a certification in effect for any plan year that he or she is exempt from the requirement to maintain minimum essential coverage under by reason of unaffordable coverage or hardships.

(45 CFR § 155.305(h)(1)(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 qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when a triggering life event occurs, such as:

- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or

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erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

(45 CFR § 155.420(d)(1) and (4)).

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 qualified health plan (45 CFR § 155.420(c)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective March 1, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. According to your NYSOH account and your testimony, due to [REDACTED], you were disenrolled from your Catastrophic plan, effective December 31, 2016. Because you were unable to re-enroll in the Catastrophic plan for 2017, on December 13, 2016, you enrolled in a bronze-level qualified health plan with a January 1, 2017 effective start date.

On February 9, 2017, you applied for health insurance and requested to re-enroll in a Catastrophic health plan. On February 10, 2017, NYSOH issued a notice stating that you do not qualify to enroll in a qualified health plan outside of the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period to enroll in, or change to another health plan offered in NYSOH. To qualify for a special enrollment period, a person must experience a triggering event.

When a triggering life event occurs, the qualified individual has 60 days from the date of that event to select a qualified health plan.

A special enrollment period can be granted if a qualified individual's enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

On February 9, 2017, you submitted to NYSOH a hardship certificate from the Department of Health and Human Services showing that on January 18, 2017 you were granted a hardship exemption from January 2017 through December 2017 (see Document [REDACTED]). Also on February 9, 2017, you attempted to enroll in a different health plan, specifically a Catastrophic Plan, and were denied a special enrollment period.

Generally, the receipt of a hardship certificate is an insufficient basis to grant a special enrollment period. Even with a hardship certificate you must have a triggering life event to qualify for a special enrollment period to enroll in a Catastrophic Plan once the open enrollment period has closed.

However, a special enrollment period can be granted if a qualified individual's enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

In your case, you applied for and enrolled in bronze-level coverage on December 13, 2016, during the open enrollment period. You credibly testified that you were unable to select a Catastrophic Health plan at that time because you were unable to apply for a hardship certificate prior to the first of the year in 2017. As such, it took several weeks for the process to complete and for you to receive your hardship certificate. You testified that you immediately filed your hardship certificate upon receipt.

Yet, a review of the credible record indicates that your hardship certificate is dated January 18, 2017 and your testimony was vague as to the exact date you received your certificate. Since a document is considered to be received five days after the date of the letter, it is reasonable to conclude that you received your hardship certificate on or about January 23, 2017. This is a week before the end of the open enrollment period. You did not reapply or submit your certificate of hardship until February 9, 2017, more than two weeks later.

Since HHS is not an instrumentality or agent of NYSOH and you failed to contact NYSOH prior to the open enrollment period ending, there is no evidence in the record to indicate that NYSOH, by action or inaction, made an error or misrepresented information such that a special enrollment period cannot be granted.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's February 10, 2017 eligibility determination notice stating that you do not qualify to select a health plan outside of the open enrollment period for 2017 is AFFIRMED.

Decision

The February 10, 2017 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 is AFFIRMED.

Effective Date of this Decision: June 08, 2017

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period at this time.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061

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).

- By fax: 1-877-369-0129

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 February 10, 2017 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 is **AFFIRMED**.

You do not qualify for a special enrollment period at this time.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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