



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

Notice of Decision

Decision Date: July 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016583

[REDACTED]

Dear [REDACTED],

On June 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4, 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).

This page intentionally left blank.



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

Decision

Decision Date: July 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016583



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 qualified health plan outside of the open enrollment period as of March 4, 2017?

Procedural History

On February 2, 2017, NYSOH issued a plan enrollment notice confirming that you were enrolled in a qualified health plan (QHP) with a premium of \$367.04 per month, effective January 1, 2017. That notice also stated that you must pay the monthly premium to start and keep your coverage and, if you do not make your monthly premium payments on time, you could lose your health insurance.

On February 17, 2017, NYSOH issued a disenrollment notice stating your coverage with your QHP was terminated, effective February 1, 2017, 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 March 3, 2017, 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 March 3, 2017, 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 March 4, 2017, NYSOH issued an eligibility determination notice that was consistent with the March 3, 2017 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 2017.

On June 14, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open to June 29, 2017 for you to submit supporting documents.

On June 26, 2017, you submitted proof of premium payment. This document was made part of the "Appellant's [REDACTED]." No further documentation was received as of June 29, 2017, and the record closed that day.

Findings of Fact

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

- 1) Your coverage in your QHP was terminated, effective February 1, 2017, due to non-payment of premium.
- 2) On March 3, 2017, you attempted to re-enroll in a health insurance plan through NYSOH, but were denied a special enrollment period.
- 3) You testified that you failed to pay your February 2017 premium on time because you thought you had a full month to pay your premium.
- 4) The documentation you submitted shows that you paid your February 2017 premium on February 16, 2017 (see Appellant's [REDACTED]).
- 5) You testified that, although you have no medical bills, you want your health insurance coverage reinstated in case of a future medical need.
- 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, 2017.
- 8) You confirmed that your household income and size have not changed.

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).

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, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (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)).

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,

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).

“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 March 4, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. 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 February 2, 2017, NYSOH issued a plan enrollment notice confirming you were enrolled in a health plan effective February 1, 2017. That notice further stated you must pay your monthly premiums on time or risk losing your health insurance.

On February 17, 2017, NYSOH issued a disenrollment notice stating that your health insurance was terminated effective February 1, 2017, 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 March 3, 2017, you contacted NYSOH and, as confirmed in the March 4, 2017 eligibility determination notice, you were denied a special enrollment period within which to select a QHP for coverage to resume in 2017.

Ordinarily, the loss of health insurance coverage is considered a triggering event. Here, you testified you did not pay your February 2017 premium on time because you believed the health insurance plan would give you a full month to pay. The documentation you submitted shows that you paid your February 2017 premium on February 16, 2017.

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 on time, which resulted in your coverage being terminated as of February 1, 2017. 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, 2017, 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 March 4, 2017 eligibility determination notice is AFFIRMED.

Decision

The March 4, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 05, 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 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

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).

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 March 4, 2017 eligibility determination notice 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:

