



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

Notice of Decision

NY State of Health Number: [REDACTED]
Appeal Identification Number: APM00000003477

[REDACTED]

Dear Ms. [REDACTED]

On November 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 16, 2015 notice denying a special enrollment period.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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

Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: APM00000003477



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly find that you were not eligible for a special enrollment period to enroll in a qualified health plan?

Procedural History

On May 19, 2015 the Marketplace issued an eligibility determination notice that you are eligible for up to \$294.00 monthly of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice also stated that you qualify to select a health plan outside of the open enrollment period if you confirm your selection by June 14, 2015.

On June 15, 2015 your Marketplace account was updated.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as being denied a special enrollment period.

On June 16, 2015 the Marketplace issued an eligibility determination notice that you are eligible for up to \$309.00 monthly of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice also stated that you do not qualify to select a health plan outside of the open enrollment period.

On October 19, 2015 you had a scheduled telephone hearing with a Hearing Officer from the Marketplace Appeals Unit. You failed to show for that scheduled telephone hearing. However, the hearing was automatically rescheduled

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because the Notice of Telephone Hearing was sent to the wrong address and had been returned to the Marketplace.

On November 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing. The record is now closed.

Findings of Fact

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

- 1) You are applying for health insurance through the Marketplace for yourself.
- 2) You testified that your insurance through your employer ended in December 2014.
- 3) According to your Marketplace account, you initially applied for health insurance through the Marketplace on May 14, 2015.
- 4) You testified that you were not aware of the time period of 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

Special Enrollment Period

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)); however, the open enrollment period was further extended to February 28, 2015 for individuals who took steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-in-line%E2%80%99-provision-ahead-february-15-open>).

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After each open enrollment period ends, the Marketplace 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 to another QHP. A special enrollment period may be permitted when one of the following triggering events occurs:

- 1) The qualified individual or his or her dependent
 - i) loses health insurance considered to be minimum essential coverage
 - ii) is enrolled in a non-calendar-year health insurance policy, even if they have the option to renew the policy
 - iii) loses pregnancy-related coverage
 - iv) loses 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
- 3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status
- 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
- 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
- 6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions
- 7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move
- 8) The qualified individual who is an Indian may enroll in a QHP or change from one QHP to another one time per month
- 9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that

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the individual meets other exceptional circumstances as the Exchange may provide

- 10) A qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities

(45 CFR § 155.420(d)).

As a general rule, a qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR §155.420(c)(1)). A qualified individual or his or her dependent who loses health insurance considered to be minimum essential coverage has 60 days before or after to loss of eligibility for qualifying coverage in an eligible employer-sponsored plan to select a QHP (45 CFR § 155.420(c)(2)(ii)).

Legal Analysis

The issue under appeal is whether or not the Marketplace correctly determined that you were not eligible for a special enrollment period on June 16, 2015.

Federal regulations provide that a qualified individual has 60 days from the date of a triggering event to select a qualified health plan (QHP) in the Marketplace.

The Marketplace provided an open enrollment from November 15, 2014 until February 15, 2015. The record shows that you did not enroll in a health during the open enrollment period by February 15.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in a health plan offered in the Marketplace.

Losing your health insurance coverage as of December 31, 2014 was a triggering event that qualified you for a 60-day special enrollment period. The special enrollment period began on the date of your triggering event. Sixty days from December 31, 2014, that 60-day period expired on March 1, 2015.

You testified that your employer-sponsored insurance was terminated in December 2015. According to your Marketplace account, you initially applied for health insurance through the Marketplace on May 14, 2015.

The facts as set out in the record do not suggest that any other triggering event described in 45 CFR § 155.420(d) has occurred.

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Therefore, the Marketplace's determination to deny a special enrollment period is AFFIRMED.

Decision

The June 16, 2015, eligibility determination notice is AFFIRMED.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You did not qualify for a special enrollment period after March 1, 2015.

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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date 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

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Summary

The Marketplace's June 16, 2015 notice of eligibility determination insofar as stating that you do not qualify for a special enrollment period is **AFFIRMED**.

This decision does not change your eligibility.

You did not qualify for an additional special enrollment period after March 1, 2015.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

