



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

Notice of Decision

Decision Date: September 5, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000706

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On July 7, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 14, 2014; May 16, 2014; and May 20, 2014 eligibility determinations.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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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[REDACTED]
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[REDACTED]

Issue

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

Were [REDACTED] eligible for a special enrollment period to enroll in a qualified health plan through the Marketplace when their Family Health Plus coverage ended?

Procedural History

The Marketplace received your initial application on April 14, 2014.

The Marketplace requested additional information in order to determine eligibility, and this was provided.

On May 14, 2014, the Marketplace issued an eligibility determination notice for you. The notice stated that you were eligible to enroll in a qualified health plan (QHP), eligible for up to \$468.00 monthly in advance premium tax credit (APTC), to be shared with your spouse; and eligible cost-sharing reductions (CSR) while you were enrolled in a silver level QHP. The notice also stated that you did not qualify to select a health plan outside of the open enrollment period.

Also on May 14, 2014, the Marketplace issued an eligibility determination notice for your spouse. His notice stated that he was temporarily eligible to enroll in a qualified health plan (QHP), was eligible to receive up to \$468.00 monthly in advance premium tax credit (APTC) to be shared with you, and also cost-sharing reductions (CSR) provided he selected a silver level QHP. The Marketplace requested more information regarding his citizenship. Finally, the notice stated

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that he did not qualify to select a health plan outside of the open enrollment period because he did not meet the requirements to qualify for a special enrollment period.

On May 16, 2014 and May 20, 2014, the Marketplace issued eligibility redetermination notices for you and your spouse. They stated, among other things, that you and your spouse did not qualify to select a health plan outside of the open enrollment period.

On June 10, 2014, you called the Marketplace's Customer Service unit and appealed these determinations insofar as they denied you and your spouse special enrollment periods to enroll in qualified health plans.

On July 7, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit.

The record was developed and it was left open for 15 days to give you the opportunity to submit evidence of when your Family Health Plus coverage ended. Later that day, that documentation was uploaded to your Marketplace account. The record is now closed.

Findings of Fact

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

- 1) [REDACTED] is your husband.
- 2) You testified that you and your family were previously enrolled in Family Health Plus.
- 3) You provided evidence that your and your husband's Family Health Plus coverage ended on May 1, 2014.
- 4) You testified that your household's application was completed by a navigator. The navigator stated to you that the system would not allow her to enroll you and your husband into a health plan.
- 5) You currently reside in Schenectady County.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

The initial open enrollment period during which a qualified individual may select and enroll in a QHP began on October 1, 2013 and extended through March 31, 2014 (45 CFR § 155.410(b)). The Exchange may only permit a qualified individual to enroll in a QHP or an enrollee to change QHPs during the initial open enrollment period or a special enrollment period for which the qualified individual has been determined eligible (45 CFR § 155.410 (a)(2)).

A special enrollment period occurs outside of the open enrollment period when an individual or enrollee experiences a triggering event. One of the relevant triggering events is the loss, by a qualified individual or a dependent, of minimum essential coverage (45 CFR § 155.420 (d)(4)).

Unless otherwise stated in the regulations, a consumer has 60 days from when the triggering special enrollment event occurs to enroll in or change their QHP. (45 CFR § 155.420 (c)).

Legal Analysis

In certain circumstances a special enrollment period is granted to individuals so that they may enroll in a QHP outside of the open enrollment period if the individual experiences a triggering event. Loss of insurance coverage is considered a triggering event for purposes of being granted a special enrollment period. An individual is given 60 days from the date of the loss of insurance coverage to enroll in a health plan.

You credibly testified and provided written documentation showing that you and your husband lost your Family Health Plus coverage as of May 1, 2014. As of that date, you were entitled to a 60-day special enrollment period to allow you to enroll in a health plan through the Marketplace. You made a timely attempt to do this by filing an application with the Marketplace on April 14, 2014, but the Marketplace erroneously found you ineligible for a special enrollment period.

The Marketplace's incorrect determination appears in notices dated May 14, 2014; May 16, 2014; and May 20, 2014.

Since these notices are incorrect, they must be RESCINDED.

It should be noted that the Marketplace did rectify this error in a July 30, 2014 notice of eligibility redetermination. According to that notice, you and your spouse are eligible for up to \$468.00 of APTC per month, eligible for cost-sharing reductions, and "qualify to select a health plan outside of the open enrollment period."

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Since the July 30, 2014 notice is correct, it continues in effect.

Decision

The May 14, 2014; May 16, 2014; and May 20, 2014 eligibility determinations are RESCINDED.

The July 30, 2014 eligibility determination continues in effect.

Effective Date of this Decision: September 5, 2014

How this Decision Affects Your Eligibility

If you and your husband have not yet enrolled in a qualified health plan through the Marketplace, you may use the special enrollment period granted in the July 30, 2014 notice to do so.

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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520[c]).

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 14, 2014; May 16, 2014; and May 20, 2014 eligibility determinations are RESCINDED.

The July 30, 2014 eligibility determination continues in effect.

If you and your husband have not yet enrolled in a qualified health plan through the Marketplace, you may use the special enrollment period granted in the July 30, 2014 notice to do so.

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:

[REDACTED]
[REDACTED]
[REDACTED]