



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

Notice of Decision

Decision Date: December 23, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000881

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 7, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's July 2, 2014 and July 3, 2014 eligibility redeterminations.

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).

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Decision

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Appeal Identification Number: AP000000000881

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Was [REDACTED] eligible for a special enrollment period to enroll in a qualified health plan as of July 2, 2014 and July 3, 2014?

Procedural History

The Marketplace received your initial application for health insurance on December 20, 2013.

On December 22, 2013, the Marketplace issued a notice of eligibility determination based on your December 20, 2013 application. It found you eligible to enroll in a qualified health plan (QHP), to receive up to \$194.00 per month of advance premium tax credit and, if you selected a silver-level plan, to receive cost-sharing reductions (CSR). This determination was based, in part, on your household income of \$19,200.00.

On or about December 23, 2013, you selected a silver-level BlueCross BlueShield (Excellus) plan through the Marketplace, with coverage beginning on January 1, 2014.

Your coverage under Excellus was terminated, effective February 28, 2014.

On July 1, 2014 and July 2, 2014, you resubmitted your application to the Marketplace.

On July 2, 2014 and July 3, 2014, the Marketplace issued notices of eligibility redetermination based on your July 1, 2014 and July 2, 2014 applications, respectively, the findings of which were consistent with the December 22, 2013 eligibility determination. However, these determinations also found that you were not eligible to enroll in a QHP outside of the open enrollment period because you had not met the requirements for a special enrollment period.

On August 25, 2014, you appealed the July 2, 2014 and July 3, 2014 determinations insofar as they denied you a special enrollment period to enroll in a QHP.

On October 7, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity submit additional evidence: (1) bills received from Excellus between February 2014 and April 2014; (2) copies of checks reflecting your payment of such bills; and (3) a letter from Excellus reflecting your termination of coverage as of February 28, 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On October 22, 2014, you sent documents as directed by the Hearing Officer; however, you did not submit the letter that purportedly terminated your insurance coverage. The record was closed on October 22, 2014.

Findings of Fact

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

- 1) You testified that you were enrolled under the Excellus health plan through the Marketplace.
- 2) The Excellus plan you selected for your individual coverage costs \$177.37 per month after taking into account the \$194.00 advance premium tax credit you were originally determined eligible for on December 22, 2013.
- 3) You testified that while you recall making timely payments for the January and February 2014 premiums, you paid your March and April 2014 premiums slightly late.
- 4) The evidence you provided shows that on February 8, 2014, you received a bill from Excellus for \$354.74, with a due date of March 1, 2014. This bill of \$354.74 included (1) \$177.37 due for the period of coverage between March 1, 2014 to March 31, 2014, and (2) \$177.37 previously due as an outstanding balance.

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- 5) The evidence you provided shows that you made a partial payment to Excellus in connection with the February 8, 2014 bill in the amount of \$177.37 on March 4, 2014 from check # 210.
- 6) The evidence you provided shows that you made an additional payment in the amount of \$177.37 on April 15, 2014 from check # 208. The notation on the face of the check indicates that it was in relation to the "March Payment."
- 7) You have not submitted any other evidence that you made any other payments since that time.
- 8) The evidence you provided shows that on April 8, 2014 you received a bill from Excellus for \$532.11, with a due date of May 1, 2014. This bill of \$532.11 included (1) \$177.37 due for the period of coverage between May 1, 2014 to May 31, 2014, and (2) \$354.74 previously due as an outstanding balance.
- 9) You did not submit a copy of the bill from Excellus that would have been due on April 1, 2014.
- 10) You testified that when you told a representative at Excellus on or about April 15, 2014 that you would be making a late payment, you were instructed that "that was fine."
- 11) You testified you made and attended two medical appointments after February 28, 2014, with the understanding that you were covered by Excellus; however, these appointments were in fact not covered due to the termination of your coverage.
- 12) You testified that you did not receive any notice from Excellus that your coverage was terminated as of February 28, 2014, until May 2014.
- 13) You testified that after your coverage was terminated, you were unable to enroll in a qualified health plan through the Marketplace as a result of your not having qualified for a special enrollment period.

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,

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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)).

However, the loss of minimum essential coverage by a qualified individual or a dependent as a result of a failure to pay premiums on a timely basis, including COBRA premiums prior to the expiration of coverage, is not a sufficient basis to be awarded a special enrollment period (45 CFR § 155.420(e)).

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. However, loss of insurance coverage as a result of not paying premiums on a timely basis is not a sufficient basis to be awarded a special enrollment period.

The Marketplace provided an open enrollment from October 1, 2013 until March 31, 2014. The record indicates that you were enrolled in an Excellus QHP during the open enrollment period, and were covered by this QHP until February 28, 2014 when your coverage was terminated.

You credibly testified that you lost your health coverage under your Excellus plan as of February 28, 2014. You further stated you were sent a letter by Excellus in May of 2014, which stated that your coverage was terminated as a result of non-payment.

Indeed, the February 8, 2014 statement reflected that you were past due on premiums at that time, and showed that you were obligated to pay a total of \$354.74 to Excellus to continue coverage for the period between March 1, 2014 and March 31, 2014. This payment was due by March 1, 2014. The record further shows that you made two payments of \$177.37 on March 4, 2014 and April 15, 2014 relating to this statement.

These two payments equaled a two months-worth of your share of your health insurance premiums; the first payment would have brought you up-to-date as of the end of February 2014, but you did not send it until March 4, 2014. By then it

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was over a month late. The second check would have been applied against your March coverage period, and would have been due on March 1, 2014, but you did not send it until April 15, 2014, again over a month late. You have submitted documentation that Excellus refunded this amount, as by then your policy had been cancelled for non-payment of premiums.

Despite being directed to do so, you have not produced the letter that cancelled your insurance coverage.

Since it is clear the reason for your loss of coverage was non-payment of premiums, you are not entitled to a special enrollment period.

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

Decision

The Marketplace's July 1, 2014 and July 2, 2014 eligibility determinations are **AFFIRMED**.

Effective Date of this Decision: December 23, 2014

How this Decision Affects Your Eligibility

You are not eligible for a special enrollment period to enroll in a QHP.

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

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- 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.

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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- By fax: 1-855-900-5557

Summary

The Marketplace's July 1, 2014 and July 2, 2014 eligibility determinations are AFFIRMED.

You are not eligible for a special enrollment period to enroll in a QHP.

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]

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