



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

Notice of Decision

Decision Date: May 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001355

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

Dear Mr. [REDACTED],

On February 19, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 eligibility redetermination.

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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Issue

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

Did the Marketplace properly determine that you and your family were eligible to enroll in a qualified health plan at full cost effective February 1, 2015?

Procedural History

During 2014, you and your family were enrolled in EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced at full cost.

On November 16, 2014, the Marketplace issued a renewal notice stating it was time to renew your New York State of Health coverage and that, based on the information from federal and state sources, it could not make a decision about whether you qualified for financial help paying for your health coverage "or what coverage you can have next year." It directed you to update your account by December 15, 2014 and added: "If you miss this deadline, the financial assistance you are getting now may end. Be aware that you may be able to buy a health plan at NY State of Health at full cost."

On December 17, 2014, the Marketplace issued a letter confirming "your enrollment as of December 16, 2014." It indicated that your family members were enrolled in EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced and that coverage would begin "after you have paid your first month's premium ... as early as February 1, 2014."

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On January 6, 2015, the Marketplace made a preliminary redetermination that you and your family were eligible to purchase a qualified health plan at full cost, effective February 1, 2015.

That same day, you spoke with the Marketplace's Account Review Unit and appealed the preliminary eligibility redetermination insofar that it said your eligibility would be effective February 1, 2015 and not January 1, 2015.

On January 7, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the January 6, 2015 preliminary eligibility redetermination. The notice also said that to continue to receive services through your current health plan, you needed to log onto your account and review your enrollment information. It also advised you that the amount of your insurance premium may have changed.

That same day, the Marketplace issued a letter confirming your family's enrollment in EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced with a monthly premium responsibility, and that your coverage could start as early as February 1, 2014 (should be "2015") if you paid the first month's premium on time.

On February 19, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit renewal letters from your health and dental plans; a chronology of events; and a list of medical and dental visits for yourself in January 2015. The record was to be closed March 6, 2015 or upon receipt of the evidence.

On February 20, 2015, the Marketplace's Appeals Unit received a 22-page fax from you. It consisted of: (1) A cover page; (2) a letter from you dated February 20, 2015; (3) copies of dental and medical renewal letters for open enrollment; (4) a list of doctor and dentist appointments that you attended during January 2015; and (5) your chronology of events. This 22-page fax was made part of the record as "Appellant's Exhibit A."

Since the requested evidence was received, the record was closed on February 20, 2015.

Findings of Fact

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

- 1) You testified that you purchased a qualified health plan and a dental plan for your family at full cost through the Marketplace in 2014.
- 2) You testified and provided documentary proof that, on October 28, 2014, Empire Blue Cross Blue Shield (Empire BCBS) sent you a letter that presented options

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for open enrollment for 2015 dental coverage. The option you chose said to keep your current plan, “[a]ll you need to do is continue paying your monthly premiums on time” and “[y]our dental monthly rate will change from \$169.00 to \$180.00 (Appellant’s Exhibit A, pp. 6-7).

- 3) You testified and provided documentary proof that, on October 24, 2014, Health Republic Insurance of New York, with whom your family had its 2014 health plan, sent you a letter that presented benefit changes and health insurance coverage options for 2015. It said that on “January 1, 2015, your current coverage will be automatically renewed as long as you continue to be eligible for coverage unless you choose another policy” and “[i]f you want to keep your current policy, you don’t need to do anything more” (Appellant’s Exhibit A, p.8).
- 4) You testified and provided a written statement explaining that you relied on these letters in opting to continue with your current dental and medical plans, especially since that by paying your monthly premiums on time your current plans would automatically renew.
- 5) On November 16, 2014, the Marketplace issued a renewal notice indicating that federal and state sources did not provide information needed to determine whether you qualified for financial help paying for your health coverage “or what coverage you can have next year.” It directed you to update your account by December 15, 2014 and added: “If you miss this deadline, the financial assistance you are getting now may end. Be aware that you may be able to buy a health plan at NY State of Health at full cost.”
- 6) You testified and provided documentary proof that you paid your premiums on time for January 2015 and February 2015 for your health plan and are now showing a credit balance.
- 7) You testified that you did not pay 2015 premiums for your dental plan because you were not billed and that you learned on January 7, 2015 from Empire BCBS that you had been terminated as of December 31, 2014.
- 8) You testified and presented a bill from Empire BCBS stating that your eligibility start date is February 1, 2015.
- 9) You want your family’s 2015 medical and dental coverage to begin on January 1, 2015 rather than on February 1, 2015.

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

Applicable Law and Regulations

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

To obtain a QHP through the Marketplace, an applicant must be a US citizen, national, or lawfully present immigrant who is a New York resident and is not incarcerated (45 CFR §155.305(a)).

The Marketplace “must permit an applicant to request only an eligibility determination for enrollment in a QHP through the [Marketplace]; however, [it] may not permit an applicant to request an eligibility determination for less than all insurance affordability programs” (45 CFR §155.310(b)).

When it is time to renew QHP coverage, an enrollee will be reenrolled in the same health insurance plan if (1) the enrollee remains eligible to enroll in a QHP through the Marketplace; (2) the QHP is still available through the Marketplace; and (3) the enrollee does not terminate that coverage, including by selecting a different QHP (45 CFR § 155.335(j)(1)). A qualified individual who does not request financial assistance through the Marketplace is not required to report changes that would affect eligibility for insurance affordability programs (45 CFR § 155.335(e)(1)).

For the benefit year beginning January 1, 2015, QHP coverage takes effect on January 1, 2015 for plans selected in the Marketplace on or before December 20, 2014 (45 CFR §155.410(f)(1); NY State of Health Extends December 15 Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-extends-december-15-enrollment-deadline> [last updated December 12, 2014]).

Legal Analysis

The Marketplace issued a letter confirming that, as of December 16, 2014, you and the members of your family were enrolled in EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced. Although the notice was issued during the open enrollment period for 2015, it stated in the body of the text that coverage could take effect as early as February 1, 2014, when the actual date should have been “February 1, 2015.”

You testified and provided documentary proof that during October 2014 you received notices from both your dental plan and your health plan indicating that if you continued to pay your premiums, coverage would continue into 2015. The health plan’s notice indicated that you would automatically renewed “as long as you continue to be eligible for coverage,” but the dental plan’s notice did not include such a proviso.

The Marketplace's November 16, 2014 directed you to update your account by December 15, 2014, because federal and state data did not suffice to permit a decision on financial assistance *or on "what coverage you can have next year."*

When a current enrollee wants to renew coverage, even without financial assistance, the Marketplace must confirm that the enrollee remains qualified to obtain insurance through the Marketplace. Criteria that must be confirmed include nonfinancial criteria such as New York State residency and citizenship or immigration status. When, as in your case, the current "information from federal and state sources" did not confirm "what coverage you can have" during 2015, the enrollee is directed to return to the Marketplace to update or confirm the application for the new coverage year.

The November 16, 2014 notice properly directed you to update your account but indicated only that if you missed the deadline you could lose financial assistance. It did not unambiguously advise you that, when federal and state sources do not confirm your data, you also should update your account in order to remain eligible to obtain *any* coverage through the Marketplace.

With the information you had available to you in late 2014, it was not unreasonable for you to have interpreted these notices, particularly when read together, as confirming that your coverage would continue through 2015 as long as you continued to pay the insurance premiums in full and on a timely basis.

Therefore, in light of the foregoing, the January 7, 2015 eligibility redetermination is MODIFIED to state that your family's eligibility for 2015 coverage year is effective January 1, 2015. Consequently, your enrollment in EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced are effective retroactively to January 1, 2015, provided you pay any outstanding premiums that are owed.

The information provided in this decision may help clarify renewal notices you receive from the Marketplace in future. Also, Marketplace customer service can provide additional information as needed.

Decision

The January 7, 2015 eligibility redetermination is MODIFIED to state that your family's eligibility for the 2015 coverage year is effective January 1, 2015. Consequently, your enrollment in EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced are effective retroactively to January 1, 2015, provided you pay any outstanding premiums that are owed.

Effective Date of this Decision: May 8, 2015

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How this Decision Affects Your Eligibility

Your family's 2015 medical and dental insurance coverage with EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced can be effective as of January 1, 2015, provided you pay any outstanding premiums that are owed.

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
- By mail at:
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- By fax: 1-855-900-5557

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Summary

The January 7, 2015 eligibility redetermination is MODIFIED to state that your family's eligibility for the 2015 coverage year is effective January 1, 2015. Consequently, your enrollment in EssentialCare Platinum Plan - A Consumer Operated and Oriented Plan (CO-OP) Option and Empire Dental Family Enhanced are effective retroactively to January 1, 2015, provided you pay any outstanding premiums that are owed.

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]
[REDACTED]