



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

## Notice of Decision

Decision Date: May 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001388

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

Dear [REDACTED],

On February 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 25, 2014 eligibility determination.

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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## Decision

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Appeal Identification Number: AP000000001388

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine that your enrollment in Total Independence Silver NS became effective on February 1, 2015?

## Procedural History

On November 6, 2014, the Marketplace notified you that it was time to renew your health insurance coverage for 2015. The notice stated that based on the information available from federal and state sources, the Marketplace was unable to make a determination regarding whether you would continue to qualify for financial assistance in 2015. It requested that you update your Marketplace account by December 15, 2014, or the financial assistance you had been receiving might end.

No updates were made to your Marketplace account by December 20, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination based on the available information. It found that you were newly eligible to enroll in a qualified health plan (QHP) through the Marketplace at full cost effective January 1, 2015. It also found that you were not eligible to receive an advance premium tax credit (APTC), cost-sharing reductions (CSR), or Medicaid, because "Renewal period and income data [was] not available."

On December 23, 2014, the Marketplace issued a notice confirming your enrollment in Primary Select PCMH Silver health insurance plan for 2015. It also stated that your coverage could start as early as January 1, 2015, provided your first month's premium of \$404.16 was received.

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The Marketplace received your updated application for health insurance on December 24, 2014, in which you attested to an expected annual household income of \$21,000.00.

On December 25, 2014, the Marketplace issued a notice of eligibility stating that you were eligible to enroll in a QHP; eligible to receive up to \$277.00 per month in APTC; and, if you selected a silver-level plan, eligible for CSR, effective February 1, 2015. It further stated that you were not eligible for Medicaid.

On December 25, 2014, the Marketplace also issued confirmations that your coverage with Primary Select PCMH Silver had been canceled at your request, and that your new coverage with Total Independence Silver NS would be effective as early as February 1, 2015, provided your first month's premium of \$103.04 was received.

On January 7, 2015, you spoke with the Marketplace's Account Review Unit to appeal the December 25, 2014 notice of enrollment, insofar as you were determined eligible to begin your coverage under the Total Independence plan no earlier than February 1, 2015.

On February 11, 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.

## **Findings of Fact**

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

- 1) You testified that after receiving the Marketplace's notice directing to update your account by December 15, 2014, you attempted to call the Marketplace three times between December 16, 2014 and December 18, 2014. You further testified that in each case you were unable to connect to a Marketplace representative due to the high call volume.
- 2) On December 23, 2014, the Marketplace issued a notice confirming your enrollment in Primary Select PCMH Silver health insurance plan and stating that your coverage could start as early as January 1, 2015.
- 3) You testified, and the record reflects, that you updated your Marketplace account on December 24, 2014 and selected a different plan, the Total Independence plan.

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

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## **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)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)).

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]).

The Marketplace must ensure coverage is effective on February 1, 2015, for QHP selections received by the Marketplace by January 15, 2015 (45 CFR §155.410(f)(2)).

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains other minimum essential coverage, with appropriate notice to the Marketplace or the qualified health plan (45 CFR § 155.430(b)(1)).

## **Legal Analysis**

The matter under review is when your coverage under the Total Independence plan should have taken effect.

In order to have had your coverage under the Total Independence plan begin January 1, 2015, you would have had to select this plan for enrollment by December 20, 2014.

While you contend that you attempted to contact the Marketplace on three separate occasions between December 16, 2014 and December 18, 2014 to update your account and to select a plan, but were unsuccessful due to the heavy call volume, the credible evidence of record indicates that the original plan you selected for 2015 could have taken effect as early as January 1, 2014.

When you updated your application and changed to a different QHP, which is permitted during the open enrollment period, the effective date of the new plan was contingent upon the date that that you selected the new plan. Since you

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selected the Total Independence plan on December 24, 2014, coverage under that plan could not begin until February 1, 2014.

Since the December 25, 2014 notice of enrollment correctly states that your Total Independence plan coverage is effective February 1, 2015, it is correct and is AFFIRMED.

## **Decision**

The December 25, 2014 notice of enrollment is AFFIRMED.

**Effective Date of this Decision:** May 14, 2015

## **How this Decision Affects Your Eligibility**

Your eligibility has not changed. You remain enrolled in the Total Independence plan effective February 1, 2015, and continue to be eligible for an advance premium tax credit of up to \$277.00 per month and eligible for cost-sharing reductions while you are enrolled in a silver-level plan.

## **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.

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## **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 December 25, 2014 notice of enrollment is **AFFIRMED**.

Your eligibility has not changed. You remain enrolled in the Total Independence plan effective February 1, 2015, and continue to be eligible for an advance premium tax credit of up to \$277.00 per month and eligible for cost-sharing reductions while you are enrolled in a silver-level plan.

## **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]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]