



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

## Notice of Decision

Decision Date: May 29, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001414

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 8, 2015, eligibility determination.

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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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001414

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

On December 22, 2014, did the Marketplace properly determine that you were not eligible to enroll in a qualified health plan or receive financial assistance because you did not complete your renewal within the required timeframe?

Were you properly found to be conditionally eligible for an advance premium tax credit of up to \$232.00 per month and, while you are enrolled in a silver-level plan, for cost-sharing reductions, effective February 1, 2015?

Did your TotalIndependence qualified health plan take effect on February 1, 2015?

## Procedural History

On December 10, 2013, the Marketplace issued a notice stating, "you have chosen to receive all information for the New York Marketplace electronically. This means that all important notifications will be sent to your Marketplace account."

You became eligible for Medicaid through the Marketplace effective January 1, 2014.

On December 4, 2014, the Marketplace issued a notice stating that the New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind

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of coverage you could have for 2015. The notice directs you to return to your account by December 15, 2014 and provide more information.

On December 22, 2014, the Marketplace issued a notice of eligibility determination stating that you are not eligible for Medicaid, Child Health Plus, receive tax credits or cost-sharing reductions, or enroll in a qualified health plan at full cost through the Marketplace, because you did not complete your renewal within the required timeframe.

On January 7, 2015, you reapplied for health insurance coverage through the Marketplace.

On January 8, 2015, the Marketplace issued a notice of eligibility determination. It states that you are conditionally eligible for an advance premium tax credit of up to \$232.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective February 1, 2015. The notice explains that you told the Marketplace that your total household income is \$19,000.00 but that this could not be verified in "state, federal and other data sources for income." The notice directs you to provide income documentation before April 9, 2015.

On January 8, 2015, the Marketplace issued a notice confirming your enrollment in a TotalIndependence qualified health plan (QHP) effective February 1, 2015.

On January 9, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal with respect to the start date of coverage and financial assistance. You wanted an effective start date of January 1, 2015 instead of February 1, 2015.

On January 30, 2015, the Marketplace issued a notice confirming that you had cancelled your coverage through TotalIndependence QHP on January 29, 2015.

On January 30, 2015, the Marketplace issued a notice confirming that you had enrolled in a PrimarySelect QHP as of January 29, 2015. The notice states: "Health insurance coverage will begin after you have paid your first month's premium. If you pay your first month's premium, your coverage could start as early as March 1, 2015."

On February 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken at the hearing under oath. The record is now complete and closed.

## **Findings of Fact**

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

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- 1) The Marketplace issued a December 4, 2014 notice stating that a decision could not be made on whether you qualified to enroll in a qualified health plan and receive financial help paying for health coverage for 2015. The notice directs you to, “please update your NY State of Health account by December 15, 2014.”
- 2) You submitted your initial application to the Marketplace for 2015 health insurance coverage on January 7, 2015.
- 3) On January 8, 2015, the Marketplace issued a notice confirming that you selected a silver-level QHP on January 7, 2015. The notice states that if you pay your first month’s premium, your coverage will start February 1, 2015.
- 4) You testified that you were not given proper notice by the Marketplace to renew your 2015 health insurance coverage.
- 5) You testified that you did not receive e-mail messages telling you that renewal notices were in your Marketplace account.
- 6) You testified that you found out that your health insurance had been discontinued when you attempted to pick up a prescription at a pharmacy.

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)).

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

### Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

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- (1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.
- (2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.
- (3) Post notices to the individual's electronic account within 1 business day of notice generation.
- (4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.
- (5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR §435.918).

## **Legal Analysis**

The Marketplace must determine an applicant's eligibility promptly and without undue delay and then provide a timely notice to the applicant of the eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination for enrollment in a qualified health plan (QHP) or insurance affordability programs through the Marketplace.

On December 4, 2014, the Marketplace issued a notice stating that New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage you could have for 2015. The notice directed you to return to your account by December 15, 2014 and provide more information.

On December 22, 2014, the Marketplace issued a notice of eligibility determination stating that you were not eligible to enroll in a plan or receive financial assistance because you did not complete your renewal within the required timeframe.

On January 8, 2015, the Marketplace issued a notice of eligibility determination. It states that you told the Marketplace that your total household income is \$19,000.00 but that this could not be verified in "state, federal and other data sources for income." The notice directs you to provide income documentation before April 9, 2015.

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On January 8, 2015, the Marketplace issued a notice confirming your enrollment in a TotalIndependence QHP as of February 1, 2015.

On January 9, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal with respect to the start date of coverage and financial assistance. You wanted an effective start date of January 1, 2015 instead of February 1, 2015.

On January 30, 2015, the Marketplace issued a notice confirming that on January 29, 2015 you cancelled your TotalIndependence QHP and enrolled in a PrimarySelect QHP.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The December 4, 2014 and December 22, 2014 notices were posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that they were available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive e-mails telling you that the notices were available in your Marketplace account and that you learned that you had no health insurance when you tried to fill a prescription.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding termination of your 2014 coverage or disallowance of 2015 coverage until after January 1, 2015.

Accordingly, the December 22, 2014 notice stating that you are not eligible to enroll in a qualified health plan or receive financial assistance because you did not complete your renewal within the required timeframe lacks support in the record and is RESCINDED.

The January 8, 2015 notice of eligibility determination is MODIFIED to state that you are conditionally eligible for an advance premium tax credit of up to \$232.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective January 1, 2015.

Since you cancelled your coverage with TotalIndependence effective February 28, 2015, the January 8, 2015 enrollment notice is MODIFIED to state that you

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are eligible for coverage through TotalIndependence QHP from January 1, 2015 to February 28, 2015, provided that you pay the insurance premium for the months of January 2015 and February 2015.

## **Decision:**

The notice of eligibility determination issued on December 22, 2014 is **RESCINDED**.

The January 8, 2015 notice of eligibility determination is **MODIFIED** to state that you are conditionally eligible for an advance premium tax credit of up to \$232.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective January 1, 2015.

Since you cancelled your coverage with TotalIndependence effective February 28, 2015, the January 8, 2015 enrollment notice is **MODIFIED** to state that you are eligible for coverage through TotalIndependence QHP from January 1, 2015 to February 28, 2015, provided that you pay the insurance premium for the months of January 2015 and February 2015.

**Effective Date of this Decision:** May 29, 2015

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

You are eligible for coverage in the TotalIndependence QHP from January 1, 2015 to February 28, 2015, provided that you pay the insurance premiums for the month of January 2015 and February 2015.

The PrimarySelect qualified health plan that you selected took effect on March 1, 2015.

Your eligibility for an advance premium tax credit and for cost-sharing reductions remains conditional, because the record does not contain the income documentation that you were directed to provide in the notice of eligibility determination dated January 8, 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.

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

### **Summary**

The notice of eligibility determination issued on December 22, 2014 is **RESCINDED**.

The January 8, 2015 notice of eligibility determination is **MODIFIED** to state that you are conditionally eligible for an advance premium tax credit of up to \$232.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective January 1, 2015.

Your eligibility for an advance premium tax credit and for cost-sharing reductions remains conditional, because the record does not contain the income

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documentation that you were directed to provide in the notice of eligibility determination dated January 8, 2015.

Since you cancelled your TotalIndependence coverage effective February 28, 2015, the January 8, 2015 enrollment notice is MODIFIED to state that you are eligible for coverage through TotalIndependence QHP from January 1, 2015 to February 28, 2015, provided that you pay your portion of the insurance premiums for January 2015 and February 2015.

The PrimarySelect qualified health plan that you selected took effect on 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:**

[REDACTED]  
[REDACTED]  
[REDACTED]