



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

Notice of Decision

Decision Date: May 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001427

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 8, 2015 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).

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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Issues

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

Did the Marketplace properly determine on December 22, 2014 that you were not eligible for advance premium tax credits as of January 1, 2015, because your renewal period and income data were not available at the time of the determination?

Did the Marketplace properly determine on January 7, 2015 that you were eligible for up to \$318.00 per month in advance premium tax credits and, if you selected a silver-level qualified health plan, eligible for cost-sharing reductions effective February 1, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. The notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for continuing financial help in paying for your health coverage in 2015. You were directed to update the information in your NY State of Health account by December 15, 2014, or the financial help you were receiving might end.

No updates were made to your account before December 15, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination that stated you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. The notice also stated that you were not eligible to receive

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advance premium tax credits (APTC) because “renewal period and income data [was] not available” and not eligible for cost-sharing reductions because you were ineligible to receive APTC. It also stated that you were not eligible for Medicaid because your household income was in excess of the allowable income limit for that program.

On December 22, 2014, the Marketplace also issued an enrollment confirmation notice that stated you were enrolled in Empire HMO 2000 Silver with a premium responsibility of \$471.19. The notice further stated: “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 January 1, 2015.”

On January 7, 2015, information in your Marketplace account was updated.

On January 8, 2015, the Marketplace issued a notice of eligibility redetermination that stated you were newly eligible to receive up to \$318.00 in APTC per month and, if you enrolled in a silver level health plan, to receive cost-sharing reductions effective February 1, 2015.

Also on January 8, 2015, the Marketplace issued an enrollment confirmation notice that you were enrolled in UnitedHealthCare Compass Silver with a premium responsibility of \$226.76. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin and it could start as early as February 1, 2015. If you do not pay your premium, you may not have health coverage.

On January 9, 2015, the Marketplace issued a disenrollment notice based on your January 7, 2015 request that coverage with Empire HMO 2000 Silver be cancelled. The notice informed you that your request had been processed and coverage with that plan would end effective January 31, 2015.

On January 10, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the January 8, 2015 notice of eligibility determination insofar as your financial assistance (APTC) did not begin January 1, 2015.

On February 23, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the hearing and left open for up to fifteen days to allow you time to submit correspondence that you received from your health plan. The record was to be closed by March 10, 2015 or upon receipt of the requested documents, whichever occurred earlier.

On February 25, 2015, the Marketplace’s Appeals Unit received a five-page fax from you. It consisted of: (1) A cover page; (2) A copy of a February 10, 2015 notice of cancellation effective January 1, 2015 from Empire Blue Cross BlueShield (BCBS); and (3) A copy of a December 24, 2015 billing statement from Empire BCBS for the period of January 1, 2015 to March 1, 2015. This five-page fax was made part of the record and marked as “Appellant’s Exhibit A.”

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Since the requested evidence was received, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you enrolled with Empire BCBS last year (2014) with the assistance of a Navigator.
- 2) According to your Marketplace account, you did not elect to receive your notices from the Marketplace via electronic mail; you received notices from the Marketplace via regular mail.
- 3) You testified that you were out of town and did not receive the notice from the Marketplace notifying you to update your Marketplace account.
- 4) You testified that you were automatically reenrolled in the same Empire BCBS plan you had in 2014 without your consent.
- 5) You testified that you did not want to be reenrolled in that health plan because none of your doctors took this insurance.
- 6) You testified that you met with a Navigator on January 7, 2015, and updated your application. According to your Marketplace account, you selected UnitedHealthcare Compass Silver with coverage beginning February 1, 2015.
- 7) You testified that you did not know you would not be eligible for tax credits in January 2015 until you saw the bill from Empire BCBS that was at full cost for January 2015 and February 2015.
- 8) You testified that you did not pay Empire BCBS for the January 2015 premium because you had an appeal pending.
- 9) You testified and provided a February 10, 2015 cancellation letter from Empire BCBS that said your coverage was cancelled effective January 1, 2015 for non-payment of premium (Appellant's Exhibit A, pp. 2-3).
- 10) On the cover page of your fax, you wrote that you incurred \$600.00 worth of therapy that is not covered by insurance for January 2015 (Appellant's Exhibit A, p. 1).
- 11) You testified that you are seeking to have your insurance coverage and advance premium tax credit (APTC) amount to be made effective January 1, 2015.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, if a person has been determined eligible to enroll in a qualified health plan (QHP) through the Marketplace, the Marketplace “must redetermine” the eligibility of that person “on an annual basis” (45 CFR §§ 155.335(a), 155.20). There are two exceptions to this rule. First, the Marketplace does not redetermine eligibility to enroll in a QHP if the person’s eligibility was redetermined during the prior year, if the person was not enrolled in a QHP through the Marketplace when the redetermination was made, and if the person has not enrolled in a QHP through the Marketplace since the redetermination was made (45 CFR §§ 155.335(m)). Second, if the Marketplace is not authorized to obtain tax data as part of the redetermination process, the Marketplace must redetermine eligibility for QHP enrollment but cannot redetermine eligibility for insurance affordability programs until that authorization is obtained or the person requests an eligibility determination for the insurance affordability programs (45 CFR §§ 155.335(l), 155.310(b)).

The Marketplace must provide an annual redetermination notice with the person’s projected eligibility determination for the following year, “including, if applicable, the amount of any advance payments of the premium tax credit and the level of any cost-sharing reductions or eligibility for Medicaid, [Child Health Plus], or the [Basic Health Plan]” (45 CFR §§ 155.335(c)(3)).

Implementation Dates

“Upon making an eligibility determination, the [Marketplace] must implement the eligibility determination under this section for enrollment in a QHP through the [Marketplace], advance payments of the premium tax credit, and cost-sharing reductions as follows—(1) For an initial eligibility determination, in accordance with the dates specified in § 155.410(c) and (f) and § 155.420(b), as applicable, (2) For a redetermination, in accordance with the dates specified in § 155.330(f) and § 155.335(i), as applicable” (45 CFR § 155.310(f)).

Section 155.410 gives the effective dates for plans selected during open enrollment periods. Paragraph (c) gives the effective coverage dates for plans selected for the 2014 benefit year. Paragraph (f) gives the dates for plans selected for the 2015 and 2016 benefit years. “For the benefit year beginning on January 1, 2015, the [Marketplace] must ensure coverage is effective (i) January 1, 2015, for QHP selections received by the [Marketplace] on or before December 15, 2014[;] (ii) February 1, 2015, for QHP selections received by the [Marketplace] from December 16, 2014 through January 15, 2015[;] (iii) March 1, 2015, for QHP selections received by the

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[Marketplace] from January 16, 2015 through February 15, 2015” (45 CFR 155.410(f)(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]).

Generally, when an eligibility redetermination is made during a benefit year, the Marketplace implements resulting changes on the first day of the month following the date of the notice of eligibility determination (45 CFR 155.330(f)(1)(i), (e)(1)(ii)). There are some exceptions to this general rule. If a change affects enrollment or premiums only, it is implemented on the first day of the month following the date on which the Marketplace was notified of the change (45 CFR 155.330(f)(1)(iii)). A decrease in the amount of advance premium tax credit (APTC) or a change in cost-sharing reductions is implemented on the first day of the second month after the date of the notice of eligibility determination or notice to the Marketplace (45 CFR 155.330(f)(3)). Exceptions in cases of marriage, birth, adoption, placement for adoption, and placement in foster care are addressed in 45 CFR § 155.420(b)(2)(i) and (ii).

An annual eligibility redetermination takes effect on the first day of the new coverage year or in accordance with the rules set out in § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue is whether you should be eligible for an advance premium tax credit (APTC) effective January 1, 2015.

On November 6, 2014, the Marketplace issued an annual renewal notice in your case. Although you stated that you did not receive the notice on time because you were away, the notice that was issued appears in your account, and there is no indication it was returned as undeliverable.

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The November 6, 2014 renewal notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for financial help paying for your health coverage. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end. As of December 15, 2014, the Marketplace had not received any updated information from you.

Since, when performing your annual redetermination, the Marketplace was unable to obtain, either from the state and federal data sources or from you, the information needed to determine whether you qualified for financial assistance, such as APTC, for the 2015 plan year, it issued a notice on December 22, 2014 to advise you that you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015.

Thus the Marketplace's December 22, 2014 notice stating that you were not eligible for an APTC because renewal period and income data was not available by December 15, 2014 is supported by the record and is AFFIRMED.

The second issue is whether the Marketplace properly determined that your eligibility for up to \$318.00 of APTC and cost-sharing reductions was effective February 1, 2015.

On January 7, 2015, you updated the information in your Marketplace account. This resulted in a January 8, 2015 notice of eligibility redetermination that stated you were newly eligible to receive up to \$318.00 in APTC and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions. This eligibility was effective February 1, 2015.

Under federal regulations governing the Marketplace, along with a deadline extension granted by New York State, a qualified health plan (QHP) selection received between December 21, 2014 and January 15, 2015 takes effect on February 1, 2015. Since you selected the silver plan, UnitedHealthCare Compass Silver, on January 7, 2015, the effective date for that coverage is February 1, 2015. Therefore, the Marketplace's January 8, 2015 eligibility determination was correct and is AFFIRMED.

The Marketplace automatically re-enrolled you in the Empire HMO 2000 Silver plan. However, as the December 22, 2014 notice indicated, coverage under that plan would begin "after you have paid your first month's premium." Since you elected not to pay the January 2015 premium, coverage did not begin under that plan.

Decision

The December 22, 2014 notice of eligibility redetermination is AFFIRMED.

The January 8, 2015 notice of eligibility redetermination is AFFIRMED.

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Effective Date of this Decision: May 22, 2015

How this Decision Affects Your Eligibility

You were not eligible for an advance premium tax credit for January 2015.

Your health insurance coverage with Empire HMO 2000 Silver plan was cancelled effective January 1, 2015 due to non-payment of the premium for that month. .

You are eligible for up to \$318.00 per month in advance premium tax credit and cost sharing reductions under your UnitedHealthCare Compass Silver plan, effective February 1, 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.

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 December 22, 2014 notice of eligibility redetermination is AFFIRMED.

The January 8, 2015 notice of eligibility redetermination is AFFIRMED.

You were not eligible for an advance premium tax credit for January 2015.

Your health insurance coverage with Empire HMO 2000 Silver plan was cancelled effective January 1, 2015 due to non-payment of the premium for that month. .

You are eligible for up to \$318.00 per month in advance premium tax credit and cost sharing reductions under your UnitedHealthCare Compass Silver plan, effective February 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]