



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

Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001492

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 eligibility determination, December 26, 2014 disenrollment notice, and January 17, 2015 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).

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Issues

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

Did the Marketplace properly disenroll you from your coverage with your previous health insurance plan, effective December 31, 2014?

Did the Marketplace properly determine that you were eligible for advance premium tax credits for 2015 no earlier than March 1, 2015?

Procedural History

On December 8, 2013, the Marketplace issued a notice that stated you were eligible to enroll in a qualified health plan (QHP) and to receive tax credits and cost-sharing reductions to help pay for your insurance. The notice also confirmed that you had chosen a health plan, and that you were receiving advance premium tax credits.

On November 3, 2014, the Marketplace issued a renewal notice stating that it was time to renew your health insurance for 2015. The notice stated that effective January 1, 2015, you were eligible for Medicaid and that you could not be reenrolled in your previous current health plan. The notice stated that you would need to select a new plan by December 15, 2014 if you wanted coverage to be effective by January 1, 2015.

On November 14, 2014, the Marketplace issued an additional renewal notice that stated it was time to renew your health insurance coverage for 2015. Instead of stating that you were eligible for Medicaid, this notice stated that the Marketplace could not make a decision about whether or not you qualified for continuing

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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 by December 15, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you were newly eligible to purchase a qualified health plan through the Marketplace at full cost. You were not eligible to receive advance premium tax credits (APTC) because “renewal period and income data [was] not available.” You were not eligible for cost-sharing reductions (CSR) because you were ineligible to receive APTC. You were not eligible for Medicaid because your household income was in excess of that allowed by that program. This eligibility was effective January 1, 2015.

On December 26, 2014, the Marketplace issued a disenrollment notice informing you that your coverage with your previous health insurance plan would end effective December 31, 2014, because you were no longer eligible to be enrolled in that plan.

On January 16, 2015, information in your Marketplace account was updated, and the Marketplace prepared a preliminary eligibility determination stating that you were eligible to receive up to \$204.00 per month in APTC and CSR, effective March 1, 2015.

Also on January 16, 2015, you spoke to the Marketplace’s Account Review Unit and appealed (1) your disenrollment under your previous health plan effective December 31, 2014, and (2) the January 16, 2015 preliminary eligibility determination insofar your eligibility for APTC was effective on March 1, 2015, and not January 1, 2015.

On January 17, 2015, the Marketplace issued an eligibility determination notice stating that you were eligible to receive up to \$204.00 per month in APTC and, if you selected a silver-level plan, eligible for CSR, effective March 1, 2015.

On February 18, 2015, 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 because the Hearing Officer directed you to provide a letter issued by your former health insurance plan stating that your coverage would be uninterrupted for the 2015 plan year. 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 February 23, 2015, you provided the requested document to the Appeals Unit via facsimile. As a result, the record was closed on February 23, 2015.

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Findings of Fact

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

- 1) You testified that you were enrolled with a health insurance plan during 2014 and that you received billing statements from them telling you the amount of premium you had to pay.
- 2) You provided a letter issued by your 2014 health insurance plan, dated October 27, 2014, which stated that “[o]n January 1, 2015 your coverage will be automatically renewed...unless you choose another policy.” The notice further stated that “if you want to keep your current policy, you don’t need to do anything more.” You testified that you relied upon this letter in not accessing the Marketplace website because you wanted to remain enrolled in this plan. You further testified that you spoke with an Independent Health representative around that same time, who confirmed that no action would need be taken on your part to continue your coverage for 2015.
- 3) You testified that you did not receive any notifications from the Marketplace requesting that you update your on-line account, either through e-mail or standard U.S. mail.
- 4) Your application indicates that you did not elect to receive e-mail notifications from the Marketplace.
- 5) You testified that you paid Independent Health approximately \$230.39 in December 2014, but that when you spoke with Independent Health they stated that this payment was applied to for your coverage during December 2014, not January 2015.
- 6) You were disenrolled from your prior plan effective December 31, 2014.
- 7) You testified that you did not even realize that your coverage had lapsed until you attempted to refill your prescription medications or about January 17, 2015.
- 8) You testified that you spoke with a representative from Independent Health in January 2015 after realizing you had been disenrolled in order to ensure your coverage going forward. You further testified that due to the miscommunication, Independent Health offered to provide you coverage back to January 1, 2015 provided you paid your full monthly premium of \$427.77.

9) You testified that you paid Independent Health approximately \$427.77 on January 26, 2014 and that this was applied for your coverage beginning February 1, 2015. You further testified that you were not covered during the month of January 2015.

10) You selected the iDirect Silver Coinsurance plan on January 16, 2015, for coverage beginning March 1, 2015.

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

Applicable Law and Regulations

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year (45 CFR § 155.335, 45 CFR § 155.410(d)). The Marketplace must then issue an annual redetermination notice, which specifies the individual's projected eligibility determination regarding financial assistance, such as tax credits, cost-sharing reductions, Medicaid, or Child Health Plus (45 CFR § 155.335(c)(3)).

The Marketplace must generally require a qualified individual to report any change with respect to eligibility standards within 30 days of such change (45 CFR § 155.35(e)). If an individual fails to timely respond, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (42 CFR § 155.335 (h)(1)).

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 on January 1, 2015, the Marketplace must ensure coverage is effective on January 1, 2015 for QHP selections made on or before December 15, 2014 (45 CFR § 155.410(f)(1)). The New York State of Health extended the December 15, 2014 deadline to December 20, 2014, for coverage beginning January 1, 2015 (NY State Department of Health Press Release, December 12, 2014).

The Marketplace must ensure coverage is effective on February 1, 2015, for QHP selections received by the Marketplace from December 16, 2014 through January 15, 2015 (45 CFR § 155.410(f)(2)).

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Legal Analysis

The issue under review is whether the Marketplace properly disenrolled you from your coverage from your health insurance plan effective December 31, 2014.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the information by which the Marketplace will use to determine an individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 3, 2014, the Marketplace issued an annual eligibility redetermination notice in your case. That notice stated that based on information from federal and state sources as of November 2, 2014, you were found eligible for Medicaid beginning January 1, 2015. That notice further stated that we could not enroll you in your current health plan, and that you would need to pick a different health plan if you wanted coverage in 2015.

However, on November 14, 2014, the Marketplace issued a further annual eligibility redetermination notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify 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. This notice did not say you were eligible for Medicaid.

On December 15, 2014, the Marketplace had not received any updated information from you.

Therefore, the Marketplace was required to use the information that was contained in both the November 3, 2014 and the November 14, 2014 notices, since both purportedly related to your annual renewal and you had failed to respond to the renewal notices. However, since the two renewal notices were contradictory, it is not possible to determine which findings should have automatically gone into effect when your account was not updated.

Additionally, you provided evidence that your health plan sent you information that stated you did not need to do anything further if you wanted to keep your current coverage. You credibly testified that you relied on the information from your health plan that there was nothing further you needed to do.

You did not check with the Marketplace to see if there were any issues regarding your enrollment because you reasonably thought your coverage would continue based on the statements from your health plan.

We therefore find that you were not given sufficient notice that you needed to update your account, and if appropriate notice were provided, you would have updated your account, your coverage would not have been cancelled at that time, and you would have continued to receive an advance premium tax credit (APTC).

The December 22, 2014 eligibility determination is MODIFIED to reflect that you continued to be eligible for APTC.

The December 26, 2014 disenrollment notice is MODIFIED to reflect that your coverage under the iDirect Silver Nutrition is terminated effective January 31, 2015.

The January 17, 2015 eligibility determination is MODIFIED to reflect that you were eligible to receive up to \$204.00 per month in APTC effective January 1, 2015.

Decision

The December 22, 2014 eligibility determination is MODIFIED to reflect that you continued to be eligible for an advance premium tax credit (APTC).

The December 26, 2014 disenrollment notice is MODIFIED to reflect that your coverage under the iDirect Silver Nutrition is terminated effective January 31, 2015.

The January 17, 2015 eligibility determination is MODIFIED to reflect that you were enrolled in coverage through the Marketplace and eligible to receive up to \$204.00 per month in APTC effective January 1, 2015.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

Effectively, you may continue your coverage under the iDirect Silver Nutrition plan for the month of January 2015, provided you pay the premium amount, less the advance premium tax credit (APTC).

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).

You coverage in iDirect Silver Coinsurance plan is effective through the Marketplace February 1, 2015, provided you pay the premium less the APTC.

You continue to be eligible for an APTC of up to \$204.00, and if you select a silver-level plan, eligible for cost-sharing reductions (CSR), effective January 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:
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Summary

The December 22, 2014 eligibility determination is MODIFIED to reflect that you continued to be eligible for an advance premium tax credit (APTC).

The December 26, 2014 disenrollment notice is MODIFIED to reflect that your coverage under the iDirect Silver Nutrition is terminated effective January 31, 2015.

The January 17, 2015 eligibility determination is MODIFIED to reflect that you were enrolled in coverage through the Marketplace and eligible to receive up to \$204.00 per month in APTC effective January 1, 2015.

Effectively, you may continue your coverage under the iDirect Silver Nutrition plan for the month of January 2015, provided you pay the premium amount, less the APTC.

Your coverage in iDirect Silver Coinsurance plan is effective through the Marketplace February 1, 2015, provided you pay the premium less the APTC.

You continue to be eligible for an APTC of up to \$204.00, and if you select a silver-level plan, eligible for cost-sharing reductions (CSR), effective January 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:

