



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

## Notice of Decision

Decision Date: June 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001495

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 16, 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 letter.

### 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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Appeal Identification Number: AP000000001495

[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 you and your spouse were not eligible to enroll in a catastrophic plan through the Marketplace?

## Procedural History

On January 16, 2015, the Marketplace issued a notice of eligibility determination based on your January 15, 2015 application, in which you did not request financial assistance. The notice stated that you and your spouse were eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace, effective February 1, 2015.

That same day, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as you and your spouse were not permitted to enroll in a catastrophic plan.

On February 17, 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:

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- 1) You testified that on January 15, 2015 you submitted an application to the Marketplace in which you and your spouse were not seeking financial assistance.
- 2) You and your spouse are [REDACTED], respectively.
- 3) The January 16, 2015 notice of eligibility determination found you and your spouse eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace effective February 1, 2015; however, no finding was specified on your eligibility to enroll in a catastrophic plan.
- 4) You testified, and the record reflects, that you and your spouse enrolled in a health insurance plan effective February 1, 2015.
- 5) You testified that you and your spouse had neither received nor sought an exemption from maintaining minimum essential coverage for the 2015 plan year.
- 6) You testified that you and your spouse should not be restricted from purchasing a catastrophic plan since the premium amounts associated with your Fidelis Care plan were excessive and that you ought to be able to determine your level of risk and coverage.
- 7) You did not submit any information regarding your income.

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

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace's Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "*De novo review* means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

### Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

The Marketplace is required to provide "timely written notice to an applicant of any eligibility determination" made pursuant to 45 CFR Part 155, Subpart D,

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which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

### Catastrophic Plan Eligibility

Catastrophic plans are available to individuals who have met the requirements to enroll in a qualified health plan (QHP) through the Marketplace and either:

- 1) Has not reached the age of 30 before the beginning of the plan year, or
- 2) Has obtained a certification for the plan year that the individual is exempt from maintaining minimum essential coverage (MEC) as a result of a financial hardship or the inability to obtain affordable coverage pursuant to 26 USC § 5000A(e)(1),(5)

(45 CFR § 155.305(h)).

## **Legal Analysis**

The Marketplace issued a notice of eligibility determination on January 16, 2015 finding that you and your spouse were found eligible to enroll in a qualified health plan (QHP) at full cost; however, no determination was made with respect to your eligibility to enroll in a catastrophic plan through the Marketplace.

Although the Marketplace did not issue a timely written notice of eligibility determination with respect to your eligibility to enroll in a catastrophic plan, this does not prevent the Appeals Unit from reaching the merits of your case on your January 16, 2015 appeal request. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, since the Appeals Unit reviews Marketplace determinations on a de novo basis, no deference would have been granted to that written determination had it been issued before you filed your appeal.

In order to be eligible to enroll in catastrophic plan through the Marketplace, you must be eligible to enroll in QHP, and either (1) be under 30 years old prior to the beginning of the plan year, or (2) have obtained a certification for the plan year catastrophic coverage is sought that you are exempt from maintaining minimum essential coverage (MEC) as a result of financial hardship or inability to obtain affordable coverage.

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According to the record, both you and your spouse were found eligible to enroll in a QHP for the 2015 plan year, with such coverage effective February 1, 2015. You testified and the record reflects that you and your spouse are [REDACTED], respectively. You further testified that you and your spouse have neither received nor sought an exemption from MEC.

Since the credible evidence of record confirms that you and your spouse are each [REDACTED] and have not obtained an exemption from maintaining MEC for the 2015 plan year, you and your spouse are not eligible to enroll in a catastrophic plan through the Marketplace.

## **Decision**

The January 16, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** June 10, 2015

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

You and your spouse remain eligible to enroll in a qualified health plan (QHP) at full cost beginning February 1, 2015.

You and your spouse are not eligible to enroll in a catastrophic plan through the Marketplace.

## **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))

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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 January 16, 2015 eligibility determination is AFFIRMED.

You and your spouse remain eligible to enroll in a qualified health plan (QHP) at full cost beginning February 1, 2015.

You and your spouse are not eligible to enroll in a catastrophic plan through the Marketplace.

## **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]