



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

## Notice of Decision

Decision Date: August 14, 2015.

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001663

[REDACTED]

Dear [REDACTED],

On April 15, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 21, 2014 eligibility determination and January 28, 2015 notice of disenrollment.

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 Code of Federal Regulation (CFR) 45 CFR § 155.545(b).

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## Decision

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NY State of Health Number: [REDACTED]  
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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 21, 2014 that you were eligible to purchase a qualified health plan at full cost effective January 1, 2015?

Did the Marketplace properly terminate your health coverage through PrimarySelect Silver NS INN Dep25 Acupuncture health plan and the BlueCross BlueShield Blue Value dental plan effective February 28, 2015?

## Procedural History

On January 25, 2014, the Marketplace issued a notice confirming your selection of and enrollment in PrimarySelect Silver Plan - A Consumer Operated and Oriented Plan (CO-OP) Option medical plan and the BlueCross BlueShield Blue Value dental plan for yourself and your spouse. It also stated that your total premium cost would be \$433.74 per month after applying the maximum \$145.00 advance premium tax credit (APTC) amount.

On July 18, 2014, the Marketplace received a revised application in which you attested to an expected annual income for 2014 of \$37,010.00.

On July 19, 2014, the Marketplace issued a notice of eligibility determination based on your July 18, 2014 application. It stated that you and your spouse were temporarily eligible for enroll in a qualified health plan (QHP); temporarily eligible to receive an APTC of up to \$315.00 per month; and, if you selected a silver-level

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plan, temporarily eligible to receive cost-sharing reductions (CSR). The notice further stated that in order to confirm your eligibility, you needed to provide documents to prove your income level no later than October 19, 2014, or you might lose your eligibility for health insurance.

That same day, the Marketplace confirmed your enrollment in PrimarySelect Silver Plan – CO-OP Option and the BlueCross BlueShield Blue Value dental plan at a reduced monthly premium of \$263.74, after applying the maximum \$315.00 tax credit.

On November 6, 2014 and November 20, 2014, the Marketplace issued notices stated that it was time to renew your health insurance coverage for 2015. The notices each stated that based on information from federal and state sources, the Marketplace could not make a decision about whether you or your spouse 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 an eligibility redetermination notice that stated you and your spouse were newly eligible to purchase a qualified health plan at full cost. You were not eligible to receive APTC because “renewal period and income data [was] not available.” You were not eligible for cost-sharing reductions 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 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in your new plan, PrimarySelect Silver NS INN Dep25 Acupuncture, and the BlueCross BlueShield Blue Value dental plan, with a monthly premium responsibility of \$624.92, effective January 1, 2015. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not health coverage.

On December 27, 2014, the Marketplace issued a notice, confirming that your coverage with your old plan, PrimarySelect Silver Plan - CO-OP Option, would end effective December 31, 2014.

On January 26, 2015, your application was modified to attest to annual expected income of \$18,189.80; in response, the Marketplace issued a notice stating that more information was needed regarding your income in order to make a new determination as to your eligibility.

On January 27, 2015 your account was again modified.

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On January 28, 2015, the Marketplace issued a notice of disenrollment confirming that you and your spouse's coverage under the Health Republic PrimarySelect Silver medical plan and the BlueCross BlueShield Blue Value dental plan would terminate effective February 28, 2015.

Also on January 28, 2015, the Marketplace issued an eligibility determination notice based on your updated January 27, 2015 application. It stated that you and your spouse were eligible to enroll in a QHP; eligible to receive an APTC of up to \$411.00 per month; and, if you selected a silver-level plan, eligible for CSR, effective March 1, 2015. This eligibility determination was issued, in part, based on an annual household income of \$32,592.00.

Also on January 28, 2015, the Marketplace issued a notice confirming that you had changed coverage for yourself and your spouse to Health Republic PrimarySelect Gold NS INN Dep 25 Acupuncture, with a monthly premium responsibility of \$278.36 after applying the maximum APTC amount of \$411.00.

Your coverage through Blue Value Dental, NS, INN, Dep25, Adult/Family Dental and PrimarySelect Silver NS INN Dep25 Acupuncture was terminated effective February 28, 2015.

On February 2, 2015, you spoke to the Marketplace's Account Review Unit and appealed the December 21, 2014 eligibility determination insofar as you and your spouse were found not eligible for an APTC as of January 1, 2015 to help with the cost of paying for your health insurance during the months of January and February of 2015.

On April 15, 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) Your account indicates that you opted to receive notices from the Marketplace by US mail. No notices have been returned to the Marketplace as undeliverable.
- 2) You were enrolled under the PrimarySelect Silver Plan – A Consumer Operated and Oriented Plan (CO-OP) Option and the BlueCross BlueShield Blue Value dental plan during 2014. You received an advance premium tax credit (APTC) of \$145.00 per month from March to July 2014, and then after you revised your application on July 18,

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2014, you receive an APTC of \$315.00 per month from August to December 2014.

- 3) You testified that you received both the November 6, 2014 and November 20, 2014 notices from the Marketplace requesting that you update your account by December 15, 2014 in order to redetermine your eligibility for financial assistance.
- 4) You further testified that you spoke with a Marketplace representative who assured you that so long as you were looking to continue your same coverage during the 2015 plan year, no further action was required on your part; you did not state when this conversation took place.
- 5) There is no indication in your Marketplace account that you made any update to your account after July 18, 2014 until January 26, 2015.
- 6) You were reenrolled in the PrimarySelect Silver NS INN Dep25 Acupuncture and the BlueCross BlueShield Blue Value dental plan for coverage beginning January 1, 2015.
- 7) You testified that you only became aware that you had not received a tax credit for January when you received a notice requesting that you pay a premium amount of approximately \$624.92.
- 8) You testified that you paid approximately \$590.03 solely to maintain your January medical coverage since you incurred some medical expenses that month, but did not pay any premium amounts relating to coverage during February 2015. You further testified that due to your financial situation, you paid half of this premium amount in January and the remaining half of the premium amount in February 2015.
- 9) You switched to the Health Republic PrimarySelect Gold plan for coverage beginning March 1, 2015.
- 10) You testified that you were seeking to have the APTC of \$411.00 applied retroactively to cover January's premium so that you could receive a reimbursement for the portion you fronted, since this amount was unaffordable to you.

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, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### Termination of Coverage

The Marketplace may initiate termination of an enrollee's coverage in a qualified health plan and must permit a qualified health plan issuer to terminate such coverage: (1) When the enrollee is no longer eligible for coverage in a qualified health plan through the Marketplace; or (2) The enrollee's coverage is cancelled due to non-payment of premiums (45 CFR § 155.430(2)(i) and (ii)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan only at full cost effective January 1, 2015.

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 individual's projected 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.

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On November 6, 2014 and November 20, 2014, the Marketplace issued annual eligibility redetermination notices in your case. That notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether you and your spouse 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.

You testified that you had received these notices, but did not update your account by the December 15, 2014 deadline. You further testified that you spoke with a Marketplace representative immediately after receiving these notices, and was told that if you wanted to continue you existing coverage, no further action by you was necessary. The record, however, does not contain any evidence to corroborate your testimony that you contacted the Marketplace in November or December which led you to not update your account.

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 the November 6, 2014 and November 20, 2014 notices in order to determine you and your spouse's eligibility for coverage beginning January 1, 2015. On December 22, 2014, the Marketplace issued a notice that stated you and your spouse were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You and your spouse were not eligible to receive APTC because renewal period and income data was not available. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's December 22, 2014 eligibility determination is AFFIRMED.

The second issue is whether your coverage through Health Republic PrimarySelect Silver medical plan and the BlueCross BlueShield Blue Value dental plan was properly terminated effective February 28, 2015.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in Health Republic PrimarySelect Silver medical plan and the BlueCross BlueShield Blue Value dental plan with a total monthly premium responsibility of \$624.92, effective January 1, 2015. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

You testified that you paid the \$590.03 premium amount to Health Republic to continue you and your spouse's medical coverage during the month of January 2015 while your appeal was being processed, but that did not pay any premium amounts for month of February 2015. Since you did paid the premium for January, the plan did go into effect.



You did not elect to change your insurance plan until late January 2015. Since this change took place after the 15<sup>th</sup> of the month, the Marketplace properly found that your coverage with Health Republic PrimarySelect Silver medical plan and the BlueCross BlueShield Blue Value dental plan was terminated effective February 28, 2015. The January 28, 2015 disenrollment notice was therefore correct, and is AFFIRMED.

## **Decision**

The December 21, 2014 notice of eligibility determination and January 28, 2015 disenrollment notice are AFFIRMED.

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

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

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015, and your coverage with your old plan was properly terminated effective February 28, 2015.

This Decision has no effect on any subsequent determination issued by the Marketplace after January 28, 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

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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 21, 2014 notice of eligibility determination and January 28, 2015 disenrollment notice are AFFIRMED.

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015, and your coverage with your old plan was properly terminated effective February 28, 2015.

This Decision has no effect on any subsequent determination issued by the Marketplace after January 28, 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:**

