



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

**Notice of Decision**

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001664

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 26, 2014 disenrollment notice.

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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## Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001664

[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 your coverage ended with Univera Silver Select on December 31, 2014?

## Procedural History

On March 1, 2014, the Marketplace issued an eligibility determination notice that stated you were eligible for up to \$143.00 in advance premium tax credits (APTC) and, if you enrolled in a silver level health plan, cost-sharing reductions. The notice also stated that you had enrolled in Univera Silver Select.

On December 26, 2014, the Marketplace issued a disenrollment notice that stated your insurance through Silver Select would end effective December 31, 2014.

On December 31, 2014, the Marketplace issued a cancellation notice that stated the received your request to cancel your insurance coverage with Silver Select on December 30, 2014.

On February 2, 2015, you spoke to the Marketplace's Accounts Review Unit and appealed the disenrollment notice as it terminated your coverage effective December 31, 2014 and not November 30, 2014.

On March 12, 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 15 days to allow you time to submit proof of your eligibility for

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Medicare. On March 16, 2015, the Appeals Unit received a fax containing a letter from the Social Security Administration. The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you are appealing the Marketplace's refusal to terminate your enrollment in your Univera Silver Select plan for the month of December. You are seeking that your coverage be terminated as of November 30, 2014 because you were eligible for Medicare in December.
- 2) You testified that you paid your premiums for your Univera Silver Select plan every month, and the last month you paid a premium for was the month of November.
- 3) You testified that you became eligible for Medicare on December 1, 2014.
- 4) You provided a letter from the Social Security Administration dated November 3, 2014 that states your Medicare Part A and B will start December 2014.
- 5) You testified that in November you enrolled in Univera as your secondary plan with Medicare but your enrollment is outside of the Marketplace.
- 6) You testified that you had a lot of things going on and therefore were unable to contact the Marketplace until mid-December to terminate your Univera Silver Select plan.
- 7) Your account indicates that you called on December 30, 2014 to cancel your coverage through the Marketplace.
- 8) You testified that you did not use your Univera Silver Select plan in the month of December.
- 9) You testified that you did use your Medicare card and the Univera secondary plan you have outside of the Marketplace in the month of December.

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

## **Applicable Law and Regulations**

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to the Marketplace or qualified health plan with appropriate notice to the Marketplace or qualified health plan (45 CFR §155.430(b)(1)).

For enrollee-initiated terminations, the last day of coverage is either:

- The termination date specified by the enrollee, if they provide notice at least 14 days before the requested termination becomes effective;
- Fourteen days after the enrollee requests the termination, if they do not provide 14 days' notice; or
- On a date on or after the date the enrollee requests the termination, subject to the determination of the enrollee's qualified health plan issuer, if the enrollee's qualified health plan issuer agrees to effectuate termination in fewer than 14 days, and the enrollee requests and earlier termination effective date

(45 CFR § 155.430(d)(2)(i)-(iii)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that the end date of your insurance coverage with Univera Silver Select was December 31, 2014.

You testified, and provided evidence, that you became eligible for Medicare effective December 2014.

An enrollee must be allowed to terminate his or her coverage with a qualified health plan if they begin receiving minimum essential coverage with appropriate notice to the Marketplace or to their health plan. You testified that you did not inform the Marketplace of your eligibility for Medicare until mid-December; our records indicate you called on December 30, 2014.

Because you did not provide notice to the Marketplace to terminate your coverage until late December 2014, your coverage cannot be retroactively terminated effective November 30, 2014.

## **Decision**

The December 26, 2015 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** August 7, 2015

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

You coverage with Univera Silver Select ended effective December 30, 2014.

## **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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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The December 26, 2015 disenrollment notice is **AFFIRMED**.

Your coverage with Univera Silver Select ended effective December 30, 2014.

## **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]