



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

## Notice of Decision

Decision Date: August 12, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001701

[REDACTED]

Dear [REDACTED],

On April 8, 2015, you appeared by telephone at a hearing on your appeal.

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).

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 12, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001701

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did you and your husband have coverage through EmblemHealth Select Care Silver or any other provider for the months of September through October 2014?

## Procedural History

The Marketplace received your initial application for health insurance on December 12, 2013.

On April 16, 2014, the Marketplace issued an eligibility determination notice that stated you and your husband were temporarily eligible to enroll in a qualified health plan and receive up to \$508.00 per month in advance premium tax credit (APTC). You were also eligible to receive cost-sharing reductions. The notice directed you, [REDACTED], to provide proof of immigration, and your husband to provide proof of citizenship. The notice further stated that if you did not submit these documents within 90 days, you might lose your eligibility for health insurance.

On May 5, 2014, you, [REDACTED], uploaded a copy of your Permanent Resident Card.

On May 6, 2014, your application was modified to state that your husband was no longer seeking insurance through the Marketplace.

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On May 8, 2014, the Marketplace issued an eligibility determination notice that you, [REDACTED], were temporarily eligible to enroll in a qualified health plan and receive up to \$179.00 in APTC. You were also eligible for cost-sharing reductions. The notice further requested that you provide proof of immigration by August 7, 2014, or your health insurance might end.

On July 7, 2014, the Marketplace received two modified applications for health insurance; the latter included your husband with the application for yourself and your child.

On July 8, 2014, the Marketplace issued multiple eligibility determination notices that stated you were temporarily eligible to enroll in a qualified health plan. You and your husband were eligible to receive up to \$528.00 in APTC and cost-sharing reductions. The notice further requested that you, [REDACTED], provide proof of immigration and your husband provide proof of citizenship by October 8, 2014, or your insurance might end.

Also on July 8, 2014, the Marketplace issued a letter to confirm that you and your husband were enrolled in EmblemHealth Select Care Silver with a premium responsibility of \$242.62. The letter also stated that if you paid your first month's premium, your coverage could start as early as June 1, 2014. Your daughter was enrolled in a Child Health Plus plan.

On November 6, 2014, the Marketplace issued a disenrollment notice that stated you had requested to end insurance coverage for you and your husband on November 5, 2014. The notice stated your request has been processed and you will no longer have coverage with EmblemHealth Select Care Silver effective November 30, 2014.

On February 5, 2015, you contacted the Marketplace and appealed the apparent termination of your insurance coverage for the months of September and October 2014.

On April 8, 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) You testified that EmblemHealth told you that they had disenrolled you from your insurance plan effective September 1, 2014 because the Marketplace never finalized with the plan eligibility for you and your husband.

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- 2) You testified that the Marketplace told you that you had coverage with EmblemHealth until November 30, 2014.
- 3) You testified that you used your EmblemHealth insurance card for medical services in September and October and as a result of the termination of your coverage in September you now have outstanding medical bills.
- 4) You testified that you received a full premium bill from EmblemHealth for the months of September and October. The bill was for \$2,000.00 each month which is the amount your premium would be if you were not eligible for an advance premium tax credit (APTC).
- 5) You testified that you called the Marketplace and you were told that they would look into the overbilling issue and that they needed to resend the APTC amount you were eligible for to the plan for the months of September and October.
- 6) You uploaded a copy of your Permanent Resident Card to your Marketplace account on May 8, 2014.
- 7) You uploaded a copy of your husband's certificate of naturalization on February 2, 2015.

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

## **Applicable Law and Regulations**

### 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 FR § 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, which sets out requirements.

### Citizenship and Immigration Status

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expecting to become a citizen or remain a lawfully

present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days, from the date the notice of inconsistency is received by the applicant, to provide satisfactory documentary evidence. Notice is considered to have been received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)).

### 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(b)(2)(i) and (ii)).

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 (45 CFR § 155.430(b)(1), (d)).

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

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

## Legal Analysis

The issue is whether you and your husband had insurance coverage through EmblemHealth Select Care Silver in the months of September and October 2014.

You uploaded a copy of your Permanent Resident Card to your Marketplace account on May 8, 2014; it has since been verified. Therefore, coverage for you, [REDACTED], should not have been terminated after that time, based on your immigration status.

Your husband's proof of citizenship was not uploaded until February 2, 2015. However, even if the Marketplace did not receive his documentation by the October 8, 2014 deadline, the Marketplace did not issue a notice stating that his coverage would be discontinued for failure to provide citizenship documentation.

You did not request coverage for you or your husband to be terminated for September and October 2014.

Your husband was given until October 4, 2014 to produce proof of his citizenship.

It is found that there was no basis for the Marketplace to have terminated coverage or eligibility for Advance Premium Tax Credit (APTC) for you, Maxine, at all, because your proof of immigration status had already been produced.

There was also no basis for the Marketplace to have terminated coverage and eligibility for APTC for your husband for the months of September and October 2014, because he was given until October 4, 2014 to submit the required documentation. Even if the Marketplace determined on October 4, 2014 that his coverage must end, the Marketplace failed to give the proper notice to you that his coverage had been terminated.

The record contains a disenrollment notice dated November 6, 2014, that states you will no longer have coverage with EmblemHealth Select Care Silver, effective November 30, 2014. There is nothing in the record that shows that coverage and eligibility for APTC for you and your husband should have been terminated prior to November 30, 2014.

On July 8, 2014, the Marketplace issued multiple eligibility determination notices that stated you and your husband were temporarily eligible to enroll in a qualified health plan and receive up to \$528.00 per month in APTC. You and your husband were also temporarily eligible to receive cost-sharing reductions. This eligibility should have been in effect during the months of September and October 2014.

Therefore, your case is RETURNED to the Marketplace to facilitate with your insurance provider a correction of any outstanding issues of your enrollment in

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EmblemHealth Select Care Silver for the months of September and October 2014 with an APTC amount of up to \$528.00 per month.

## **Decision**

Your case is RETURNED to the Marketplace to facilitate with your insurance provider a correction of any outstanding issues of your enrollment in EmblemHealth Select Care Silver for the months of September and October 2014 with an APTC amount of up to \$528.00 per month.

**Effective Date of this Decision:** August 12, 2015

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

Your case is being sent back to the Marketplace to facilitate with your insurance provider a correction of any outstanding issues of your enrollment in EmblemHealth Select Care Silver for the months of September and October 2014 with an APTC amount of up to \$528.00 per month.

## **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.

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## **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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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

Your case is being sent back to the Marketplace to facilitate with your insurance provider a correction of any outstanding issues of your enrollment in EmblemHealth Select Care Silver for the months of September and October 2014 with an APTC amount of up to \$528.00 per month.

## **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:**

