



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: AP000000001714

[REDACTED]

Dear [REDACTED],

On March 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's termination of your plan coverage effective March 31, 2014.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001714

[REDACTED]

Issue

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

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

Procedural History

On November 6, 2013, the Marketplace issued a notice based on your October 15, 2013 application. It stated that you were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$243.00 per month; and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). The notice further stated that “[y]our insurance coverage would begin shortly after you selected you selected a health plan and paid the first premium payment (if applicable).” This determination was based on an annual household income of \$23,900.00.

Your account enrollment details reflect that you selected a MetroPlus health plan (with a plan marketing name of “SilverPlus-S2”) on November 14, 2013, with your coverage scheduled to begin on January 1, 2014 and continue until December 31, 2014. However, no notices are in your account to confirm this enrollment.

On July 18, 2014, you updated your application to one that no longer requested financial assistance.

Between July 19, 2014 and August 8, 2014, the Marketplace issued 20 duplicative notices, each one stating that you were eligible to enroll in a plan through the Marketplace.

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).

On August 9, 2014, the Marketplace finally issued a written notice stating that you had enrolled in the SilverPlus-S2 plan you had previously selected. You were responsible for the total premium, and the notice also stated that if you paid your first month's premium, your coverage could start "as early as January 1, 2014" (*sic*).

You later modified your application to once again request financial assistance.

On September 27, 2014, the Marketplace again issued a written notice confirming that you had enrolled in the SilverPlus-S2 plan you had previously selected. You were now responsible for only part of the premium, and the notice again stated that if you paid your first month's premium, your coverage could start "as early as January 1, 2014" (*sic*).

On November 9, 2014, the Marketplace issued a notice that it was time to renew your coverage for 2015. It stated that you would be reenrolled in your current plan, and that you did not need to do anything more.

On December 9, 2014, the Marketplace issued a notice, confirming your enrollment in your plan, which was no referred to as "SilverPlus-S2, NS, INN, Dep25, Pediatric and Adult Dental, Adult and Pediatric Vision."

On December 25, 2014, the Marketplace issued a notice confirming that your coverage under the MetroPlus "SilverPlus-S2" health plan "will end effective December 31, 2014," but that you would automatically be renewed in the same plan for 2015.

On January 16, 2015, you updated your Marketplace account to change your application to one no longer requesting financial assistance, and you provided your new address in [REDACTED], California.

On January 19, 2015, the Marketplace issued a notice stating that your coverage would be terminated effective February 28, 2015, because you were no longer eligible to enroll in health insurance through New York State of Health.

On February 6, 2015, you spoke with the Marketplace's Account Review Unit to appeal your disenrollment from your health plan as of March 31, 2014.

On March 13, 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 for the sole purpose of providing you an opportunity to submit the following additional evidence: (1) billing statements issued by MetroPlan reflecting APTC award after March 2014 termination, including bill for \$2,500.00 which may represent tax credit amount, and (2) reasonable evidence that bills were paid by the Appellant after March 2014 up until September 2014. 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 March 26, 2015, you provided the above referenced documents to the Appeals Unit through via facsimile.

Accordingly, the record was closed on March 26, 2015.

Findings of Fact

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

- 1) You testified that you lived in Brooklyn during 2013, moved to Manhattan for the first two months of 2014 and then moved back to Brooklyn where you stayed until about mid-December.
- 2) You testified that you moved to the State of California in mid-December of 2014 for a job.
- 3) On November 6, 2013, the Marketplace found you eligible to enroll in a qualified health plan (QHP), eligible to receive an advance premium tax credit (APTC) of up \$243.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR).
- 4) You enrolled in the MetroPlus plan beginning January 1, 2014. A notice issued by the Marketplace on November 15, 2013 confirmed your enrollment in the MetroPlus plan and that your premium rate was \$131.42 per month after applying the maximum APTC of \$243.00.
- 5) You testified that you understood that you were enrolled in the MetroPlus SilverPlus-S2 health plan through at least August 31, 2014.
- 6) You provided a bill issued by Metroplus on April 10, 2014, which instructed you to pay \$262.84 before 5 p.m. on April 30, 2014. This bill references a current monthly charge of \$262.84, a previous balance of \$131.42, and a reduction of your monthly coverage charge as a result of a \$243.00 tax credit.
- 7) You provided a bill issued by Metroplus on June 5, 2014, which instructed you to pay \$131.42 before 5 p.m. on June 30, 2014. This bill references a reduction of your monthly coverage charge as a result of a \$243.00 tax credit.
- 8) You testified that you had been paying your premiums on a timely manner for coverage between the months of January and August 2014.

- 9) You provided a snapshot of your banking records that reflect you paid to Metroplus (1) \$262.84 on March 23, 2014, (2) \$262.84 on April 23, 2014, (3) \$131.42 on June 5, 2014, (4) \$262.84 on July 20, 2014, and \$131.42 on September 4, 2014.
- 10) You provided a bill issued by MetroPlus on August 8, 2014, which instructed you to pay \$2,318.42 before 5 p.m. on August 31, 2014. This bill itemizes charges for nine months of coverage between January and September 2014 at \$374.42 per month and eight months of credits between January and August of 2014 at \$131.42 per month.
- 11) You testified that you believed the August 2014 bill you received from Metroplus represented the monthly plan costs between January 2014 and September 2014, without applying the any of the monthly tax credit amount of \$243.00 you were entitled to receive.
- 12) You testified that you spoke with a MetroPlus representative who stated that the situation would be fixed, and instructed you to pay the \$131.42 amount for coverage during the month of September 2014, which incorporates your \$243.00 tax credit.
- 13) You testified that you went to a hospital emergency room after having been hit by a car while riding a bicycle on or about September 18, 2014. You further testified that during that time you had several medical procedures which totaled approximately \$3,500.00.
- 14) You testified that you first learned that you no longer had health insurance when you tried to refill a monthly prescription in September, and then a couple of days after your accident involving the automobile when you receive bills directly from the hospital.
- 15) You testified that your understating is that you were enrolled in the health plan between January and August of 2014, so you were not sure how you have been terminated from your coverage as of March 2014. You further testified that seemed like an arbitrary date.
- 16) You testified that you have never received a disenrollment notice stating that your coverage with MetroPlus had been terminated as of March 2014 or otherwise.
- 17) You testified that you ceased paying your premiums after September 2014 when you were told your coverage had been terminated.

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

Applicable Law and Regulations

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)).

Notice of Termination

If the issuer of a plan intends on terminating an enrollee's coverage or enrollment, it must provide the enrollee a notice of termination that includes the effective date and reason for termination (45 CFR § 156.270(b)).

Legal Analysis

The issue under review is whether the Marketplace properly terminated your coverage with the MetroPlus health insurance plan, effective March 31, 2014.

The record reflects that you selected a MetroPlus plan on November 14, 2013, with such coverage beginning January 1, 2014.

At the request of the Hearing Officer, you provided billing statements in connection with amounts due for coverage during May and July 2014 as well as copies of banking statements reflecting that you paid such amounts either timely or within the grace periods reflecting within such billing statements.

The credible documentation reflects that you paid (1) \$262.84 as requested by the April 10, 2014 invoice on April 23, 2014, prior to the April 30, 2014 due date, and (2) \$131.42 as requested by the June 5, 2014 invoice on June 5, 2014, prior to the June 30, 2014 due date. In the absence of evidence to the contrary, we find that you were paying your premium amounts in a timely fashion from January through August of 2014.

You revised your application on July 18, 2014 in which you filed a non-financial application. Based on this application, as evidence by the voluminous amount of notices of eligibility redetermination issued between July 19, 2014 and August 19, 2014, you were found eligible to enroll in a qualified health plan (QHP) without financial assistance. It appears, however, that the full cost of the MetroPlus plan of \$374.42 was erroneously backdated to begin January 1, 2014, rather than beginning on this basis as of September 1, 2014.

You credibly testified, and provided a billing statement issued by MetroPlus on August 8, 2014 reflecting, that you were requested to pay a total of \$2,318.42 by the close of business on August 31, 2014 in order to continue your coverage into September 2014. This amount represents sum of nine premium payments of \$374.42 for the period between January and September 2014, and eight payments made by you in the amounts of \$131.42 between January and August 2014.

You credibly testified that you called MetroPlus regarding the billing amount, and you were told that this notice was issued in error, the issued had been fixed, and to pay \$131.42 which represented the premium rate after applying the maximum tax credit of \$243.00 for coverage during the month of September 2014. Your banking statement reflects that you paid this amount on September 4, 2014. However, you should only have been assessed a premium of \$374.42, not \$131.42, since you were not found eligible for an advance premium tax credit (APTC) that month.

You testified, and the credible evidence of record reflects, that you were never issued a notice of disenrollment. Furthermore, the record reflects that your disenrollment was actually backdated to March 31, 2014 as shown on your account details as of November 23, 2014.

You then submitted revised applications requesting financial assistance on September 3, 2014 and September 24, 2014. You were found eligible for an APTC of \$214.00 during the month of October 2014 and \$276.00 during the months of November and December 2014, as well as cost-sharing reductions (CSR) during each of these months.

We find that the Marketplace did not dispute your ability to enroll in a plan through the Marketplace until you advised the Marketplace that you were living in California. At that time, it provided you with the proper notice that your eligibility to enroll in a plan through New York State of Health would end effective February 28, 2015. At no time did the Marketplace retroactively terminate your eligibility to remain enrolled in a plan back to March 2014.

We further find that your carrier failed to properly notify as to the possible termination of your coverage and that you reasonably relied on their representations when you continued to pay what you thought was the premium amount due.

Accordingly, we find that you should have remained enrolled in your plan through 2014, and continuing to February 28, 2015, unless you chose to end your enrollment at an earlier date.

The matter is returned to the Marketplace for your enrollment to be reinstated for whatever portion of 2014 you request, up to and including February 28, 2015, in accordance with the Marketplace's prior determinations.

In order to continue your coverage through the end of the 2014 plan year, you are responsible for paying the remaining premium amounts due for this additional coverage.

Decision

Your disenrollment from the MetroPlus plan is MODIFIED to tentatively terminate effective December 31, 2014, provided the necessary premium amounts are paid to MetroPlus, pending your decision as to when you wish your coverage to end.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

You enrollment in the MetroPlus plan is reinstated such that you are eligible for coverage through December 31, 2014, and potentially continuing to February 28, 2015; provided, however, that any outstanding premium amounts for the additional months of coverage are paid.

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 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).

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

Your disenrollment from the MetroPlus plan is MODIFIED to tentatively terminate effective December 31, 2014, provided the necessary premium amounts are paid to MetroPlus, pending your decision as to when you wish your coverage to end.

You enrollment in the MetroPlus plan is reinstated such that you are eligible for coverage through December 31, 2014, and potentially continuing to February 28, 2015; provided, however, that any outstanding premium amounts for the additional months of coverage are paid.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

