



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: AP000000001812

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and February 16, 2015 eligibility determinations.

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).

This page intentionally left blank.



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

Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001812

[REDACTED]
[REDACTED]
[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine on December 22, 2014 that you and your children were eligible to purchase a qualified health plan at full cost, effective January 1, 2015?

Did the Marketplace properly determine on February 16, 2015 that you and your eldest son were eligible to receive an advance premium tax credit of up to \$539.00 per month, cost sharing reductions, and eligible for the advance premium tax credit premium assistance program, effective March 1, 2015?

Procedural History

In 2014, you and your children enrolled for health insurance coverage through the Marketplace with PrimarySelect EPO Silver Plan – A Consumer Operated and Oriented Plan (CO-OP) Option effective May 1, 2014.

On November 6, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. The notice stated that you and your children qualified for a tax credit up to \$184.18 per month to help pay for coverage. The notice further stated that, if you want to keep your present health plan for the next year and the information on your application was still accurate, you and your children were re-enrolled with PrimarySelect PCMH Silver NS INN Dep25 effective January 1, 2015.

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 November 14, 2014, the Marketplace issued another notice that stated it was time to renew your health insurance coverage for 2015. The notice stated, based on information from federal and state sources, the Marketplace could not make a decision about whether or not you and your children qualify for financial help paying for your health coverage. You were requested to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you and your children were newly eligible to purchase a qualified health plan at full cost. It also stated you were not eligible to receive advance premium tax credits because “renewal period and income data [was] not available.” You were also not eligible for cost-sharing reductions because you were ineligible to receive advance premium tax credits. This eligibility was effective January 1, 2015.

Also on December 22, 2014, the Marketplace issued an enrollment confirmation notice, which stated that as of December 22, 2014, you and your children were enrolled in PrimarySelect PCMH Silver NS INN Dep25 Acupuncture with a premium responsibility of \$687.06. The notice further stated that your health insurance coverage could start as early as January 1, 2015 if you pay your first month’s premium.

On February 15, 2015, the information in your Marketplace account was updated and the Marketplace issued a notice of eligibility redetermination on February 16, 2015. The notice stated that you and your eldest son were eligible to share an advance premium tax credit of up to \$539.00 per month, and you were eligible for the Advance Premium Tax Credit Premium Assistance Program. It also stated that you and your eldest son were eligible for cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective March 1, 2015.

On February 18, 2015, you spoke with the Marketplace’s Account Review Unit and appealed that determination insofar as it began your financial assistance eligibility effective March 1, 2015, and not January 1, 2015.

On March 23, 2015, you were scheduled to have a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. At that time, you were overseas and were unable to hold the hearing. Your hearing was adjourned to March 26, 2015, and then again to April 10, 2015.

On April 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. You waived your right to formal notice on the record. 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) The record reflects that, as of April 2, 2014, you elected to receive all information from the NY State of Health Marketplace electronically. You testified that you elected for electronic communications and automatic renewal because you anticipated being out of the country periodically throughout the year.
- 2) You testified that you did not receive any emails from the Marketplace informing you of notices available for review in your Marketplace account, including the renewal notices.
- 3) You testified that you have been out of the country for a significant part of the year. You further testified that you were unable to log into your Marketplace account while out of the country because the Marketplace portal is inaccessible internationally.
- 4) The record reflects that the Marketplace enrolled you and your children in PrimarySelect PCMH Silver NS INN Dep25 Acupuncture on December 22, 2014, with a monthly premium of \$687.06 effective January 1, 2015.
- 5) The record reflects that you did not update your Marketplace account by December 15, 2014. Your Marketplace account was updated on February 15, 2015.
- 6) The Marketplace issued a notice of eligibility determination on February 16, 2015 stating that you and your eldest son were eligible to share up to \$539.00 per month in advance premium tax credit, cost-sharing reductions, and were eligible for the Advance Premium Tax Credit Premium Assistance Program, effective March 1, 2015.
- 7) You testified that you are being charged the full premium amount from your health insurance provider, Health Republic Insurance of New York, for the months of January and February 2015, net of any automatic payments made based on your 2014 monthly premium payments.

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.

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR §155.330 (f)(2)), and it has chosen to do so.

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The issues under review are whether the Marketplace properly determined that you and your eldest child were eligible to enroll in a qualified health plan, at full

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).

cost, effective January 1, 2015, and whether you and your eldest child's eligibility for an advance premium tax credit (APTC) of up to \$539.00 per month, cost-sharing reductions, and the APTC Premium Assistance Program was effective March 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 projected eligibility determination for the following year. 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.

On November 6, 2014, the Marketplace issued an annual eligibility redetermination notice in your case, which was superseded by the November 14, 2014 annual eligibility redetermination notice. This notice stated that, based on information from federal and state sources, the Marketplace could not make a decision about whether or not you or your children qualify for financial help paying for your health coverage. You were requested to update the information in your NY State of Health account by December 15, 2014 or the financial help you and your children were receiving might end.

Your information was not updated prior to the deadline and on December 22, 2014, the Marketplace issued a notice that stated you and your children were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2015. You were not eligible to receive APTC or cost-sharing reductions because renewal period and income data was not available at the time of the redetermination.

Therefore, it is concluded that the Marketplace did not give you the proper notice that you needed to update your account.

You renewed your eligibility for financial assistance through the Marketplace for 2015 on February 15, 2015, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the December 22, 2014 notice of eligibility redetermination is **RESCINDED**. Your case is returned to the Marketplace for a redetermination of you and your eldest child's eligibility, effective January 1, 2015, based on the information you provided in your updated, February 15, 2015 application.

The February 16, 2015 eligibility determination is also **MODIFIED** to reflect that the APTC amount you and your eldest child were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

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).

Decision

The December 22, 2014 notice of eligibility redetermination is RESCINDED. Your case is RETURNED to the Marketplace for a redetermination of your and your eldest child's eligibility, effective January 1, 2015, based on the information you provided in your updated, February 15, 2015 application.

The February 16, 2015 eligibility determination is also MODIFIED to reflect that the advance premium tax credit amount you and your eldest child were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

You continue to be temporarily eligible to receive advance premium tax credit (APTC) as previously awarded; however, your case will be reevaluated to correct the amount of APTC due to you.

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 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 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 22, 2014 notice of eligibility redetermination is **RESCINDED**. Your case is **RETURNED** to the Marketplace for a redetermination of your and your eldest child's eligibility, effective January 1, 2015, based on the information you provided in your updated, February 15, 2015 application.

The February 16, 2015 eligibility determination is also **MODIFIED** to reflect that the advance premium tax credit (APTC) amount you and your eldest child were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

You continue to be temporarily eligible to receive APTC as previously awarded; however, your case will be reevaluated to correct the amount of APTC due to you.

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]