



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

### Notice of Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001813

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On May 19, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace backdating your enrollment date of coverage.

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

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NY State of Health Number: [REDACTED]  
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[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that the effective date for your enrollment in a silver-level qualified health plan was March 1, 2015?

Did the Marketplace properly backdate the effective date of your enrollment in a silver-level qualified health plan to February 1, 2015?

## Procedural History

On January 1, 2015, the Marketplace issued a notice of eligibility redetermination based on your updated application that you were eligible to receive up to \$194.00 of advance premium tax credits (APTC) and, if you selected a silver-level qualified health plan (QHP), eligible for cost-sharing reductions (CSR), effective February 1, 2015.

On January 22, 2015, the Marketplace issued an enrollment notice confirming your health plan selection of a silver-level QHP, SilverPlus-S2, Adult Dental and Vision on January 21, 2015. The notice also informed you that you had a monthly premium responsibility of \$204.82 after your APTC of \$194.00 was applied and your coverage could start as early as March 1, 2015, provided you paid your first month's premium on time.

Thereafter, the Marketplace backdated your enrollment start date to February 1, 2015 at your request.

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On February 18, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed having your coverage start date backdated to February 1, 2015.

On March 23, 2015, a Hearing Officer from the Marketplace's Appeals Unit attempted to contact you but could not reach you.

Based on your letter dated April 5, 2015 letter explaining your absence, the hearing was rescheduled.

On May 19, 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) According to your Marketplace account, your application was updated on December 17, 2015, an eligibility redetermination was prepared on January 1, 2015, and you selected a silver-level qualified health plan (QHP) on January 21, 2015.
- 2) You testified that you had originally requested that your coverage be backdated to February 1, 2015.
- 3) You testified and your Marketplace account reflects, that your backdate request was not processed until the middle of February 2015 and you did not want to be responsible for paying the monthly premium for that month when you did not think you would use your health insurance that month and, in fact, testified that you had not.
- 4) You testified that it would impose a financial hardship for you to have to pay a premium responsibility for health insurance of which you were not provided timely notice and did not use.
- 5) You do want coverage with SilverPlus-S2 for the month of February 2015 and do not want to be responsible for paying a monthly premium for coverage that month.
- 6) Your Marketplace account does not contain a notice indicating your coverage had been backdated to February 1, 2015.

- 7) You testified that you were moving as of July 1, 2015, and provided a new address to send your mail to, which is:

[REDACTED]  
[REDACTED]  
[REDACTED]

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

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

### 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 for functions in the Individual Marketplace (45 CFR § 155.310(g)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

### Annual Open Enrollment Period

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)).

For the benefit year beginning January 1, 2015, QHP coverage takes effect on January 1, 2015 for plans selected in the Marketplace on or before December 20, 2014 (45 CFR §155.410(f)(1); NY State of Health Extends December 15 Enrollment Deadline,

<http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-extends-december-15-enrollment-deadline> [last updated December 12, 2014]).

The Marketplace must ensure coverage is effective on February 1, 2015, for QHP selections received by the Marketplace by January 15, 2015 (45 CFR §155.410(f)(2)).

The Marketplace must ensure coverage is effective on March 1, 2015, for QHP selections received by the Exchange from January 16, 2015 through February 15, 2015. (45 CFR §155.410(f)(3)).

## **Legal Analysis**

You testified and the record reflects, that you enrolled in a qualified health plan (QHP) for 2015 on January 21, 2015, with a start date that could be as early as March 1, 2015.

Thereafter, based on your verbal request, the Marketplace backdated your coverage start date to February 1, 2015, but did not issue a written notice reflecting the change in your start date of coverage to that date.

Although the Marketplace did not issue a timely notice of your backdated enrollment in a silver-level QHP, this does not prevent the Appeals Unit from reaching the merits of your case on your February 18, 2015 appeal request. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, since the Appeals Unit review of Marketplace determinations on a de novo basis, no deference would have been granted to that written determination had it been issued before you filed your appeal.

The issue under review is whether the Marketplace properly determined that the effective date for your enrollment in a 2015 qualified health plan (QHP) was backdated to February 1, 2015.

You testified that you called the Marketplace around December 17, 2014 to renew your health insurance for 2015. You further testified that you had originally requested that the Marketplace backdate the start date of your enrollment in a silver-level QHP to February 1, 2015, but because there was such a delay in this request being processed, you no longer wanted coverage for February 2015 and, in fact, testified that you did not need coverage that month.

For the 2015 plan year, an enrollee in a QHP in the Marketplace between the beginning of open enrollment and December 20, 2014 is guaranteed a coverage effective date of January 1, 2015. An enrollee who selected a plan between January 16, 2015 and February 15, 2015, is guaranteed a coverage effective date of March 1, 2015.

Since you enrolled in a qualified health plan on January 21, 2015, the Marketplace properly determined that the effective date for your 2015 QHP coverage is March 1, 2015, and there is no valid reason for your coverage to have been backdated to February 1, 2015.

## **Decision**

The Marketplace did not issue a timely notice that your enrollment in a silver-level qualified health plan was backdated to February 1, 2015, in connection with your January 21, 2015 enrollment selection. However, the lack of such a notice does not affect your eligibility to select a plan or your eligibility for subsidized coverage through the Marketplace.

The January 1, 2015 eligibility redetermination and January 22, 2015 enrollment notice are AFFIRMED.

**Effective Date of this Decision:** July 28, 2015

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

This decision does not change your eligibility.

The effective date of enrollment under your 2015 silver-level qualified health plan could begin as early as March 1, 2015, provided you paid your monthly premium responsibility on time.

This Decision does not affect any subsequent determinations issued by the Marketplace.

## **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

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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 Marketplace did not issue a timely notice that your enrollment in a silver-level qualified health plan (QHP) was backdated to February 1, 2015, in connection with your January 21, 2015 enrollment selection. However, the lack of such a notice does not affect your eligibility to select a plan or your eligibility for subsidized coverage through the Marketplace.

The January 1, 2015 eligibility redetermination and January 22, 2015 enrollment notice are AFFIRMED.

This decision does not change your eligibility.

The effective date of enrollment under your 2015 silver-level QHP plan could begin as early as March 1, 2015, provided you paid your monthly premium responsibility on time.

This Decision does not affect any subsequent determinations issued by the Marketplace

## **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]