



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

Notice of Decision

Decision Date: June 26, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001827

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 8, 2015 disenrollment determination.

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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[REDACTED]
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Issue

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

Did the Marketplace properly determine on February 8, 2015, that you and your family are disenrolled from a platinum-level qualified health plan at full cost, effective February 28, 2015?

Procedural History

On October 18, 2014, the Marketplace issued a renewal notice that stated, if the information on your application is still accurate, you and your family were re-enrolled in your current platinum-level qualified health plan at full cost starting January 1, 2015.

On December 11, 2014, the Marketplace issued a letter confirming your family's enrollment as of November 18, 2014 in Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25, which could start as early as January 1, 2015 if you pay your first month's premium on time.

On December 27, 2014, the Marketplace issued a notice that said your family's 2014 coverage will end on December 31, 2014, but you all will be automatically renewed in the same plan for 2015.

On February 8, 2015, the Marketplace issued a disenrollment notice that said your February 7, 2015 request to end your insurance coverage had been processed and you will no longer have coverage with Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25, effective February 28, 2015.

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On February 19, 2015, you appealed the February 28, 2015 disenrollment date because you did not want coverage as of January 1, 2015 through the Marketplace.

On March 25, 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 you originally purchased a platinum-level qualified health plan at full cost through the Marketplace for you and your family and your plan began on February 1, 2014 and ended on December 31, 2014.
- 2) You testified that you chose to purchase the same health plan directly from the insurer for 2015 because it offered a wider network of participating providers.
- 3) You testified that you assumed the insurer, Empire, would process the transfer, including cancelling the 2014 plan you had through the Marketplace.
- 4) You testified that you received bills from Empire in January and February 2015 that said you were in arrears in paying your January and February 2015 premiums for the health plan through the Marketplace.
- 5) You testified you contacted Empire and they straightened out the billing issue on their end by reversing your health plan account through the Marketplace to a zero balance.
- 6) You testified an Empire representative told you that you would have to call the Marketplace to get the 2015 health plan through it cancelled.
- 7) You testified that no one in your family used the Empire plan through the Marketplace in January or February 2015.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). 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(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

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 when: (1) 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(2)(b)(i) and (ii)).

Legal Analysis

The Marketplace must redetermine a qualified individual's eligibility for health insurance annually, including individuals who are purchasing a plan at full cost. The Marketplace must issue a renewal notice that contains the information by which the Marketplace will use to determine an individual's eligibility. 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 a notice in your case that you and your family would be automatically re-enrolled in the same health plan for 2015, if your information in your Marketplace account had not changed. Since you did not report any changes, the Marketplace issued the December 11, 2014 letter confirming your family's enrollment in Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25, effective January 1, 2015.

However, you testified that you purchased the same health plan directly from the insurer for coverage beginning January 1, 2015, and did not make any premium payments for the health plan through the Marketplace and did not use that health plan in January or February 2015. You further testified that you did not realize

that you had to request cancellation of coverage until February 7, 2015, and contacted the Marketplace to request cancellation that day.

Since you had purchased coverage for your family outside the Marketplace for 2015, and did not pay any premiums for or use the 2015 health plan through the Marketplace, coverage under that plan should be cancelled effective December 31, 2014. For this reason, the February 8, 2015 disenrollment determination is MODIFIED to state that your family's coverage with Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25, is cancelled effective December 31, 2014.

Decision

The Marketplace's February 8, 2015 disenrollment notice is MODIFIED to state that your family's coverage with Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

Effective Date of this Decision: June 26, 2015

How this Decision Affects Your Eligibility

Your family's coverage with Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

Your family does not have health insurance coverage through the Marketplace as of January 1, 2015.

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

The Marketplace's February 8, 2015 disenrollment notice is MODIFIED to state that your family's coverage with Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

Your family's coverage with Empire HMO 0 Platinum ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

Your family does not have health insurance coverage through the Marketplace as of January 1, 2015.

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]