



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

Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001871

[REDACTED]

Dear [REDACTED],

On April 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 eligibility determination notice and the February 25, 2015 disenrollment notice.

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 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001871

[REDACTED]

Issue

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

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

Were you and your spouse properly enrolled in EssentialCare Silver ST INN Dep25 for the months of January and February 2015?

Procedural History

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, based on federal and state data sources, a decision about whether or not you and your spouse qualified for financial help paying for your health coverage could not be made. You were directed to update the information in your NY State of Health account by December 15, 2014, or the financial help you were receiving might end.

No updates were made to your account by December 15, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination that stated you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice further stated that you and your spouse were not eligible to receive an advance premium tax credit or cost-sharing reductions because renewal period and income data were not available. This eligibility was 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 December 23, 2014, the Marketplace issued an enrollment confirmation notice that stated, as of December 22, 2014, you and your spouse were enrolled in EssentialCare Silver ST INN Dep25 with a premium responsibility of \$663.40 per month. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin.

On February 24, 2015, your account was updated and the Marketplace prepared a preliminary eligibility determination in your case. It stated that you and your spouse were eligible for Medicaid based on a household income of \$0.00. You requested reimbursement of the premiums you purportedly owed for January through March 2015.

Also on February 24, 2015, you spoke with the Marketplace's Account Review Unit and appealed the December 22, 2014 eligibility determination insofar as it did not approve any financial assistance toward the cost of your qualified health plan. You also requested that the Marketplace defray the monthly premium costs for January, February, and March 2015.

On April 9, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting income documentation.

On April 23, 2015, the Marketplace received your supporting documentation, which included a copy of your Health Republic Insurance of New York invoice dated February 9, 2015, and a copy of your spouse's paystub issued on February 6, 2015. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

The record was closed on April 23, 2015.

Findings of Fact

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

- 1) You testified that you have received health insurance premium bills from Health Republic Insurance of New York ("Health Republic") for January, February, and March 2015. You further testified that you want the costs defrayed for these premiums.
- 2) You testified that you initially applied for health insurance through the Marketplace with the assistance of a Navigator, since you were not familiar with the process. You further testified that, because you used a

Navigator, you were not aware that you had a NY State of Health account, nor were you aware that you could access that account.

- 3) The record reflects that the Marketplace issued a notice on October 21, 2013 confirming your election to receive all communications from the Marketplace electronically.
- 4) You testified that you did not receive the renewal notices associated with your account via mail, nor did you receive any email notifications that you had notices to review.
- 5) You testified that you paid your health insurance premiums every month throughout 2014 at \$64.28 per month. You further testified that you logged into your account with Health Republic to pay your January 2015 premium around January 2, 2015. You further testified that you paid the same insurance premium amount under the belief that the same advance premium tax credit amount was applied to your January 2015 premium because that was the balance indicated at that time.
- 6) You testified that you were aware your advance premium tax credit was discontinued in mid-February 2015 when you logged into your Health Republic account and saw that your premium increased. You testified that you spoke with Health Republic and the Marketplace who each stated that you were contractually "locked-into" the higher monthly premiums because you made a partial payment in January 2015.
- 7) You testified that you and your spouse did not receive any medical care during January, February, or March 2015, and therefore did not use your health insurance during those months.
- 8) The record reflects that you and your spouse were determined eligible for Medicaid effective February 1, 2015.
- 9) You testified that you called Health Republic to cancel your coverage at the end of February 2015.
- 10) You testified that you were a student in January 2015 and had no income. You further testified that your spouse started a new job in late January 2015. You testified that your income during the month of January 2015 was likely \$0.00. You were requested to provide proof of your spouse's first paystub. You provided evidence of your spouse's first paystub, which was issued on February 6, 2015 (Appellant's Exhibit 1, April 23, 2015).

11) You were subsequently found eligible for Medicaid effective February 1, 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

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 individual's projected eligibility for the upcoming 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.

Termination of Coverage

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)).

Electronic Notice

The Marketplace must permit individuals a choice to receive notices and information in electronic format or by regular mail and must be permitted to change such election (45 CFR § 155.230(d); 42 CFR § 435.918(a)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were eligible to purchase a qualified health plan at full cost effective January 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 for the upcoming 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 a notice of eligibility redetermination that stated, based on information from federal and state data sources, a decision could not be made about whether or not you and your spouse 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.

The Marketplace did not receive your updated information by December 20, 2014 and was therefore required to use the projected eligibility contained in the November 6, 2014 notice to determine your eligibility for coverage beginning January 1, 2015.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination that stated you and your spouse were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You were not eligible to receive an advance premium tax credit or cost-sharing reductions because renewal period and income data were not available at the time of the redetermination. This was consistent with the notice you were sent on November

6, 2014; therefore, the Marketplace's December 22, 2014 eligibility determination was proper and is AFFIRMED.

The second issue is whether you and your spouse were properly enrolled in EssentialCare Silver ST INN Dep25 for the months of January and February 2015.

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan with appropriate notice to the Marketplace. You did not call to end your coverage until the end of February 2015; therefore, the Marketplace properly ended your coverage effective March 31, 2015.

However, you credibly testified that you did not receive the renewal notice from the Marketplace, either in email or written form, nor were you aware that your advance premium tax credit had been discontinued.

The record does not contain any evidence on behalf of the Marketplace as to whether or not the electronic communications sent to you were undeliverable. The record also does not contain evidence that notices were sent by regular mail after any failed electronic communication. Without evidence on behalf of the Marketplace, it must be presumed that you were not given proper notice of the actions planned or contemplated by the Marketplace.

Since you did not receive notice of the renewal and, therefore, were not aware of the renewal period, and since no claims were made to the health plan during the month of January 2015, it is proper to discontinue coverage with EssentialCare Silver ST INN Dep25 for the month of January 2015.

You provided evidence that you and your spouse may have been eligible for Medicaid during the month of January 2015.

The Department of Health must make a Medicaid recipient's coverage begin retroactively for up to three months prior to the month of application if the recipient received medical services that would have been covered under Medicaid *and* the recipient would have been eligible for Medicaid at the time she received the services, if she had applied.

You testified that neither you nor your spouse received any medical care during the month of January 2015. Therefore, the Department of Health cannot retroactively begin you and your spouse's Medicaid coverage effective January 1, 2015.

Decision

The Marketplace's December 22, 2014 eligibility determination is AFFIRMED.

The February 25, 2015 disenrollment notice is MODIFIED to state that coverage with EssentialCare Silver ST INN Dep25 ended effective December 31, 2014.

Effective Date of this Decision: August 21, 2015

How this Decision Affects Your Eligibility

Your coverage with EssentialCare Silver ST INN Dep25 ended December 31, 2014.

Your Medicaid coverage began effective February 1, 2015.

The Department of Health cannot retroactively begin you and your spouse's Medicaid coverage effective 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 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 Marketplace's December 22, 2014 eligibility determination is **AFFIRMED**.

The February 25, 2015 disenrollment notice is **MODIFIED** to state that coverage with EssentialCare Silver ST INN Dep25 ended effective December 31, 2014.

Your coverage with EssentialCare Silver ST INN Dep25 ended December 31, 2014.

Your Medicaid coverage began effective February 1, 2015.

The Department of Health cannot retroactively begin you and your spouse's Medicaid coverage effective 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:

