



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

Notice of Decision

Decision Date: June 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001905

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 28, 2014 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 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 issues presented for review by the Appeals Unit of NY State of Health are:

Was the February 28, 2015 appeal request timely?

If the appeal can be addressed, did the Marketplace properly determine that your qualified health plan coverage ended effective October 31, 2014?

Procedural History

You initially applied for health insurance through the Marketplace on December 24, 2013.

The Marketplace issued a notice of eligibility on December 27, 2013, which stated that you were eligible to receive an advance premium tax credit of up to \$270.00 per month and cost-sharing reductions. The notice further stated that you had selected and enrolled in a health insurance plan.

On October 28, 2014, the Marketplace issued a disenrollment notice, which stated that your request of October 27, 2014 to end your insurance coverage with your plan had been processed. The notice further stated that you would no longer have coverage with this plan effective October 31, 2014. The notice advised you that you had "60 days from the date on your eligibility notice to ask for an appeal."

No appeal request was received by the Marketplace on or before December 27, 2014.

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On February 28, 2015, you spoke with the Marketplace's Account Review Unit and appealed the disenrollment notice insofar as it did not retroactively disenroll you from your plan effective March 31, 2014.

On April 20, 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 were unable to pay your health insurance premiums in March 2014. You further testified that you made a final payment in March 2014 and then stopped paying your monthly premiums. You testified that you did not cancel your policy at that time.
- 2) You testified that you started a new job in August 2014. You further testified that you cancelled your health insurance plan after you began your new job.
- 3) The record reflects that you requested to cancel your health insurance plan on October 27, 2014.
- 4) You testified that you did not use your health insurance plan in 2014.
- 5) You testified that you want to backdate your health insurance disenrollment effective April 1, 2014.

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

Applicable Law and Regulations

Appeal Timeliness

An applicant has the right to appeal (1) an eligibility determination, (2) a determination for an exemption, (3) a failure by the Exchange to provide timely notice of an eligibility determination, and (4) a denial of a request to vacate a dismissal made by the Marketplace (45 CFR § 155.505).

The Marketplace must allow an individual to request an appeal within "(1) 90 days of the date of the notice of eligibility determination; or (2) A timeframe consistent with the state Medicaid agency's requirement for submitting fair

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hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination” (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

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 the qualified health plan (45 CFR § 155.430(b)(1)(i), 45 CFR § 155.430(d)2)). The Marketplace also must implement changes affecting enrollment on the first day of the month following the date on which the Marketplace is notified of the change (45 CFR § 155.330(f)(1)(iii)).

For enrollee-initiated terminations, the last day of coverage is either:

- The termination date specified by the enrollee, if they provide notice at least 14 days before the requested termination becomes effective;
- Fourteen days after the enrollee requests the termination, if they do not provide 14 days’ notice; or
- On a date on or after the date the enrollee requests the termination, subject to the determination of the enrollee’s qualified health plan issuer, if the enrollee’s qualified health plan issuer agrees to effectuate termination in fewer than 14 days, and the enrollee requests and earlier termination effective date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

Here, the threshold issue is whether your February 28, 2015 appeal request was timely.

A disenrollment notice dated October 28, 2014 stated that your request of October 27, 2014 to end your insurance coverage with your plan had been processed. The notice further stated that you will no longer have coverage with this plan effective October 31, 2014. The notice advised you that you had “60 days from the date on your eligibility notice to ask for an appeal.”

The sixty-day period to submit a timely review request ended on December 27, 2014, and no appeal request was filed during that period.

Since the February 28, 2015 appeal request was untimely, the Appeals Unit declines to address it. The appeal is dismissed.

Decision

The February 28, 2015 appeal of the October 28, 2014 disenrollment notice is untimely and is dismissed.

Effective Date of this Decision: June 30, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

The February 28, 2015 appeal of the October 28, 2014 disenrollment notice is untimely and is dismissed.

This decision does not change your eligibility.

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]