



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

Notice of Decision

Decision Date: August 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001934

[REDACTED]

Dear [REDACTED],

On April 17, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 3, 2014 and March 5, 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).

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NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace properly determine on November 3, 2014 that you and your spouse were eligible to purchase a qualified health plan through the Marketplace only at full cost, effective January 1, 2015?

Did the Marketplace properly determine that on March 5, 2015 you and your spouse were eligible to receive advance premium tax credits and cost sharing reductions effective April 1, 2015?

Procedural History

In 2014, you and your spouse enrolled for health insurance coverage through the Marketplace with Silver Standard effective January 1, 2014.

On November 3, 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 spouse no longer qualified for tax credits or cost sharing reductions to help you pay for health coverage, but that you did qualify to purchase a health plan at full cost through NY State of Health. The Marketplace would re-enroll you and your spouse in Silver Standard Silver ST INN Dep25 for another year. The notice further stated if the Marketplace made a mistake about the individuals covered, or if anything has changed that would affect what you paid for health insurance, you would have to make changes to your account by December 15, 2014 for the changes to be effective January 1, 2015.

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On December 11, 2014, the Marketplace issued an enrollment confirmation notice, stating that as of November 18, 2014 you and your spouse were enrolled in Silver Standard Silver ST INN Dep25 with a premium responsibility of \$993.43 per month. The notice further stated that your health insurance coverage could start as early as January 1, 2015 if you paid your first month's premium.

No updates were made to your account before December 20, 2014.

On March 4, 2015, the information in your Marketplace account was updated and the Marketplace prepared a preliminary eligibility determination in your case. It stated that you and your spouse are eligible to enroll in a qualified health plan through the Marketplace and share up to \$675.00 per month in advance premium tax credits and, if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective April 1, 2015.

Also on March 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed the preliminary determination insofar as it began your eligibility for financial assistance on April 1, 2015, and not January 1, 2015.

On March 5, 2015, the Marketplace issued a notice of eligibility redetermination that corresponded with the March 4, 2015 preliminary eligibility determination.

On April 17, 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) The record reflects that, as of December 1, 2013, you elected to receive all information from the New York Marketplace electronically.
- 2) You testified that you did not receive any emails from the Marketplace informing you that notices were in your Marketplace account, including the renewal notices. You further testified that because you did not receive any notices from the Marketplace, you did not realize you had to renew your health insurance coverage every year.
- 3) You testified that you paid a monthly premium of approximately \$250.00 directly to your health insurance provider (Excellus BlueCross Blue Shield) for the months of January and February 2015 because that is the premium amount indicated as due on your Excellus account for those months. You testified that you assumed this premium amount was correct. You further testified that when you attempted to pay your

premium for March 2015, your account was locked and you were prevented from making a payment.

- 4) The record reflects that the Marketplace enrolled you and your spouse in Silver Standard Silver ST INN Dep25 on December 11, 2014 with a premium responsibility of \$993.43 per month effective January 1, 2015. You testified that you did not receive the December 11, 2014 enrollment notice.
- 5) The record reflects that you did not update your Marketplace account by December 15, 2014. Your Marketplace account was updated on March 4, 2015.
- 6) The Marketplace issued a notice of eligibility determination on March 5, 2015 stating that you and your spouse were eligible to share up to \$675.00 per month in advance premium tax credit and cost-sharing reductions effective April 1, 2015.
- 7) You testified that you are being charged the full premium amount from Excellus BlueCross BlueShield for the months of January and February 2015, net of any payments made during those months based on what your Excellus BlueCross BlueShield account indicated was due.

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

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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 spouse were eligible to enroll in a qualified health plan, at full cost, effective January 1, 2015 and whether you and your spouse's eligibility for an advance premium tax credit (APTC) of up to \$675.00 per month and cost-sharing reductions 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 3, 2014, the Marketplace issued an annual eligibility redetermination notice in your case, which stated that you and your spouse qualify to purchase a health plan at full cost through the Marketplace. It further stated that, if you wanted to keep your present health plan for the next year and the information on your application was still accurate, the Marketplace re-enrolled you and your spouse in Silver Standard Silver ST INN Dep25 for another year. The notice further stated if the Marketplace made a mistake about the individuals

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covered, or if anything has changed that would affect what you pay for health insurance, you must make changes to your account by December 15, 2014 for your plan to be effective January 1, 2015.

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the November 3, 2014 renewal notice asking you to update your information with the Marketplace.

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 March 4, 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 November 3, 2014 annual renewal notice of eligibility redetermination is **RESCINDED**. Your case is returned to the Marketplace for a redetermination of your eligibility, effective January 1, 2015, based on the information you provided in your updated, March 4, 2015 application.

The March 5, 2015 eligibility determination is also **MODIFIED** to reflect that the APTC amount you were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

Decision

The November 3, 2014 annual renewal eligibility redetermination notice is **RESCINDED**. Your case is returned to the Marketplace for a redetermination of your eligibility, effective January 1, 2015, based on the information you provided in your updated, March 4, 2015 application.

The March 5, 2015 eligibility determination is also **MODIFIED** to reflect that the APTC amount you were eligible to receive is tentative and that the amount might change based on the redetermination referenced above.

Effective Date of this Decision: August 18, 2015

How this Decision Affects Your Eligibility

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.

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 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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- By fax: 1-855-900-5557

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Summary

The November 3, 2014 annual renewal eligibility redetermination notice is **RESCINDED**. Your case is returned to the Marketplace for a redetermination of your eligibility, effective January 1, 2015, based on the information you provided in your updated, March 4, 2015 application.

The March 5, 2015 eligibility determination is also **MODIFIED** to reflect that the APTC amount you 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:

