



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

Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001953

[REDACTED]

Dear [REDACTED]

On April 15, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 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 federal regulation 45 CFR § 155.545(b).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001953

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Issue

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

Did the Marketplace properly disenroll you from your health insurance plan effective December 31, 2014?

Procedural History

On October 21, 2013, the Marketplace issued a notice confirming your election to receive all information from the Marketplace electronically.

The Marketplace received a non-financial assistance application for health insurance on November 13, 2013. In response to that application, the Marketplace prepared a preliminary eligibility determination stating that you were eligible to enroll in a qualified health plan. There is nothing in your account to show that a written eligibility determination notice was issued by the Marketplace regarding this application and preliminary determination.

Your Marketplace account indicates that you enrolled in a Health Republic platinum plan, with coverage beginning January 1, 2014. There is nothing in your account to show that a written notification confirming your enrollment under this plan was issued by the Marketplace.

On November 16, 2014, the Marketplace issued a renewal notice, stating that it was time for you to renew your health coverage for 2015. The notice stated that based on the information from federal and state source, the Marketplace could not make a decision about whether you qualified to enroll in health insurance

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through the Marketplace for 2015. You were requested to update your Marketplace account before December 16, 2014 so that a decision could be made. Finally, the notice stated that if you missed this deadline, your coverage in 2015 may not be continued.

No updates were made to your account by December 20, 2015.

On January 25, 2015, the Marketplace issued a disenrollment notice stating that, "Your coverage will end effective December 31, 2014." You were advised to update your account, and that if you did not update your coverage and select a new plan, you might lose your health coverage.

On March 5, 2015, you spoke with the Marketplace's Account Review Unit and appealed the January 25, 2015 disenrollment notice insofar as you were disenrolled from your plan effective December 31, 2014.

On April 15, 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 in November 2014 you received a notice from the Marketplace stating that it was time for you to renew your health insurance through the Marketplace, and that if you did not update your account, you could be disenrolled.
- 2) You testified that you called Health Republic immediately after having received the notice and asked them what you should do. You further testified that a Health Republic representative instructed you that since you were a Health Republic member and currently enrolled in a plan, no further action was required on your part unless you wanted to change the plan you were in.
- 3) You testified that you relied upon the Health Republic representative's statement that you did not need to take any further action to renew your health coverage for 2015.
- 4) You testified that Health Republic debited \$515.81 from your checking account on December 23, 2014, and again debited \$515.81 from your checking account January 21, 2015, which you presumed was for coverage during the months of January 2015 and February 2015, respectively.

- 5) You testified that you were out of the country during the entire month February of 2015 due the illness and eventually the passing of your father.
- 6) You testified that you returned to the U.S. during the first week of March 2015, and noticed that the same \$515.81 premium had not been deducted from your checking account for coverage during March 2015.
- 7) You testified that when you called Health Republic, you were told that your policy had been terminated.
- 8) You testified that you had not yet been refunded the two months of premiums that were debited from you.
- 9) You testified that you want the policy revived or to be refunded your two months of premium amount.
- 10) You testified that once you had been told by a Health Republic representative that you had been disenrolled effective December 31, 2014, you purchased a separate policy outside of the Marketplace. You further testified that you would prefer to become reenrolled in the Health Republic plan, or in lieu of that, be refunded the premium amounts that are due to be refunded to you.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Except in limited situations, the Marketplace must redetermine the eligibility of a qualified individual on an annual basis (45 CFR § 155.335(a)(1)). One limitation occurs when an individual has requested an eligibility determination for an insurance affordability program but the Marketplace does not have an authorization to obtain tax data on the applicant (45 CFR §155.335(l)).

The other limitation occurs when an individual's eligibility was redetermined during the prior year, and the qualified individual was not enrolled in a qualified health plan (QHP) through the Marketplace at the time of such redetermination and did not enroll in a QHP through the Marketplace since such a redetermination (45 CFR § 155.335(m)).

During this annual eligibility determination, the Marketplace must provide a qualified individual with an annual redetermination notice that includes the

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individual's projected eligibility determination for the following year, after considering any updated information, including, if applicable, the amount of any financial assistance (45 CFR § 155.335(c)(3)).

If an individual fails to respond to the renewal notice, the Marketplace must redetermine that individual's eligibility using the prospective eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)), and provide timely written notice of any such eligibility determination (45 CFR § 155.310(g)).

The Marketplace may not require a qualified individual who did not request an eligibility determination for insurance affordability programs to report changes that affect eligibility for insurance affordability programs (45 CFR § 155.335(e)(1)).

Termination of Coverage

The Marketplace may initiate termination of an enrollee's coverage in a QHP and must permit a QHP issuer to terminate such coverage when: (1) The enrollee is no longer eligible for coverage in a QHP 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 individual's prospective 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 16, 2014, the Marketplace sent you a notice that stated it was time to renew your health coverage for 2015. It requested that you update your account by December 16, 2014 so that a decision could be made on whether you qualified for health coverage through the Marketplace.

You credibly testified that you received the notice and immediately contacted a Health Republic representative to see if you needed to take any further steps to reenroll during the 2015 plan year. You further testified that you were instructed by the Health Republic representative that you needed to take no further action so long as you intended to reenroll in your current plan and make no changes.

You further testified that Health Republic debited \$515.81 from your checking account on December 23, 2014, and again debited \$515.81 from your checking account January 21, 2015, which you presumed was for coverage during the

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months of January 2015 and February 2015, respectively. However, you only began to inquire on whether you were covered after returning from a trip out of the U.S. and you realized your account had not been charged in February for March 2015 coverage. You further testified that it was not until you had spoken with a Health Republic representative in early March that you realized you coverage had been terminated.

The credible evidence of record reflects that you reasonably relied upon the Health Republic representative's statements that you needed to take no further action on your part to renew your plan coverage for 2015 and the fact that premiums were deducted from your bank account. No eligibility determination notice was issued for the 2015 plan year before your coverage was terminated, and you did not receive notice of the termination until almost a month after the termination occurred.

We find therefore that the Marketplace improperly terminated your coverage effective December 31, 2014, and the January 25, 2015 disenrollment notice is tentatively RESCINDED.

Your case is RETURNED to the Marketplace, which will contact you regarding your choice as to whether you will resume coverage through the Marketplace or elect to have a refund of the premiums you paid for periods when you were not provided with insurance coverage. If necessary, you are provided with a special enrollment period extending 60 days past the date of this decision in which to reenroll in coverage through the Marketplace, if you so choose.

Decision

The January 25, 2015 disenrollment notice is RESCINDED.

Your case is RETURNED to the Marketplace, which will contact you regarding your choice as to whether you will resume coverage through the Marketplace or elect to have a refund of the premiums you paid for periods when you were not provided with insurance coverage. If necessary, you are provided with a special enrollment period extending 60 days past the date of this decision in which to reenroll in coverage through the Marketplace, if you so choose.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

This is not your final decision. You will be contacted shortly by the Marketplace regarding your enrollment through 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 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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Summary

The January 25, 2015 disenrollment notice is RESCINDED.

Your case is RETURNED to the Marketplace, which will contact you regarding your choice as to whether you will resume coverage through the Marketplace or elect to have a refund of the premiums you paid for periods when you were not provided with insurance coverage. If necessary, you are provided with a special enrollment period extending 60 days past the date of this decision in which to reenroll in coverage through the Marketplace, if you so choose.

This is not your final decision. You will be contacted shortly by the Marketplace regarding your enrollment through the Marketplace.

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:

