



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

## Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002107

[REDACTED]

Dear [REDACTED]

On April 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 3, 2015 enrollment 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).

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## Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002107

[REDACTED]

## Issue

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

Did the Marketplace properly determine that your enrollment in your qualified health plan, BlueCross BlueShield of Western New York Silver Standard plan (code 49526NY0450014-06), could begin March 1, 2015?

## Procedural History

During the 2014 plan year, you were enrolled in a BlueCross BlueShield of Western New York Silver Standard plan (code 49526NY0450014-06).

On December 2, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$187.00 per month; and if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective January 1, 2015.

On December 9, 2014, the Marketplace issued a notice confirming as of December 2, 2014 your selection and enrollment in the Silver, ST, INN, Dep25 plan with a premium responsibility of \$245.35 and an effective date of January 1, 2015.

On January 16, 2015, the Marketplace issued a notice confirming as of January 14, 2015 your selection and enrollment in the BlueCross BlueShield of Western New York POS7100, Silver, NS, OON, Dep25 plan with a premium responsibility of \$212.35. If you paid the first month's premium, your coverage could begin as

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early as February 1, 2015. A second notice issued the same day confirmed your disenrollment from Silver, ST, INN, Dep25.

On February 1, 2015, the Marketplace issued an eligibility redetermination notice stating that you were conditionally eligible to enroll in a QHP; conditionally eligible to receive an APTC of up to \$242.00 per month; and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective March 1, 2015. You needed to provide documentation of your income before May 3, 2015.

On February 1, 2015, the Marketplace issued a disenrollment notice stating that your coverage under the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-05) would end effective February 28, 2015.

On February 1, 2015, the Marketplace issued a notice confirming as of January 31, 2015 your selection and enrollment in the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-05) at a premium rate of \$157.35, effective March 1, 2015.

On February 3, 2015, the Marketplace issued a notice confirming as of February 2, 2015 your selection and reenrollment in the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) at a premium rate of \$157.35, effective March 1, 2015.

On March 17, 2015, your Marketplace account enrollment details reflect your enrollment in the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) was backdated for coverage beginning February 1, 2015.

On March 19, 2015, you spoke with the Marketplace's Account Review Unit and appealed the March 17, 2015 enrollment notification insofar as you were seeking to backdate coverage under POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) to January 1, 2015.

On April 28, 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, and the record reflects, that you were enrolled in the BlueCross BlueShield of Western New York Silver Standard plan (code 49526NY0450014-06) for the entirety of 2014.

- 2) You testified that you called the Marketplace in early December 2014 for help in selecting a plan. You stated that you were content with the plan you were enrolled in during 2014 and stated that you wanted to remain in that plan during 2015.
- 3) You testified that on the Marketplace's website, you were given a list of three plans to select, none of which referred to the "Silver Standard C plan" you had been enrolled in during 2014, and there was no option to merely renew the plan you had previously been enrolled in during 2014. You testified that you inadvertently selected a different plan, which was the Silver, ST, INN, Dep25 plan (code 49526NY0450014-05) with a premium responsibility of \$245.35.
- 4) You testified that you didn't realize that you selected the incorrect plan until you had received a letter from BlueCross BlueShield of Western New York during January 2015, which stated that you had selected a "Silver Standard B" plan, instead of the "Silver Standard C" plan.
- 5) The record reflects that you contacted the Marketplace on January 14, 2015, and spoke with a Marketplace representative to place you in the plan you were in during 2014.
- 6) The Marketplace placed you in the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-05) with an effective date of February 1, 2015.
- 7) You testified that after contacting the Marketplace again on or about February 3, 2015, you were placed in the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) effective March 1, 2015, which you confirmed was the plan you were enrolled in during 2014.
- 8) On or about March 17, 2015, a Marketplace representative took independent action to backdate your coverage under the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) to begin on February 1, 2015.

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

## **Applicable Law and Regulations**

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a Qualified Health Plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

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The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)).

For the benefit year beginning January 1, 2015, QHP coverage takes effect on January 1, 2015 for plans selected in the Marketplace on or before December 20, 2014 (45 CFR §155.410(f)(1); NY State of Health Extends December 15 Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-extends-december-15-enrollment-deadline> [last updated December 12, 2014]).

The Marketplace must ensure coverage is effective on February 1, 2015, for QHP selections received by the Marketplace by January 15, 2015 (45 CFR § 155.410(f)(2)).

## **Legal Analysis**

The issue under review is when your coverage under the BlueCross BlueShield of Western New York Silver Standard plan (code 49526NY0450014-06) plan should have taken effect.

In order to have had your coverage under the Total Independence plan begin January 1, 2015, you would have had to select this plan for enrollment by December 20, 2014.

While you contend that you attempted to reenroll in the same plan during 2015 that you were enrolled in during 2014, which was the BlueCross BlueShield of Western New York Silver Standard plan (code 49526NY0450014-06), and were prevented from doing so by your confusion with the Marketplace selections, the record reflects that you voluntarily selected the Silver, ST, INN, Dep25 plan (code 49526NY0450014-05) on December 2, 2014, without the assistance of a Marketplace representative, which began your coverage under that plan on January 1, 2015.

You credibly testified that you updated your application and changed to a different QHP, which is permitted during the open enrollment period. The effective date of the new plan was contingent upon the date that that you selected the new plan. Since you selected the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-05) with the assistance of a Marketplace representative on January 14, 2015 and then ultimately selected the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) on February 1, 2015, it appropriately began such coverage on March 1, 2015.

The record reflects that a Marketplace representative took independent action on March 17, 2015 to backdate your coverage under the POS7100, Silver, NS,

OON, Dep25 plan (code 49526NY0450019-06) to February 1, 2015 to correct the Marketplace representative's inadvertent selection of an improper plan.

Accordingly, we find there is enough evidence that the February 3, 2015 notice of enrollment be MODIFIED solely to the extent that your plan coverage under the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) be backdated to February 1, 2015, which is consistent with the Marketplace's independent action.

## **Decision**

The February 3, 2015 notice of enrollment is MODIFIED solely to the extent that your plan coverage under the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) be backdated to February 1, 2015.

**Effective Date of this Decision:** September 3, 2015

## **How this Decision Affects Your Eligibility**

You are eligible for coverage under the Silver, ST, INN, Dep25 plan (code 49526NY0450014-05) from January 1, 2015 to January 31, 2015.

You are eligible for coverage under the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) beginning February 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)).

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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 February 3, 2015 notice of enrollment is MODIFIED solely to the extent that your plan coverage under the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) be backdated to February 1, 2015.

You are eligible for coverage under the Silver, ST, INN, Dep25 plan (code 49526NY0450014-05) from January 1, 2015 to January 31, 2015.

You are eligible for coverage under the POS7100, Silver, NS, OON, Dep25 plan (code 49526NY0450019-06) beginning February 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:**

