



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

## Notice of Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002151

[REDACTED]

Dear [REDACTED]

On April 30, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 31, 2014 enrollment notice and March 24, 2015 termination 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).

This page intentionally left blank.



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

## Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002151



## Issue

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

Did the Marketplace properly reenroll you and your spouse in the Health Republic Essential Care silver-level plan at full cost, effective January 1, 2015?

Did the Marketplace properly terminate coverage under the Health Republic Essential Care silver-level plan for you and your spouse, effective March 31, 2015?

## Procedural History

The Marketplace received your initial application for health insurance on December 6, 2013.

On December 14, 2013, the Marketplace issued a notice that stated you and your spouse were eligible to enroll in a qualified health plan (QHP); eligible to receive up to \$398.00 per month in advance premium tax credit (APTC); and, if you selected a silver level plan, eligible for cost-sharing reductions (CSR). The notice also confirmed the selection of and enrollment in the Health Republic Essential Care silver-level plan and an Adult Smiles dental plan at a monthly premium of \$301.82.

On November 6, 2014 and on November 20, 2014, the Marketplace issued notices stating, among other things, that it was time to renew your health insurance coverage for 2015. The notices stated that based on information from

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).

federal and state sources, the Marketplace could not make a decision about whether or not you and your spouse qualified for continuing financial help in paying for your health coverage in 2015. You were directed to update the information in your NY State of Health account between November 16, 2014 and December 15, 2014, or the financial help you were receiving might end.

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

On December 31, 2014, the Marketplace issued an eligibility redetermination notice that stated you and your spouse were newly eligible to purchase a QHP at full cost. You were not eligible to receive APTC because “renewal period and income data [was] not available.” You were not eligible for cost-sharing reductions because you were ineligible to receive APTC. You were not eligible for Medicaid because your household income was in excess of that allowed by that program. This eligibility was effective January 1, 2015.

That same day, the Marketplace issued an enrollment notice confirming as of December 31, 2014 that you and your spouse were enrolled in the Health Republic Essential Care silver-level plan with a premium responsibility of \$745.22. The notice further stated that if you had a premium responsibility, you would have to pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not health coverage.

On March 23, 2015 information in your Marketplace account was updated; the Marketplace prepared a preliminary determination stating that you and your spouse were eligible to receive up to \$501.00 per month in APTC, as well as for CSR.

That same day, you spoke to the Marketplace’s Account Review Unit and appealed the December 31, 2014 enrollment notification and the March 23, 2015 preliminary determination.

On March 24, 2015, the Marketplace issued an eligibility redetermination notice that stated you and your spouse were newly eligible to receive up to \$501.00 in APTC, and, if you selected a silver-level plan, CSR. This eligibility was effective May 1, 2015.

On April 30, 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) Your Marketplace account indicates that you requested to receive notices from the Marketplace via regular U.S. mail.
- 2) You testified that you did not receive any notices from the Marketplace telling you that you needed to update the information in your Marketplace account to ensure that your financial assistance would continue.
- 3) You testified that you did not receive any notice from the Marketplace informing you that you and your spouse had been reenrolled in the Health Republic Essential Care silver-level plan for the 2015 plan year.
- 4) You testified, and provided photographic reflecting, that your mailbox has been vandalized and that might have been the reason you were not receiving the notices.
- 5) No notices sent to you at the address listed on your Marketplace account have been returned as undeliverable.
- 6) You testified that you did not take any steps to reenroll you and your spouse in the Health Republic Essential Care silver-level plan for the 2015 plan year.
- 7) You testified that you did not even know you had been reenrolled until Health Republic attempted to withdraw \$1,972.84 from your checking account on or about March 11, 2015, but failed due to insufficient funds. You further testified that since this transaction failed, you have not paid any premium amounts to Health Republic for the coverage months of January through March 2015.
- 8) You testified that you contacted the Marketplace on or about March 23, 2015 to cancel the Health Republic Essential Care silver-level plan since you could not afford it.
- 9) Coverage under the Health Republic Essential Care silver-level plan for you and your spouse was terminated effective March 31, 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 information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). 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(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

### 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 15<sup>th</sup> 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.

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

## **Legal Analysis**

The first issue is whether or not the Marketplace properly reenrolled you in your plan for 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).

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 information by which the Marketplace will use to determine an individual's 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 6, 2014 and November 20, 2014, the Marketplace issued annual eligibility redetermination notices in your case. These notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you would qualify for financial help paying for your health coverage in 2015. You were asked to update the information in your account by December 15, 2014 or the financial help you were receiving might end.

You testified that you did not receive any notices informing you that your application needed to be updated.

The record indicates that the notices were issued to the address you have listed on your Marketplace account, and that there is no indication that any of the notices were returned to the Marketplace as undeliverable.

On December 15, 2014 the Marketplace had not received any updated information from you. Therefore, the Marketplace was required to use the information that was contained in the November 6, 2014 and the November 20, 2014 notices in order to determine your eligibility for coverage beginning January 1, 2015.

On December 31, 2014, the Marketplace issued a notice that stated you and your spouse were newly eligible to purchase a qualified health plan (QHP) at full cost effective January 1, 2015. You were not eligible to receive advance premium tax credit (APTC) because the renewal period and income data was not available.

On that same date, the Marketplace issued a notice stating that you and your spouse had been enrolled in the Health Republic Essential Care silver-level plan, effective January 1, 2015. However, the December 31, 2014 enrollment notification stated that "if you pay your first month's premium, your coverage could start as early as January 1, 2015."

The credible evidence of record reflects that you did not respond to the Marketplace prior to the December 15, 2014 deadline and you did not pay your first month's premium.

Accordingly, we find there is sufficient evidence that you should not have been reenrolled in the Health Republic Essential Care silver-level plan on January 1, 2015 because you never paid the first month's premium. Therefore, the December 31, 2014 enrollment notification is RESCINDED.

Since the action taken by the Marketplace to enroll you in the Health Republic Essential Care silver-level plan on January 1, 2015 has been rescinded, the March 24, 2015 notice of termination is MODIFIED solely to the extent that you and your spouse's coverage under the Health Republic Essential Care silver-level plan terminated effective December 31, 2014.

## **Decision**

The December 31, 2014 enrollment notice is RESCINDED.

The March 24, 2015 notice of termination is MODIFIED solely to the extent that you and your spouse's coverage under the Health Republic Essential Care silver-level plan terminated effective December 31, 2014.

**Effective Date of this Decision:** October 10, 2015

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

You and your spouse's enrollment in the Health Republic Essential Care silver-level plan ended on December 31, 2014.

This Decision has no effect on any subsequent determination issued by the Marketplace on or after March 24, 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

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).



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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The December 31, 2014 enrollment notice is RESCINDED.

The March 24, 2015 notice of termination is MODIFIED solely to the extent that you and your spouse's coverage under the Health Republic Essential Care silver-level plan was terminated effective December 31, 2014.

You and your spouse's enrollment in the Health Republic Essential Care silver-level plan ended on December 31, 2014.

This Decision has no effect on any subsequent determination issued by the Marketplace on or after March 24, 2015.

### **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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).

**A Copy of this Decision Has Been Provided To:**

