



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

Notice of Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002344

[REDACTED]

Dear [REDACTED],

On June 4, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 1, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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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Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002344



Issue

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

On December 22, 2014, did the Marketplace properly determine that you were eligible to enroll in a qualified health plan at full cost but not eligible to receive advance premium tax credits because the renewal period and income data is not available?

Were you properly found to be conditionally eligible for an advance premium tax credit of up to \$289.00 per month and, while you are enrolled in a silver-level plan, for cost-sharing reductions, effective April 1, 2015?

Did your PrimarySelect Silver qualified health plan take effect on April 1, 2015?

Procedural History

On November 6, 2014 the Marketplace issued a notice stating that the NY State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage you could have for 2015. The notice directs you to return to your account by December 15, 2014 and provide more information.

On December 22, 2014 the Marketplace issued a notice of eligibility determination stating that you are eligible to purchase a qualified health plan at full cost through NY State of Health effective as of January 1, 2015.

On December 23, 2014 the Marketplace issued an enrollment confirmation that you are enrolled in PrimarySelect Gold NS INN Dep25 Acupuncture (PrimarySelect Gold) with a premium responsibility of \$500.49.

On March 12, 2015 you updated your Marketplace account.

On March 13, 2015 the Marketplace issued a notice confirming that you requested to cancel your insurance coverage with PrimarySelect Gold effective March 31, 2015.

On March 13, 2015 the Marketplace issued a notice of eligibility determination. It states that you are conditionally eligible for an advance premium tax credit of up to \$289.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective April 1, 2015. The notice explains that you told the Marketplace that your total household income is \$20,000.00 but that this could not be verified in "state, federal and other data sources for income." The notice directs you to provide income documentation before June 10, 2015.

On March 13, 2015 the Marketplace issued a notice confirming that you had enrolled in a PrimarySelect Silver as of March 12, 2015. The notice states: "Health insurance coverage will begin after you have paid your first month's premium. If you pay your first month's premium, your coverage could start as early as April 1, 2015."

On April 9, 2015 you spoke to the Marketplace's Account Review Unit and requested an appeal with respect to the start date of financial assistance. You wanted an effective start date of January 1, 2015 instead of April 1, 2015.

On June 4, 2015 you had a telephone hearing with the assistance of your authorized representative, [REDACTED], with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken at the hearing under oath. The record is now complete and closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You are applying for health insurance through the Marketplace for yourself only.
- 2) Your Marketplace account indicates that your contract preferences is "paperless."
- 3) The Marketplace issued a November 6, 2014 notice stating that a decision could not be made on whether you qualified to receive financial help paying for health coverage for 2015. The notice

directs you to, “please update your NY State of Health account by December 15, 2014.”

- 4) You submitted your initial application to the Marketplace for 2015 health insurance coverage on March 12, 2015.
- 5) On March 13, 2015 the Marketplace issued a notice confirming that you selected a silver-level QHP on March 12, 2015. The notice states that if you pay your first month’s premium, your coverage will start April 1, 2015.
- 6) You testified that you were not given proper notice by the Marketplace to renew your 2015 health insurance coverage.
- 7) You testified that you did not receive e-mail messages telling you that renewal notices were in your Marketplace account.
- 8) You testified that you found out that your health insurance had been discontinued when you were received a billing statement for \$1,251.51 from your QHP in April 2015.
- 9) You testified that you have paid all the monthly insurance premiums for 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)).

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

Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

- (1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.
- (2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.
- (3) Post notices to the individual's electronic account within 1 business day of notice generation.
- (4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.
- (5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR §435.918).

Legal Analysis

The Marketplace must determine an applicant's eligibility promptly and without undue delay and then provide a timely notice to the applicant of the eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination for enrollment in a qualified health plan (QHP) or insurance affordability programs through the Marketplace.

On November 6, 2014 the Marketplace issued a notice stating that NY State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance in 2015. The notice directed you to return to your account by December 15, 2014 and provide more information.

On December 22, 2014 the Marketplace issued a notice of eligibility determination stating that you were eligible to enroll in a health plan at full cost but not eligible to receive financial assistance because you did not complete your renewal within the required timeframe.

On March 13, 2015 the Marketplace issued a notice of eligibility determination. It states that you are conditionally eligible for an advance premium tax credit of up to \$289.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective April 1, 2015. The notice explains that you told the Marketplace that your total household income is \$20,000.00 but that this could

not be verified in “state, federal and other data sources for income.” The notice directs you to provide income documentation before June 10, 2015.

On March 13, 2015 the Marketplace issued a notice confirming your enrollment in PrimarySelect Silver as of April 1, 2015.

On April 9, 2015 you spoke to the Marketplace’s Account Review Unit and requested an appeal with respect to the start date of financial assistance. You wanted an effective start date of January 1, 2015 instead of April 1, 2015.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The November 6, 2014 and December 22, 2014 notices were posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that they were available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive e-mails telling you that the notices were available in your Marketplace account and that you learned that your financial assistance had been discontinued when you received a premium billing statement for \$1,251.51 from your health plan in April 2015.

Accordingly, the December 22, 2014 notice stating that you are not eligible to receive financial assistance because you did not complete your renewal within the required timeframe lacks support in the record and is **RESCINDED**.

The March 13, 2015 notice of eligibility determination is **MODIFIED** to state that you are conditionally eligible for an advance premium tax credit of up to \$289.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective January 1, 2015.

Decision:

The notice of eligibility determination issued on December 22, 2014 is RESCINDED.

The March 13, 2015 notice of eligibility determination is MODIFIED to state that you are conditionally eligible for an advance premium tax credit of up to \$289.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective January 1, 2015.

Since you cancelled your coverage with PrimarySelect Gold effective March 31, 2015 the March 13, 2015 enrollment notice is MODIFIED to state that you are eligible for coverage through PrimarySelect Gold from January 1, 2015 to March 31, 2015 provided that you pay the insurance premium for the months of January 2015, February 2015 and March 2015.

Effective Date of this Decision: August 27, 2015

How this Decision Affects Your Eligibility

You are eligible for coverage in the PrimarySelect Gold from January 1, 2015 to March 31, 2015, provided that you pay the insurance premiums for the month of January 2015, February 2015 and March 2015.

The PrimarySelect Silver qualified health plan that you selected took effect on April 1, 2015.

Your eligibility for an advance premium tax credit and for cost-sharing reductions remains conditional, because the record does not contain the income documentation that you were directed to provide in the notice of eligibility determination dated March 13, 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.

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).

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

Summary

The notice of eligibility determination issued on December 22, 2014 is **RESCINDED**.

The March 13, 2015 notice of eligibility determination is **MODIFIED** to state that you are conditionally eligible for an advance premium tax credit of up to \$289.00 per month and, if you enroll in a silver-level plan, for cost-sharing reductions, effective January 1, 2015.

Your eligibility for an advance premium tax credit and for cost-sharing reductions remains conditional, because the record does not contain the income documentation that you were directed to provide in the notice of eligibility determination dated March 13, 2015.

Since you cancelled your PrimarySelect Gold coverage effective March 31, 2015, the March 13, 2015 enrollment notice is **MODIFIED** to state that you are eligible for coverage through PrimarySelect Gold from January 1, 2015 to March 31, 2015, provided that you pay your portion of the insurance premiums for January 2015, February 2015 and March 2015

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The PrimarySelect Silver qualified health plan that you selected took effect on April 1, 2015.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

