



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

Notice of Decision

Decision Date: November 13, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002411

[REDACTED]

Dear [REDACTED],

On October 9, 2015, you appeared by telephone at a hearing on your appeal of your eligibility for a health insurance exemption.

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).

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NY State of Health Number: [REDACTED]
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Issue

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

Based on your interactions with NY State of Health, do you qualify for a health insurance exemption?

Procedural History

On January 8, 2014, you first applied for health insurance through the Marketplace for 2014.

On January 10, 2014, the Marketplace received your completed application for health insurance in 2014.

That same day, the Marketplace prepared a preliminary eligibility determination that you were eligible to receive advance premium tax credits up to \$250.00 per month and cost sharing reductions, effective February 1, 2014.

On January 25, 2014, the Marketplace issued a notice of eligibility determination that was consistent with the January 10, 2014 preliminary determination. This notice also stated that your health coverage will begin shortly after you have selected a health plan and made the first premium payment. It also stated that you had not chosen a health plan and needed to do so in order for your health insurance coverage to start.

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On March 14, 2014, the Marketplace issued a notice indicating that you had chosen a silver-level qualified health plan, MVP Premier Plus Silver 1, and a dental plan, Blue Dental, and coverage under these plans would begin after you made your first premium payment.

According to your Marketplace account, your health insurance coverage began April 1, 2014.

On April 14, 2015, you spoke with the Marketplace's Account Review Unit and appealed the start date of your health plan enrollment in 2014 because you were assessed a tax penalty by the IRS.

On October 9, 2015, after two adjournments had been granted, 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 applied for health insurance through the Marketplace in January 2014 for yourself.
- 2) According to your Marketplace account, you completed your application on January 10, 2014 and a preliminary eligibility determination was made that same day.
- 3) You testified that on January 10, 2014, a Marketplace representative told you via telephone that your application was complete, your plan selection was made, and you should be receiving notices in the mail within 7 to 10 business days. You testified that you relied upon this information.
- 4) You testified that you next spoke to a Marketplace representative on January 20, 2014, and were told that it might take a little bit longer to process your application and your plan selection.
- 5) According to your Marketplace account, your enrollment selection was not added to the system until March 13, 2014.
- 6) You testified that you had several telephone conversations with Marketplace representatives on January 8, 2014, January 10, 2014, January 20, 2014 and March 13, 2014, in an effort to select a health plan.

- 7) On January 25, 2015, the Marketplace issued a notice of eligibility determination but did not issue an enrollment notice.
- 8) You testified that you had not received any notices from the Marketplace or any correspondence from the health plan you selected by March 13, 2014, so you contacted the Marketplace again and were told your enrollment selection had not been processed.
- 9) That same day, the Marketplace processed your enrollment selection and your coverage was made effective April 1, 2014.
- 10) You testified that the Marketplace's delay in processing your health plan selection made on January 10, 2014 until March 13, 2014, meant you were without coverage in February and March 2015, and your coverage did not start until April 1, 2014.
- 11) You testified that, as a result, you had to pay the IRS a tax penalty of approximately \$250.00 to \$300.00 for not having health insurance for the first three months of 2014.
- 12) You want the Marketplace to acknowledge their error and delay in this Decision for you to present to the IRS in an effort to be found exempt by the IRS for not having health insurance for the first three months of 2014 and being assessed a tax penalty that you had to pay.

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

Applicable Law and Regulations

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR §155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR §155.605(g)(1)(iii)).

The Marketplace may adopt an exemption eligibility determination made by the Department of Health and Human Services for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR §155.625(b)).

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Legal Analysis

Based on the facts in the record and the appellant's testimony, the Appeals Unit finds that the NY State of Health Marketplace erred in delaying the processing of the appellant's health plan selection and failed to issue a timely enrollment notice such that her health plan coverage could not begin until April 1, 2014. Because of this error and resultant delay, we also find that the appellant was not enrolled in a qualified health plan (QHP) during the first three months of the 2014 plan year when she relied on information that her health plan selection had been processed on January 10, 2014 for a February 1, 2014 start date of health coverage. Furthermore, the appellant testified that had NY State of Health Marketplace timely and properly processed her health plan selection, she would have had coverage effective February 1, 2014.

If this decision could effectuate an earlier 2014 plan year enrollment, we would instruct NY State of Health to redetermine the appellant's eligibility accordingly. However, NY State of Health cannot redetermine the appellant's enrollment retroactively to February 2014 since we are now in 2015. Nevertheless, the appellant may have other claims or remedies as a result of a finding that NY State of Health's Marketplace's error delayed her enrollment in a health plan so that coverage could have begun February 1, 2014 and not April 1, 2014. We therefore issue this decision.

Sometimes after an appeal decision an appellant can claim an exemption from the requirement to have health insurance. If both of the following applied to you in [2014], you might qualify for a health coverage exemption:

- In 2014 you did not enroll in a QHP for coverage [to begin for February 2014] because of an appealable reason
- Your appeal was eventually successful

If this is accurate, you may not have to pay the penalty for the months you were uncovered. If approved, your exemption generally also covers the month of the Decision itself. It will not cover the month of the Decision itself if the Decision is in the next plan year. For example, you did not enroll during 2014 and we issue a decision in early 2015. In this case, your exemption would cover the months during 2014 you were uncovered but not the months in 2015.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, the NY State of Health Marketplace cannot and will not accept exemption applications.

You will find all of the information you need to claim the exemption due to an appeal Decision at www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word “pending” in column “c” and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

This does not grant you an exemption for the shared responsibility payment.

You will find all of the information you need to claim the exemption due to an appeal decision at www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal. You can also call 1-800-318-2596.

Effective Date of this Decision: November 13, 2015

How this Decision Affects Your Eligibility

This does not grant you an exemption for the shared responsibility payment.

You will find all of the information you need to claim the exemption due to an appeal decision at www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal. You can also call 1-800-318-2596.

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

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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
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Summary

This does not grant you an exemption for the shared responsibility payment.

You will find all of the information you need to claim the exemption due to an appeal decision at www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal. You can also call 1-800-318-2596.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

