



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002452

[REDACTED]

Dear [REDACTED],

On July 31, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 9, 2015 disenrollment notice and the April 17, 2015 denial of a special enrollment period.

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 45 CFR § 155.545(b).

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Issues

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

Did the Marketplace properly terminate your enrollment in your qualified health plan effective February 28, 2015 because of non-payment of premiums?

Did the Marketplace properly determine that you do not qualify for a Special Enrollment Period as of April 16, 2015?

Did the Marketplace properly determine and timely notify you that your health coverage would begin again effective June 1, 2015?

Procedural History

On January 9, 2015, the Marketplace issued an enrollment confirmation notice stating that you were enrolled in a bronze-level qualified health plan at full cost and that your coverage could start as early as February 1, 2015, if you paid your first month's premium.

On April 9, 2015, the Marketplace issued a disenrollment notice stating that your coverage in your qualified health plan would terminate effective February 28, 2015, because a premium payment was not received by your health plan and that you must pay your premium responsibility in order to maintain coverage.

On April 16, 2015, the Marketplace reran your eligibility for health insurance. On April 17, 2015, the Marketplace issued a notice of eligibility redetermination finding you

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eligible to purchase a qualified health plan at full cost through NY State of Health, effective June 1, 2015. That notice further stated that you do not qualify to select a health plan outside of the open enrollment period because the requirements to qualify for a special enrollment period had not been met.

On April 17, 2015, you spoke with the Marketplace's Account Review Unit and appealed being disenrolled from your health plan and from subsequently being denied a special enrollment period to re-enroll into a health plan following your disenrollment.

On July 31, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you the opportunity to submit documents and communications related to your disenrollment from and manual reinstatement in your health plan.

On August 7, 2015 the Appeals Unit received a 9 page fax from you. It consisted of a letter of explanation from you, email communications with a representative from your health plan, an email communication from your health plan on how to manage your health plan online account, and a copy of a direct pay premium statement. That same day, this 9 page fax was made part of the record collectively as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) According to your Marketplace account and your testimony, you were enrolled in a bronze-level qualified health plan at full cost through the Marketplace, effective February 1, 2015.
- 2) You testified and submitted an email, dated June 1, 2015, that in 2014 you had arranged to have your monthly premiums automatically deducted from your spouse's bank account via a Direct Pay arrangement with Emblem Health and this arrangement worked throughout that year (Appellant's Exhibit A, p. 6).
- 3) In that June 1, 2015 email, you provided a chronology of events, including that your spouse took steps in January 2015 to re-activate the same automatic deduction via a Direct Pay arrangement with Emblem Health and your February 2015 premium was deducted from his bank account (Appellant's Exhibit A, pp. 6-7).
- 4) You testified and stated in that same June 1, 2015 email that you assumed the Direct Pay arrangement was in place when you received a paper statement stating the February 2015 premium had been automatically deducted (Appellant's Exhibit A, p. 7).

- 5) You testified and submitted a statement that you received two emails after 9:30 p.m. on April 3, 2015 from Emblem Health informing you that your premiums for March and April 2015 had not been paid and should be paid immediately, which was the first you had become aware that the premiums for those two months had not been automatically deducted (Appellant's Exhibit A, p. 7).
- 6) You testified and submitted a statement that immediately on April 4, 2015, you paid the premium amounts owed for March and April 2015 via your spouse's online account, which payments had not been deducted as of April 9, 2015 (Appellant's Exhibit A, p. 7).
- 7) You wanted your coverage to be activated and not reinstated retroactively, which according to your Marketplace account and testimony, was effectuated on June 1, 2015.
- 8) You testified and provided documentary proof that you were not informed of this reinstatement date until July 14, 2015, when the activation of your coverage actually took place, and you do not want to be responsible for the premium for June 2015.
- 9) You testified that it is unfair to hold you responsible for premium in June 2015 because you were not aware that you had coverage until well after that month had passed, had made several attempts throughout June and July 2015 through email correspondence to confirm the active date of your coverage, and had not sought treatment in June 2015 because you had not received timely notice of the start date of your coverage (Appellant's Exhibit A, pp. 3-9).
- 10) You want your coverage to be reinstated effective July 1, 2015 at the earliest.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Special Enrollment Period

The Marketplace must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)); however, the open enrollment period was further extended to February 28, 2015 for individuals who took steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-in-line%E2%80%99-provision-ahead-february-15-open>).

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is permitted when a triggering event occurs (45 CFR § 155.420(d)).

Legal Analysis

The first issue under review is whether the Marketplace properly terminated your enrollment in your qualified health plan effective February 28, 2015 because of non-payment of premiums.

On April 9, 2015 the Marketplace issued a disenrollment notice stating that your coverage in your qualified health plan is terminated effective February 28, 2015 because of non-payment of premiums.

You testified that your spouse took steps in January 2015 to re-activate the same automatic deduction via a Direct Pay arrangement with Emblem Health that he had in 2014, and your February 2015 premium was deducted from his bank account. As such, you contend that your coverage being cancelled due to non-payment of premiums was in error and was unwarranted.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the New York State of Health Appeals Unit.

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Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the April 9, 2015 disenrollment notice is **DISMISSED** as a non-appealable issue. However, as you testified and indicated in your written statement, your disenrollment has been resolved with Emblem Health and is now moot.

The second issue is whether you were properly denied a special enrollment period as of April 16, 2015.

This issue also appears to have been resolved by the Marketplace and Emblem Health permitting you to enroll in a health plan effective June 1, 2015. As such, your appeal of the denial of a special enrollment period is rendered moot and need not be addressed.

The third issue is when your coverage with Emblem Health should take effect. You credibly testified and provided supporting documentary proof that you actively pursued with the Emblem Health representative through email correspondence to learn the start date of your coverage and were not informed it had started as of June 1, 2015 until July 14, 2015. Since this delay was through no fault of your own and would hold you responsible for a premium for coverage you could not have known you had without timely notice and did not have the advantage of using, your coverage start date is made effective July 1, 2015, and the Marketplace is directed to effectuate the change in your health plan's coverage date accordingly.

Decision

Your appeal of the April 9, 2015 disenrollment notice is **DISMISSED** as a non-appealable issue, but has also subsequently been resolved and is now moot.

Your appeal of the April 16, 2015 denial of a special enrollment period has been resolved and the issue is now moot.

The Marketplace is directed to effectuate the coverage start date in your health plan for July 1, 2015, not June 1, 2015.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

The Marketplace will change your start date of coverage in your Emblem Health Bronze plan from June 1, 2015 to July 1, 2015.

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You will not be responsible for the monthly premium for June 2015, but will be responsible for the monthly premium as of July 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)).

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

Your appeal of the April 9, 2015 disenrollment notice is **DISMISSED** as a non-appealable issue, but has also subsequently been resolved and is now moot.

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Your appeal of the April 16, 2015 denial of a special enrollment period has been resolved and the issue is now moot.

The Marketplace is directed to effectuate the coverage start date in your health plan for July 1, 2015, not June 1, 2015.

The Marketplace will change your start date of coverage in your Emblem Health Bronze plan from June 1, 2015 to July 1, 2015.

You will not be responsible for the monthly premium for June 2015, but will be responsible for the monthly premium as of July 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

