



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

## Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002460

[REDACTED]

Dear [REDACTED]

On October 2, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 1, 2015 disenrollment 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).

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: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002460

[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 EssentialCare Platinum, ST INN Dep25 was terminated effective March 31, 2015?

## Procedural History

On November 3, 2014, the Marketplace sent you a notice that it was time to renew your health insurance for 2015. The notice further stated that you would be re-enrolled in EssentialCare Platinum ST INN Dep25 for another year and be eligible for up to \$191.04 in advance premium tax credits (APTC), as well as cost-sharing reductions. This eligibility was effective January 1, 2015. The notice also stated that if you wished to change your plan or if there was a mistake in the notice, you would have to update your account by December 15, 2014 in order for the changes to be effective by January 1, 2015.

On December 9, 2014, the Marketplace issued a notice confirming your enrollment in EssentialCare Platinum ST INN Dep25 as of November 18, 2014. The notice further stated that if you paid your first month's premium, your coverage could start as early as January 1, 2015. If you did not pay your premium, you might not have health coverage.

On March 1, 2015, a disenrollment notice was issued that stated your coverage with EssentialCare Platinum ST INN Dep25 is terminated because you were no longer eligible to enroll in health insurance through the Marketplace. The notice

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further stated that you would no longer have coverage with EssentialCare Platinum ST INN Dep25 effective March 31, 2015.

On April 17, 2015, you spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as it terminated your coverage under your qualified health plan on March 31, 2015 and not on December 31, 2014.

On June 19, 2015, you were scheduled to have a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. On that date, you failed to appear at your scheduled hearing time, and your case was dismissed. You subsequently requested to vacate the dismissal, which was granted and a new hearing was scheduled.

On October 2, 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 up to 15 days to provide you an opportunity to submit supporting evidence.

On October 2, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of your Enrollment Confirmation Statement with Health Republic Insurance and a copy of your current health insurance card with Health Republic. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on October 2, 2015.

## **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 EssentialCare Platinum Plan – A Consumer Operated and Oriented Plan (Co-Op) Option through Health Republic from January 1, 2014 to December 31, 2014.
- 2) The record reflects that you were automatically re-enrolled in EssentialCare Platinum ST INN Dep25 through Health Republic, effective January 1, 2015.
- 3) You testified that at the end of 2014, your employer elected to offer health insurance for its employees. You further testified that on or about November 27, 2014, you created a NY State of Health account for your employer in the Small Business Marketplace.

- 4) You testified, and provided evidence, that you enrolled in the EssentialCare Platinum Plan outside of the Marketplace, through your employer, with coverage beginning effective January 1, 2015 (Appellant's Exhibit 1, October 2, 2015). You further testified that you were unaware that you were enrolled in the same plan through both your employer and through the individual Marketplace for coverage, effective January 1, 2015.
- 5) You testified that you were not made aware that you must contact the Marketplace to affirmatively cancel your health insurance coverage.
- 6) You testified that you have paid your employer-sponsored health insurance premiums to Health Republic as of January 2015. You further testified that you did not pay any premiums for the health insurance plan offered in the individual Marketplace for the months of January, February, or March 2015.
- 7) You testified that you did not use your health insurance coverage offered in the individual Marketplace for the months of January, February, or March 2015.
- 8) You testified that Health Republic has not requested payment of the premiums for the health insurance coverage offered in the individual Marketplace for the months of January, February, or March 2015.
- 9) You testified, and the record reflects, that you contacted the Marketplace on February 27, 2015 to terminate your coverage through the Marketplace.

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

## **Applicable Law and Regulations**

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to the Marketplace or qualified health plan (45 CFR § 155.430(b)(1), (d)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);

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- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

## **Legal Analysis**

The issue is whether the Marketplace properly determined that your enrollment in EssentialCare Platinum ST INN Dep25 was terminated on March 31, 2015.

On December 9, 2014, the Marketplace issued an enrollment confirmation notice, stating that as of November 18, 2014, you were enrolled in EssentialCare Platinum ST INN Dep25. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

You testified that you did not pay any premium to Health Republic for your individual coverage in EssentialCare Platinum ST INN Dep25 through the Marketplace for the months of January, February, or March 2015. Because you did not pay your first month's premium for your Marketplace plan, your coverage in EssentialCare Platinum ST INN Dep25 through the Marketplace should not have gone into effect. Additionally, because you enrolled in the same plan outside of the Marketplace as you had been enrolled in through the Marketplace, it was reasonable for you to believe that you did not need to take any further action in order to end the Marketplace coverage.

Therefore, the disenrollment notice issued on March 1, 2015 is MODIFIED to say you had no coverage with EssentialCare Platinum ST INN Dep25 through the Marketplace effective December 31, 2014.

## **Decision**

The Marketplace's March 1, 2015 disenrollment notice is MODIFIED to say you had no coverage with EssentialCare Platinum ST INN Dep25 through the Marketplace effective December 31, 2014.

You no longer have coverage with EssentialCare Platinum ST INN Dep25 through the Marketplace for the months of January, February, or March 2015 and should not be charged any premiums for this coverage.

**Effective Date of this Decision:** October 27, 2015

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

Your coverage with EssentialCare Platinum ST INN Dep25 through the Marketplace terminated effective January 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:

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- By mail at:  
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## **Summary**

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The Marketplace's March 1, 2015 disenrollment notice is MODIFIED to say you had no coverage with EssentialCare Platinum ST INN Dep25 through the Marketplace effective January 1, 2015.

You no longer have coverage with EssentialCare Platinum ST INN Dep25 through the Marketplace for the months of January, February, or March 2015 and should not be charged any premiums for this coverage.

Your coverage with EssentialCare Platinum ST INN Dep25 through the Marketplace terminated effective January 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:**

