



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

NOTICE OF DISMISSAL – INVALID APPEAL REQUEST

Notice Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002464

[REDACTED]

Dear [REDACTED],

On November 6, 2013 the Marketplace issued you an eligibility determination notice that you are eligible for up to \$171.00 monthly of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

On November 15, 2014 the Marketplace issued you a disenrollment notice stating that your insurance with PrimarySelect Silver Plan – A consumer Operated and Oriented Plan (CO-OP) Option is terminated effective May 31, 2014 because premium payments had not been received.

On February 13, 2015 the Marketplace issued an eligibility determination notice that you are eligible for up to \$250.00 of advance premium tax credits and cost-sharing reductions, if you enroll in a qualified health plan.

On the same day the Marketplace issued an enrollment notice confirming that on February 12, 2015 you were enrolled in TotalIndependence Silver NS INN Dep25 Acupuncture Massage Therapy Naturopathy and coverage could start as early as March 1, 2015.

On April 11, 2015 the Marketplace issued a disenrollment notice that your insurance with TotalIndependence Silver NS INN Dep25 Acupuncture Massage Therapy Naturopathy was terminated effective March 1, 2015 because the premium payments had not been received by the health plan.

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).

On April 17, 2015 you spoke to the Marketplace Account Review Unit and an appeal was requested for “Complaints for health plan billing.”

On April 24, 2015 the Marketplace issued an enrollment notice confirming that on April 23, 2015 you enrolled in Fidelis Care and coverage could start as early as June 1, 2015.

On October 28, 2015 a Hearing Officer contacted you regarding your hearing. Testimony was taken at the hearing and the record was developed. The record is now complete and closed.

Findings of Fact

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

1. You testified that the reasons for your appeal are:
 - (a) You are seeking reimbursement for the tax penalty that was paid on your 2014 U.S. Individual Income Tax Return, based on the Affordable Care Act’s (ACA) individual shared responsibility payment;
 - (b) You are seeking to avoid a tax penalty on your 2015 U.S. Individual Income Tax Return;
 - (c) You are seeking reimbursement for health insurance premiums paid to PrimarySelect Silver Plan – A consumer Operated and Oriented Plan (CO-OP) Option in 2014.
2. According to your Marketplace Account, you were enrolled in PrimarySelect Silver Plan – A consumer Operated and Oriented Plan (CO-OP) Option from January 1, 2014 through May 31, 2014.
3. On November 15, 2014 the Marketplace issued you a disenrollment notice stating that your insurance with PrimarySelect Silver Plan – A consumer Operated and Oriented Plan (CO-OP) Option is terminated effective May 31, 2014 because premium payments had not been received by the health plan.
4. You testified that you never received benefits cards and was not able to use your PrimarySelect Silver Plan – A consumer Operated and Oriented Plan (CO-OP) Option health plan in 2014.
5. You testified that you stopped paying your health insurance premiums in 2014 because you were unable to use the health insurance health plan.

6. You testified that your 2014 U.S. Individual Income Tax Return was prepared by an accountant in March or April 2015 and paid a tax penalty based on the ACA's individual shared responsibility payment.
7. On February 13, 2015 the Marketplace issued an enrollment notice confirming that on February 12, 2015 you were enrolled in TotalIndependence Silver NS INN Dep25 Acupuncture Massage Therapy Naturopathy and coverage could start as early as March 1, 2015.
8. On April 11, 2015 the Marketplace issued a disenrollment notice that your insurance with TotalIndependence Silver NS INN Dep25 Acupuncture Massage Therapy Naturopathy was terminated effective March 1, 2015 because premium payments had not been received by the health plan.

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).

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 HHS for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR §155.625(b)).

Legal Analysis

The first and second issues are whether you can be reimbursed for tax penalty, based on the Affordable Care Act's (ACA) individual shared responsibility payment that was paid on your 2014 U.S. Individual Income Tax Return and are you exempt from the penalty on your 2015 U.S. Individual Income Tax Return.

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of exemptions.

Please note, that 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 hardship exemption applications.

You will find all of the information you need to claim the exemption at <https://www.healthcare.gov/fees-exemptions/exemptions-from-the-fee/>. 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.

The third issue is whether or not you can be reimbursed for the health insurance premiums that you paid to PrimarySelect Silver Plan – A consumer Operated and Oriented Plan (CO-OP) Option in 2014.

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).

Since the issue of termination for failure to pay health insurance premiums is not one that the NY State of Health Appeals Unit is authorized to address, we must dismiss that basis of your appeal request.

However, PrimarySelect Silver Plan – A consumer Operated and Oriented Plan (CO-OP) Option may be able to help you with your request for coverage. If you have not already been assisted with your current coverage issue, please contact them at 888-990-5702.

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).

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Decision

This does not grant you reimbursement for the health insurance premiums that were paid in 2014 or an exemption for the shared responsibility payment.

Effective Date of this Decision: [DATE ISSUED]

How does this Dismissal Affect Your Eligibility

You eligibility remains unchanged.

This does not grant you reimbursement for the health insurance premiums that were paid in 2014 or an exemption for the shared responsibility payment.

Regarding your issue concerning a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

You will find all of the information you need to claim the exemption at <https://www.healthcare.gov/fees-exemptions/exemptions-from-the-fee/>. You can also call 1-800-318-2596.

If You Think Your Appeal Should Not Be Dismissed

Under some circumstances, you can ask us to vacate (cancel) this dismissal. You must ask us in writing within 30 days after the date on this notice. In that writing you also must state a good reason for us to do this.

If you ask us in writing to vacate this dismissal, the Marketplace's Appeals Unit will review your request and send you a decision on that request.

If we deny your request to vacate this dismissal, we will tell you that in writing.

If you do not respond to this notice within 30 days, your appeal will remain dismissed. No further action will be taken on it by the Marketplace.

Appeal Identification Number

When communicating with the Marketplace about this appeal, please reference Appeal Identification Number at the top of this notice.

How to Contact the Marketplace

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

You eligibility remains unchanged.

This does not grant you reimbursement for the health insurance premiums that were paid in 2014 or an exemption for the shared responsibility payment.

Regarding your issue concerning a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

You will find all of the information you need to claim the exemption at <https://www.healthcare.gov/fees-exemptions/exemptions-from-the-fee/>. You can also call 1-800-318-2596.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.530.

A Copy of this Decision Has Been Provided To:

