



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

Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002469

[REDACTED]

Dear [REDACTED],

On June 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 15, 2015 preliminary eligibility determination.

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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Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002469

Issue

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

Did the Marketplace properly not present you with an option to enroll in a catastrophic health plan on February 15, 2015 when you selected a qualified health plan effective March 1, 2015?

Procedural History

The Marketplace received your initial application for health insurance for 2015 on February 15, 2015.

That same day, the Marketplace prepared a preliminary eligibility determination that you are eligible to enroll in a qualified health plan.

Also that same day, your Marketplace account reflects that you were enrolled in Select Care Bronze, Bronze ST INN Dep25, starting March 1, 2015 to December 31, 2015.

On April 17, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the eligibility determination insofar as you were not able to enroll in a catastrophic plan due to being age ineligible.

On June 8, 2015, 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.

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Findings of Fact

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

- 1) At the time you applied for health insurance through the Marketplace, you were 34 years old.
- 2) According to your Marketplace account, you submitted a completed non-financial application on February 15, 2015.
- 3) You testified that you are married and you are the only one in your household seeking health insurance through the Marketplace at the time of your application.
- 4) You testified that you are in extraordinary good health and wanted to select and pay for a catastrophic plan, but were not presented with this option by the Marketplace because of your age.
- 5) You testified that you want to purchase a catastrophic plan and not the bronze plan you had to select because you do not want to pay double for coverage you do not need and will not use. You stated that you do not feel it is fair to be categorically denied because of your age.
- 6) You testified that it was not explained to you that individuals over the age of 30 years old can qualify for a catastrophic plan if they have been granted a hardship exemption.
- 7) You testified that you have paid your monthly premiums for the bronze plan on time and have been enrolled in that plan since March 1, 2015.
- 8) You testified that your household circumstances have changed in that your wife recently lost her job and may now be in need of health insurance through the Marketplace.

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

Applicable Law and Regulations

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Qualified Health Plan Eligibility

Generally, the Marketplace must determine an applicant eligible for enrollment in a QHP through the Exchange if he or she meets certain requirements, such as citizenship and residency (45 CFR 155.3015(a)).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Catastrophic Plans and Eligibility

Catastrophic health plans meet all of the requirements applicable to other Qualified Health Plans (QHPs) but do not cover any benefits other than 3 primary care visits per year before the plan's deductible is met. The premium amount one pays each month for health care is generally lower than for other QHPs, but the out-of-pocket costs for deductibles, copayments, and coinsurance are generally higher. To qualify for a catastrophic plan, you must be under 30 years old OR get a "hardship exemption" because the Marketplace determined that you're unable to afford health coverage.

A person who has applied for and received a hardship exemption may enroll in a catastrophic coverage plan regardless of age (45 CFR § 155.305(h)(2)).

Legal Analysis

You submitted a non-financial application on February 15, 2015 and the Marketplace made a preliminary determination that same day that you were eligible to enroll in a qualified health plan at full cost because you met the requisite criteria. However, the Marketplace did not issue a written notice of eligibility determination on your February 15, 2015, and did not issue an enrollment notice regarding your qualified health plan selection with Select Care Bronze, Bronze ST INN Dep25, effective March 1, 2015.

Although the Marketplace did not issue a timely notice of eligibility determination, this does not prevent the Appeals Unit from reaching the merits of your case on your April 17, 2015 appeal request. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, since the Appeals Unit reviews of Marketplace determinations on a de novo basis, no deference would have been granted to that written determination or notice of enrollment had they been issued before you filed your appeal.

The actual issue under review is whether the Marketplace properly did not present you with the option to enroll in a catastrophic health plan.

Catastrophic health insurance is a high deductible, low premium health insurance policy. To be eligible for catastrophic health plan coverage for an adult over 30 years of age, under federal law the individual must first be approved for a hardship exemption.

You testified that you do not want to pay the premium cost for a bronze plan since you are in extraordinary good health and will not use the health insurance. Your preference is to be enrolled in a catastrophic health plan, which is only afforded under the law if you are approved for a hardship exemption.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal marketplace website (www.healthcare.gov) for an application.

If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age, for the 2016 open enrollment period beginning November 1, 2015.

Since the February 15, 2015 preliminary eligibility determination properly stated that you are eligible to enroll in a qualified health plan at full cost, it is correct and is AFFIRMED and ADOPTED herein.

If your circumstances have changed, as you suggested they may, and your spouse needs health insurance through the Marketplace, please update the information on your Marketplace account accordingly.

Decision

The February 15, 2015 preliminary eligibility determination and enrollment selection with Select Care Bronze, Bronze ST INN Dep25, effective March 1, 2015, are AFFIRMED and ADOPTED herein.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Your Eligibility

You remain eligible for a qualified health plan at full cost through the Marketplace, effective March 1, 2015 to December 31, 2015.

You were enrolled in in Select Care Bronze, Bronze ST INN Dep25, effective March 1, 2015, and will remain enrolled in that plan through December 31, 2015 provided you continue to pay your monthly premiums on time.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal Marketplace website (www.healthcare.gov) for an application.

If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age for the 2016 open enrollment period beginning November 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
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Summary

The February 15, 2015 preliminary eligibility determination and enrollment selection with Select Care Bronze, Bronze ST INN Dep25, effective March 1, 2015, are AFFIRMED and ADOPTED herein.

You remain eligible for a qualified health plan at full cost through the Marketplace, effective March 1, 2015 to December 31, 2015.

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).

You were enrolled in in Select Care Bronze, Bronze ST INN Dep25, effective March 1, 2015, and will remain enrolled in that plan through December 31, 2015 provided you continue to pay your monthly premiums on time.

If your circumstances have changed, as you suggested they may, and your spouse needs health insurance through the Marketplace, please update the information on your Marketplace account accordingly.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal Marketplace website (www.healthcare.gov) for an application.

If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age, for the 2016 open enrollment period beginning November 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

