



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: AP000000002539

[REDACTED]

Dear [REDACTED],

On June 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 14, 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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Issue

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

Did the Marketplace properly determine that your qualified health plan coverage ended on April 30, 2015?

Procedural History

On November 5, 2014 and November 20, 2014, the Marketplace issued notices stating that it was time to renew your health insurance for 2015. Those notices stated that, based on information from federal and state sources, you qualified to enroll in a qualified health plan (QHP) at full cost. It also stated that you had been re-enrolled in your current health plan for another year, with such coverage effective January 1, 2015. The notice also stated that if this was a mistake you would need to update your account between November 16, 2014 and December 15, 2014 in order for such changes to be effective by January 1, 2015.

On December 5, 2014, the Marketplace issued an eligibility redetermination notice stating that you were newly eligible to purchase a QHP at full cost through NY State of Health, effective January 1, 2015.

On December 12, 2014, the Marketplace issued a letter confirming your enrollment in a QHP, with a monthly premium responsibility of \$666.45. The letter also informed you that your coverage could start as early as January 1, 2015 provided you paid your first month's premium. The notice also stated that you must pay the monthly premium for this coverage before your coverage could begin.

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On April 14, 2015, the Marketplace issued a disenrollment notice confirming receipt of your April 13, 2015 request to end your coverage. It also stated that your QHP coverage would terminate effective April 30, 2015. You appealed this disenrollment notice insofar as you were seeking a QHP termination date of March 31, 2015.

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.

Findings of Fact

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

- 1) You testified that you are appealing the Marketplace's refusal to backdate the termination of your qualified health plan (QHP) from April 30, 2015 to March 31, 2015. You are seeking to have your QHP coverage be terminated as of March 31, 2015 in order to prevent the unnecessary coverage overlap and cost associated with being enrolled in your QHP until April 30, 2015 since your Medicare coverage started on April 1, 2015.
- 2) You testified that you called your insurance carrier during March 2015 to provide an update that you would begin receiving Medicare on April 1, 2015. You further testified that you were instructed by the insurance carrier not to complete a disenrollment from your QHP until your Medicare became effective.
- 3) You testified that your insurance carrier never informed you that you should also contact the Marketplace in advance to request a disenrollment from your QHP.
- 4) You testified that you turned 65 years old on [REDACTED].
- 5) You testified that you became eligible for Medicare on April 1, 2014.
- 6) You testified that you contacted the Marketplace on April 13, 2015 to formally request a disenrollment from your QHP since you had been receiving your Medicare benefits since April 1, 2015.
- 7) You testified that you were surprised when you received the disenrollment notice from the Marketplace stating that your QHP coverage would be terminated effective April 30, 2015.

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)).

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

- The termination date specified by the enrollee, if they provide notice at least 14 days before the requested termination becomes effective;
- Fourteen days after the enrollee requests the termination, if they do not provide 14 days' notice; or
- On a date on or after the date the enrollee requests the termination, subject to the determination of the enrollee's qualified health plan issuer, if the enrollee's qualified health plan issuer agrees to effectuate termination in fewer than 14 days, and the enrollee requests and earlier termination effective date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that the end date of your qualified health plan (QHP) insurance coverage was April 30, 2015.

You testified, and provided evidence, that you became eligible for Medicare effective April 1, 2015.

An enrollee must be allowed to terminate his or her coverage with a QHP if they begin receiving minimum essential coverage with appropriate notice to the Marketplace or to their health plan. You credibly testified that you informed your insurance carrier that you were due to begin receiving Medicare on April 1, 2015 in order to prevent an unnecessary overlap of coverage with your QHP. You stated that you were erroneously instructed by an insurance carrier representative to delay your disenrollment. You also stated that you finally called the Marketplace on during late March or early April to process your disenrollment

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from your QHP. The record indicates that you called on April 13, 2015 to request a disenrollment.

The credible evidence of record reflects that you did not contact the Marketplace to cancel this coverage until April 13, 2015 at which time the Marketplace properly terminated your coverage effective April 30, 2015.

Any reliance on misstatements made to you by your health insurance plan are outside the purview of the Appeals Unit of New York State of Health.

However, the federal regulation allows for an exception if the QHP issuer agrees to effectuate termination fewer than 14 days and the enrollee has requested an earlier termination date, as in your case. If you did not use your QHP for yourself during April 2015, it is up to the QHP issuer to agree to the earlier termination date of April 1, 2015, as you are requesting.

Therefore, the disenrollment notice issued on April 14, 2015 is **AFFIRMED** and you can pursue the earlier cancellation date request with the QHP issuer directly.

Decision

The April 14, 2015 disenrollment notice is **AFFIRMED**.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

Your plan coverage terminated effective April 30, 2015.

You can take up your request for an earlier date cancellation date of April 1, 2015 with the QHP issuer directly.

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.

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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

The April 14, 2015 disenrollment notice is **AFFIRMED**.

Your plan coverage terminated effective April 30, 2015.

You can take up your request for an earlier date cancellation date of April 1, 2015 with the QHP issuer directly.

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:

