



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

Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002553

[REDACTED]

Dear [REDACTED],

On May 22, 2015 you appeared by telephone at a hearing on the NY State of Health's April 4, 2015 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).

This page intentionally left blank.



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

Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002553



Issues

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

Did the Marketplace properly determine that you do not qualify for a special enrollment period as of April 4, 2015?

Procedural History

On January 15, 2015, the Marketplace issued an eligibility determination notice that you are eligible to receive up to \$133.00 per month in advance premium tax credits effective as of February 1, 2015.

On January 16, 2015, the Marketplace issued an enrollment notice confirming that you enrolled in Healthfirst Bronze Leaf Premier NS INN Family Dental Dep25 Family Vision (Healthfirst Bronze) with a premium responsibility of \$208.58 and could start as early as February 1, 2015.

On March 21, 2015, the Marketplace issued a disenrollment notice that you requested to end your insurance coverage with Healthfirst Bronze effective March 31, 2015.

On April 4, 2015, the Marketplace issued an eligibility determination notice that you are eligible to receive up to \$133.00 per month in advance premium tax credits. The notice also states that you “do not qualify to select a health plan outside of the open enrollment period.”

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 May 11, 2015, you faxed a three-page appeal request to the Marketplace insofar as being denied a special enrollment period. This three-page fax has been marked as “Appellant Exhibit A” and has been made part of the record.

On May 22, 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 are single and only applying for health insurance for yourself through the Marketplace.
- 2) On January 16, 2015, the Marketplace issued an enrollment notice confirming that you enrolled in Healthfirst Bronze Leaf Premier NS INN Family Dental Dep25 Family Vision (Healthfirst Bronze) with a premium responsibility of \$208.58 and could start as early as February 1, 2015.
- 3) You testified that you contacted the Marketplace on January 19, 2015. After speaking with a Marketplace representative, you cancelled your Healthfirst Bronze plan and enrolled in Affinity Access Silver ST INN Dep25.
- 4) You never received a confirmation letter from the Marketplace about cancelling the Healthfirst Bronze plan or enrolling in Affinity Access Silver plan (Appellant Exhibit A p. 2).
- 5) On March 20, 2015, you logged on your Marketplace account and found that you were still enrolled in Healthfirst Bronze (Appellant Exhibit A p. 2).
- 6) On March 20, 2015, you contacted the Marketplace and was advised by a customer service representative “to re-cancel the [Healthfirst Bronze] plan and apply to qualify for a special enrollment so [you] could re-enroll in the [Affinity Access Silver] plan. [You] re-cancelled the [Healthfirst Bronze] plan because [you] were told [you] would still be able to enroll in the Affinity plan and obtain health insurance in 2015” (Appellant Exhibit A p. 2).
- 7) On March 21, 2015, the Marketplace issued a disenrollment notice that you requested your insurance coverage with Healthfirst Bronze effective March 31, 2015.

- 8) On April 4, 2015, the Marketplace issued an eligibility determination notice that you are eligible to receive up to \$133.00 per month in advance premium tax credits. The notice also states that you “do not qualify to select a health plan outside of the open enrollment period.”
- 9) You testified that you were misinformed by Marketplace representatives that you would be able to apply for a qualified health plan through the Marketplace after open enrollment had ended on February 15, 2015.
- 10) You believe you “have been denied access to health insurance due to a technical enrollment error on the marketplace website and misinformation/misconduct by an enrollment assister/customer service representative at the New York State of Health Marketplace” (Appellant Exhibit A p. 1).

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

Applicable Law and Regulations

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

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)).

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 to another plan. This is permitted when one of the following triggering events occur:

1) The qualified individual or his or her dependent loses certain health insurance coverage:

(a) Health insurance considered to be minimum essential coverage;

(b) Enrolled in any non-calendar year health insurance policy that will expire in 2015, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or

(c) Pregnancy-related coverage; or

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).

(d) Medically needy coverage.

- 2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or
- 3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or
- 4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or
- 5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or
- 6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions; or
- 7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or
- 8) The qualified individual who is an Indian may enroll in a QHP or change from one QHP to another one time per month; or
- 9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide; or
- 10) A qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities

(45 CFR § 155.420(d)).

Legal Analysis

The Marketplace provided an open enrollment period from November 15, 2014 until February 15, 2015. The record indicates that you were enrolled in Healthfirst Bronze on January 16, 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).

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in a health plan offered in the Marketplace. Here, you requested a special enrollment period on March 20, 2015 in order to change your QHP. You testified that you relied upon misinformation from Marketplace representatives that you could cancel the Healthfirst Bronze plan and obtain a special enrollment so you could enroll in the Affinity Access Silver plan. You cancelled the Healthfirst Bronze plan because you were told you would still be able to enroll in the Affinity Silver plan and obtain health insurance in 2015.

When an applicant's enrollment or non-enrollment in a qualified health plan (QHP) is unintentional, inadvertent, or erroneous, and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Marketplace or its instrumentalities, a special enrollment period may be granted.

You credibly testified that you disenrolled from your health plan because you were told by Marketplace representatives you could change qualified health plans on March 20, 2015. You testified that you relied on this information and, therefore, were unaware that you could not reenroll outside the open enrollment period until you tried to reenroll on March 20, 2015 and found out you could not change plans after the open enrollment period ended.

As such, the credible evidence of record confirms that you qualified for the special enrollment period that you requested.

Accordingly, the April 4, 2015 eligibility determination is MODIFIED to state that you qualify for a special enrollment period.

You have 60 days from the date of this decision to select and confirm your enrollment in a qualified health plan.

Decision

The April 4, 2015 eligibility determination is MODIFIED to state that you qualify for a special enrollment period.

You have 60 days from the date of this decision to select and confirm your enrollment in a qualified health plan.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

You are granted a special enrollment period. You have 60 days from the date of this decision to select and confirm your enrollment in a qualified health plan.

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:

- 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

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).

Summary

The April 4, 2015 eligibility determination is MODIFIED to state that you qualify for a special enrollment period.

You are granted a special enrollment period. You have 60 days from the date of this decision to select and confirm your enrollment in a qualified health plan.

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:

