



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: AP000000002597

[REDACTED]

Dear [REDACTED]

On July 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 25, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002597

[REDACTED]

Issue

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

Did the Marketplace properly determine that your coverage with Empire Blue Cross Blue Shield ended on April 30, 2015?

Procedural History

On November 4, 2014, the Marketplace issued a notice that stated it was time for you to renew your NY State of Health coverage. It stated that you had been reenrolled in your current health plan, an Empire Blue Cross Blue Shield (Empire BCBS) silver-level plan, with coverage beginning January 1, 2015. It also stated that you were eligible for an advance premium tax credit (APTC) of up to \$189.26 per month and eligible for cost-sharing reductions (CSR).

On December 12, 2014, the Marketplace issued a notice confirming your enrollment in the Empire BCBS silver-level plan at a premium rate of \$409.86 per month, after applying the maximum APTC of \$189.26 per month. The notice further stated that your first month's coverage could start as early as January 1, 2015 if you pay your first month's premium.

On April 25, 2015, the Marketplace issued a disenrollment notice confirming your April 24, 2015 request to end your coverage under the Empire BCBS silver-level plan. Your coverage was terminated effective April 30, 2015. You appealed this disenrollment notice insofar as you were seeking a plan termination date of March 31, 2015.

On July 22, 2015, the Marketplace received a copy of a purported Release to Disclose Protected Information and Authorization of Designated Representative in which you identified [REDACTED] as your Authorized Representative.

That same day, the Marketplace issued a notice stating that you submitted documentation to add an Authorized Representative to your account, but the documentation was not sufficient. An Authorized Representative Designation Form was provided to you within this notice. The Marketplace does not contain any record of you having provide the completed Authorized Representative Designation Form to the Marketplace.

On July 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You did not request an Authorized Representative to assist you with the hearing at that time. 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 reenrolled in the Empire BCBS plan for the 2015 plan year with coverage beginning January 1, 2015.
- 2) You testified that you were able to enroll in an insurance plan offered through your union with a start date of April 1, 2015.
- 3) You testified that you were not aware that you had to call the Marketplace to cancel the plan until April 24, 2015, when you were advised to do so by a representative from Empire BCBS.
- 4) You testified that your accountants were handling your application and correspondence with the Marketplace. You further testified that your accountants made calls to Empire BCBS to cancel your plan coverage as early as April 14, 2015.
- 5) You testified that you and your accountants were surprised that you insurance plan was not cancelled until April 30, 2015, and not March 31, 2015 as you were anticipating, so that your coverage did not overlap.

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 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 insurance coverage with Empire Blue Cross Blue Shield (Empire BCBS) was April 30, 2015.

You credibly testified that you became eligible for health insurance plan offered through your union, effective April 1, 2015.

An enrollee must be allowed to terminate his or her coverage with a qualified health plan if they begin receiving minimum essential coverage with appropriate notice to the Marketplace or to their health plan. You testified that you did not inform the Marketplace of your eligibility for Medicare until mid to late April 2015. The Marketplace's records indicate you called on April 24, 2015.

Because you did not provide notice to the Marketplace to terminate your coverage until late April 2015, your coverage cannot be retroactively terminated effective March 31, 2015.

However, the federal regulation allows for an exception if the QHP issuer, here Empire BCBS, 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 Empire BCBS silver-level plan for yourself during April 2015, it is up to Empire BCBS to agree to the earlier termination date of March 31, 2015, as you had requested.

Therefore, the coverage termination date of April 30, 2015 is AFFIRMED and you can pursue the earlier cancellation date request with Empire BCBS directly.

Decision

The April 25, 2015 disenrollment notice is AFFIRMED.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

Your coverage with Empire BCBS ended effective April 30, 2015.

However, you can take up your request for an earlier cancellation date of March 31, 2015 with Empire BCBS 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.

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

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).

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 25, 2015 disenrollment notice is AFFIRMED.

Your coverage with Empire BCBS ended effective April 30, 2015.

However, you can take up your request for an earlier cancellation date of March 31, 2015 with Empire BCBS 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:

