



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

Notice of Dismissal

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002617

[REDACTED]

Dear Ms. [REDACTED]

On June 16, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 15, 2013 eligibility determination and September 9, 2014 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 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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Issues

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

Were the December 15, 2013 eligibility determination and September 9, 2015 disenrollment notice subject to appeal as of April 27, 2015?

Procedural History

On December 9, 2013, the Marketplace received your initial application for health insurance.

That same day, the Marketplace prepared a preliminary eligibility determination stating that you were eligible for an advance premium tax credit (APTC) of up to \$140.00 per month and cost-sharing reductions (CSR), effective January 1, 2014, based on your attestation in your application that you expected to earn \$28,558.00 in 2014.

On December 15, 2013, the Marketplace issued a notice confirming that you were eligible to enroll in a qualified health plan (QHP), and eligible to receive APTC and CSR. It also confirmed your enrollment in an Empire gold-level plan at a total premium cost of \$434.74, after applying the maximum APTC of \$140.00 per month. Finally, it stated that your coverage would begin shortly after your first premium payment.

On September 9, 2014, the Marketplace issued an eligibility redetermination notice. It stated that you were not eligible for Medicaid, Child Health Plus, APTC or CSR. It further stated that you were also no longer eligible to enroll in a

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qualified health plan at full cost. This determination was issued because the Marketplace found that you were already enrolled in or eligible for a public insurance program.

Also on September 9, 2014, the Marketplace issued a disenrollment notice confirming “your request to end your insurance coverage.” Your Empire gold-level plan coverage would end effective September 30, 2014.

On April 27, 2015, you spoke with the Marketplace’s Account Review Unit and appealed (1) the December 15, 2014 eligibility determination insofar as you were eligible for an APTC no greater than \$140.00 per month and (2) the September 9, 2014 disenrollment notice as it terminated your Empire gold-level plan coverage effective September 30, 2014, rather than August 31, 2014.

On June 16, 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) On December 9, 2013, the Marketplace found you preliminarily eligible for an advance premium tax credit (APTC) of up to \$140.00 per month and eligible for cost-sharing reductions (CSR), effective January 1, 2014. An eligibility determination notice formalizing the findings under the December 9, 2013 preliminary eligibility determination was issued on December 15, 2013.
- 2) You were enrolled in an Empire gold-level plan from January 1, 2014 until September 30, 2014. During that time, you received \$140.00 per month in APTC to offset the cost of plan coverage.
- 3) You became eligible for and enrolled in Medicare beginning September 1, 2014.
- 4) On September 9, 2014, the Marketplace issued an eligibility redetermination notice finding you ineligible for, among other things, enrollment in a qualified health plan (QHP) through the Marketplace, because you were enrolled in or eligible for a public insurance program.
- 5) On September 8, 2014, the Marketplace issued a disenrollment notice confirming the end of your Empire gold-level plan. Your coverage under this plan was terminated effective September 30, 2014.

- 6) The earliest you contacted the Marketplace to appeal your APTC eligibility during the 2014 plan year and disenrollment from your Empire gold-level plan, effective September 30, 2015, was April 27, 2015.

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

Applicable Law and Regulations

Appeal Timeliness

The Marketplace “appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) a timeframe consistent with the state Medicaid agency’s requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination” (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

Legal Analysis

On April 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed the December 15, 2013 eligibility determination and September 9, 2014 disenrollment notice.

Eligibility determinations, including disenrollment notifications, may be appealed within 60 days of issue. The written notice was issued confirming your eligibility for an advance premium tax credit (APTC) and cost-sharing reductions (CSR) for the 2014 plan year on December 15, 2013. The Marketplace also issued a disenrollment notice on September 9, 2014 confirming that your Empire gold-level plan coverage would terminate on September 30, 2014. Since both the December 15, 2013 and September 9, 2014 notices were issued more than 60 days before May 27, 2015, the appeal is untimely with respect to these determinations and is dismissed.

The December 15, 2013 eligibility determination and September 9, 2014 disenrollment notice continue in effect.

Decision

The April 27, 2015 appeal of the December 15, 2013 eligibility determination and September 9, 2014 disenrollment notice is untimely and is dismissed.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

Your eligibility is unchanged.

You remained eligible for and APTC of up to \$140.00 per month between January and September of 2015.

Your Empire gold-level plan coverage terminated effective September 30, 2014.

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):

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Summary

The April 27, 2015 appeal of the December 15, 2013 eligibility determination and September 9, 2014 disenrollment notice is untimely and is dismissed.

Your eligibility is unchanged.

You remained eligible for and APTC of up to \$140.00 per month between January and September of 2015.

Your Empire gold-level plan coverage terminated effective September 30, 2014.

Please note that any reimbursement for APTC amounts you were entitled to but did not receive during the 2014 plan year may be reconciled on your 2014 tax return.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

