



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

Notice of Decision

Decision Date: November 24, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002660

[REDACTED]

Dear [REDACTED],

On June 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 4, 2015 disenrollment notice and April 8, 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).

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DEPARTMENT OF HEALTH
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NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace properly determine that your enrollment in the Healthfirst silver-level plan was terminated effective March 31, 2015?

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$197.00 per month, eligible for cost-sharing reductions, and ineligible for Medicaid, effective May 1, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a notice stating that it was time for you to renew your NY State of Health coverage. The notice further stated that based on information from federal and state sources, the Marketplace could not make a decision about whether you qualified for continuing financial help in paying for your health coverage. You were directed to update the information in your NY State of Health account by December 15, 2014, or the financial help you were receiving might end.

No updates were made to your account before December 15, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you were newly eligible to purchase a qualified health plan (QHP) at full cost. You were not eligible to receive advance premium tax credits (APTC) because "renewal period and income data [was] not available." You were not eligible for cost-sharing reductions (CSR) because you were ineligible to receive APTC. You were not eligible for Medicaid because your household

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income was in excess of that allowed by that program. This eligibility was effective January 1, 2015.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in a Healthfirst silver-level plan with a premium responsibility of \$387.46, effective January 1, 2015. The notice further stated that if you had a premium responsibility, you needed to pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

On December 28, 2014, the Marketplace issued a notice stating that your coverage under Healthfirst Silver Leaf would end December 31, 2014, without explanation.

On March 4, 2015, the Marketplace issued a notice based on your March 3, 2015 application, stating that the Marketplace could not make a decision about whether you qualified for health insurance through the Marketplace, and that more information was needed.

Also on March 4, 2015, the Marketplace issued a disenrollment notice confirming that your coverage under the Healthfirst silver-level plan would end effective March 31, 2015.

On March 19, 2015, the Marketplace received a revised application in which you attested to an expected yearly income of \$23,000.00, and anticipated only receiving \$1,260.00 during March 2015.

On March 20, 2015, the Marketplace issued an eligibility redetermination notice stating that you were eligible for Medicaid, effective March 1, 2015.

Also on March 20, 2015, the Marketplace issued a notice confirming your enrollment in Medicaid, effective March 1, 2015. It also advised you to select a health plan or one would be chosen for you.

On March 24, 2015 and March 25, 2015, the Marketplace received further revised application in which you attested to an increased yearly income of \$27,560.00

On April 8, 2015, the Marketplace issued an eligibility redetermination notice stating that you were eligible to enroll in a QHP; eligible to receive APTC up to \$197.00 per month; and eligible for CSR provided you selected a silver-level plan, effective May 1, 2015.

Also on April 8, 2015, the Marketplace issued an enrollment confirming notice stating that as of April 7, 2015, you were enrolled a Healthfirst silver-level plan

with a premium responsibility of \$203.37, after applying the maximum APTC of \$197.00.

On April 29, 2015, you spoke to the Marketplace's Account Review Unit and appealed (1) the March 4, 2015 disenrollment notice insofar as it terminated your coverage under the Healthfirst silver-level plan on March 31, 2015 and not on January 1, 2015 and (2) the April 8, 2015 eligibility determination insofar as you were found eligible to receive an APTC no greater than \$197.00 per month.

On June 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At your request, a Spanish-language interpreter (ID # [REDACTED]) also attended the hearing. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) earning statements received by you from your employer during month of March 2015 and (2) your spouse's Social Security Administration (SSA) 2015 benefit award letter reflecting approximately \$1,200.00 in benefits received monthly. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On July 7, 2015, you provided to the Appeals Unit through via facsimile: (1) earnings statements issued to you by your employer on March 27, 2015 and April 3, 2015 and (2) your spouse's Social Security Administration (SSA) 2015 benefit award letter.

The record was closed on July 9, 2015.

Findings of Fact

- 1) Your account indicates that you chose to receive notices from the Marketplace by regular mail.
- 2) You testified that you never authorized a renewal of your coverage for the 2015 plan year and that you did not recall receiving a notice reflecting that your coverage under the Healthfirst silver-level plan had been renewed.
- 3) You testified that you received a notice on December 28, 2014 stating that your coverage under the Healthfirst silver-level plan had been terminated, effective December 31, 2014, and were confused as to why your coverage had been renewed for 2015.
- 4) You testified that you first realized you had been reenrolled in the Healthfirst silver-level plan during 2015 is when you received a bill for approximately \$1,000.00 at the beginning of March 2015.

- 5) You testified that you terminated your coverage through the Healthfirst silver-level plan on or about March 4, 2015 because you had not requested a renewal of your coverage and couldn't otherwise afford it at full cost for those months.
- 6) You testified that you did not pay any premiums for the months of January through March of 2015.
- 7) You testified that you did not use your insurance coverage for the months of January through March of 2015.
- 8) You testified that you are married, but that you and your spouse live separately. You further testified that you have a daughter, but she is grown and also not living with you.
- 9) You testified that you expect to file your 2015 taxes with a tax filing status of single, and do not expect to claim any dependents.
- 10) You are seeking insurance only for yourself.
- 11) Your applications reflect that you expect to earn approximately \$27,560.00 from your employer during 2015. You testified that this was a reasonable approximation of your anticipated income.
- 12) You did not testify that you would be taking any deductions on your 2015 tax return.
- 13) Your application indicates that you live in Queens County, New York.
- 14) On July 7, 2015, you provided copies of two earnings statements issued by your employer reflecting your receipt of (1) \$660.10 on March 27, 2015 and (2) \$602.17 on April 3, 2015.
- 15) On July 7, 2015, you provided a copy of your spouse's Social Security Administration (SSA) 2015 benefits award letter reflecting that he expects to receive \$1,314.90 per month.

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

Applicable Law and Regulations

Termination of QHP

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), (d)).

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

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

Most adults determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as "continuous coverage" and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that your enrollment in the Healthfirst silver-level plan was terminated on March 31, 2015.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice, stating that as of December 22, 2014 you were enrolled in the Healthfirst silver-level plan. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

A notice was sent to you on December 28, 2014 that your Healthfirst plan would end on December 31, 2014, and you reasonably relied on that notice. Moreover, you testified that you did not pay any premium amount to Healthfirst for the months between January and March of 2015. Because you did not pay your first premium, your coverage in the Healthfirst silver-level plan never went into effect.

Therefore, the disenrollment notice issued on March 4, 2015 is MODIFIED to state you had no coverage with the Healthfirst silver-level plan after December 31, 2014.

The second issue under review is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$197.00 per month; eligible for cost-sharing reductions (CSR); and ineligible for Medicaid effective May 1, 2015.

The record reflects that on March 19, 2015, you submitted a revised application in which you attested to an expected yearly income of \$23,000.00, and anticipated only receiving \$1,260.00 during March 2015. Based on that application, on March 20, 2015, the Marketplace issued an eligibility redetermination notice finding you eligible for Medicaid effective March 1, 2015.

On March 24, 2015 and March 25, 2015, the Marketplace received further revised application in which you attested to an increased yearly income of \$27,560.00.

However, because your Medicaid eligibility began on March 1, 2015, you are entitled to continuous Medicaid coverage until February 29, 2016, and the increase in your income reflected in the March 24, 2015 and March 25, 2015 applications does not end that coverage. While you are eligible for Medicaid, you are not eligible for APTC or CSR in the Marketplace. Therefore, the April 8, 2015 eligibility determination notice stating that you are eligible for APTC and CSR effective May 1, 2015 is MODIFIED to state that your Medicaid coverage continues, under the continuous coverage provision, until February 29, 2016.

Decision

The March 4, 2015 disenrollment notice is MODIFIED to state you had no coverage with the Healthfirst silver-level plan effective December 31, 2014.

The April 8, 2015 eligibility determination is MODIFIED to state that your Medicaid coverage continues, under the continuous coverage provision, until February 29, 2016.

Effective Date of this Decision: November 24, 2015

How this Decision Affects Your Eligibility

Your coverage through Healthfirst silver-level plan terminated effective December 31, 2014.

Your eligibility for Medicaid coverage began March 1, 2015 and continues until February 29, 2016.

You are not eligible for either an advance premium tax credit or cost-sharing reductions.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The March 4, 2015 disenrollment notice is MODIFIED to state you had no coverage with the Healthfirst silver-level plan effective December 31, 2014.

The April 8, 2015 eligibility determination is MODIFIED to state that your Medicaid coverage continues, under the continuous coverage provision, until February 29, 2016.

Your coverage through Healthfirst silver-level plan terminated effective December 31, 2014.

Your eligibility for Medicaid coverage began March 1, 2015 and continues until February 29, 2016.

You are not eligible for either an advance premium tax credit or cost-sharing reductions.

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:

