



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: AP000000002752

[REDACTED]

Dear [REDACTED],

On June 30, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 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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## Dismissal

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002752

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## Issue

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

Were the January 25, 2015 disenrollment notice subject to appeal as of your May 5, 2015 request for review?

## Procedural History

On October 18, 2014, the Marketplace issued a notice stating that it was time to renew your NY State of Health coverage. The notice stated that based on the information about you from state and federal data sources obtained as of October 14, 2015, you were still qualified to buy a health plan at full cost. This eligibility was effective January 1, 2015.

On November 17, 2014, and then again on December 25, 2014, the Marketplace issued a disenrollment notices stating, in part, that your 2014 coverage under the Emblem Health silver-level plan would end effective December 31, 2014. However, it also stated that you would be automatically reenrolled in the same plan for 2015.

On December 9, 2014, the Marketplace issued an enrollment confirmation notice stating that as of November 16, 2014, you had been reenrolled in the Emblem Health silver-level plan. The notice further stated that your coverage could start as early as January 1, 2015 if you paid your first month's premium. It finally said that you needed to pay the monthly premium for this coverage before your coverage could begin.

On January 25, 2015, a disenrollment notice was issued that stated you had requested to end your Emblem Health silver-level plan insurance coverage on January 24, 2015. The notice further stated that you would no longer have coverage with Emblem Health silver-level plan effective January 31, 2015.

On May 5, 2015, you spoke to the Marketplace's Account Review Unit and appealed the disenrollment notice insofar as it terminated your coverage under your Emblem Health silver-level plan on January 31, 2015 and not on December 31, 2014.

On June 30, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence the letter you sent to Emblem Health on December 4, 2014 requesting cancellation of your plan effective December 31, 2014 and a reimbursement of your January 2015 premium amount. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided the above-referenced document to the Appeals Unit through your Marketplace online account.

Accordingly, the record was closed on June 30, 2015.

## **Findings of Fact**

- 1) The Marketplace issued a disenrollment notice confirming your request to terminate your Emblem Health silver-level plan coverage on January 24, 2015. Your coverage under this plan was terminated effective January 31, 2015.
- 2) You contacted the Marketplace on May 5, 2015 to appeal the Marketplace's termination of your Emblem Health silver-level plan coverage on January 31, 2015, rather than December 31, 2014.
- 3) You testified that you contacted Emblem Health on December 4, 2014 and December 24, 2014 to disenroll you from your plan coverage, effective December 31, 2014, since you became eligible for an employer-sponsored health insurance plan as of January 1, 2015.
- 4) You provided a letter you allegedly sent to Emblem Health on December 4, 2014 requesting a termination of your coverage on January 1, 2015.

- 5) You testified that you were not only seeking a coverage termination date of December 31, 2014, but also a reimbursement of your January 2015 premium payment of \$385.31.

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 May 5, 2015, you spoke with the Marketplace's Account Review Unit and appealed the January 25, 2015 disenrollment notice.

Eligibility determinations, including disenrollment notices, may be appealed within 60 days of issue. The disenrollment notice was issued on January 25, 2015. Since the January 25, 2015 disenrollment notice was issued more than 60 days before May 5, 2015, the appeal is untimely and is dismissed.

The January 25, 2015 disenrollment notice continue in effect.

## **Decision**

The May 5, 2015 appeal of the January 25, 2015 disenrollment notice is untimely and dismissed.

**Effective Date of this Decision:** November 09, 2015

## **How this Decision Affects Your Eligibility**

Your eligibility is unchanged.

Your coverage under the Emblem Health silver-level plan ended effective January 31, 2015.

## **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:

- By calling the Customer Service Center at 1-855-355-5777
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## **Summary**

The May 5, 2015 appeal of the January 25, 2015 disenrollment notice is untimely and dismissed.

Your eligibility is unchanged.

Your coverage under the Emblem Health silver-level plan ended effective January 31, 2015.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

