



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

Notice of Decision

Decision Date: December 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003019

[REDACTED]

Dear [REDACTED],

On November 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s system limitations that blocked you from being able to select a qualified health plan in 2014.

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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NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly determine on November 3, 2015 that you were eligible to enroll in a qualified health plan retrospectively to August 1, 2014, because your enrollment had been delayed due to system limitations?

Procedural History

On April 28, 2014, the Marketplace received your application for health insurance.

In the April 30, 2014 notice of eligibility determination and again in the May 9, 2014, May 13, 2014, May 28, 2014, and June 28, 2014 eligibility redeterminations issued by the Marketplace, you were found eligible to receive up to \$60.00 per month in advance premium tax credits and not eligible for cost sharing reductions or Medicaid. The notices further stated that your health insurance coverage would begin shortly after you had selected a health plan and paid the first premium payment. The notices also stated that you did not qualify to select a health plan outside of the open enrollment period because you had not met any of the requirements for a special enrollment period.

On July 17, 2014, the Marketplace issued a notice of eligibility redetermination with the same findings, except that it stated you qualified to select a health plan outside the open enrollment period and needed to select a health plan and confirm your selection by August 31, 2014.

On July 22, 2014, the Marketplace issued a notice of eligibility redetermination that you were eligible to receive up to \$170.00 per month in advance premium tax credits and, if

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you select a silver-level qualified health plan, eligible for cost sharing reductions. The notice also stated that you qualified to select a health plan outside the open enrollment period and needed to select a health plan and confirm your selection by September 19, 2014.

On December 29, 2014, the Marketplace issued a disenrollment notice that your coverage in the silver-level qualified health plan you had been enrolled in during 2014 would end effective December 31, 2014.

On May 19, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal regarding your 2014 enrollment insofar as you had lost your minimum essential coverage as of June 1, 2014, and were delayed getting insurance through the Marketplace because there was an error on your account which would not allow you to select a plan.

You failed to appear at a scheduled telephone hearing on July 28, 2015, which resulted in the Appeals Unit issuing a Notice of Dismissal on September 14, 2015.

On October 15, 2015, the Marketplace received a letter from you, in which you requested that the dismissal of your appeal be vacated for good cause. Your request was granted and a notice of telephone hearing, dated October 20, 2015, was issued.

On November 9, 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

- 1) You testified that you expected your minimum essential coverage to end, effective June 1, 2014, when you first applied for health insurance through the Marketplace on April 28, 2014.
- 2) You are appealing only the delay in your enrollment in a qualified health plan in 2014.
- 3) According to the Enrollment Tab in your Marketplace account, on July 21, 2014, the Marketplace processed your health insurance with a silver-level QHP with coverage starting August 1, 2014 and ending December 31, 2014 (NYSOH Exhibit 1).
- 4) According to the Appeal Summary contained in the Evidence Packet in your Marketplace account, on May 19, 2015, your appeal was filed and stated in part that, "The most recent request was to backdate to 08/01/2014 as there was only one month of services. Appellant was denied backdate as of 5/19/15. Appellant was sent to collections due to bill not being paid. Appellant states that credit

score was affected due to bill being sent to collections and was assured by several staff that he would have been granted backdate due to system errors” (NYSOH Exhibit 2).

- 5) According to a November 3, 2015 manual note contained in your Marketplace account, your case was reviewed with the Plan Management Unit, “as there is also a pending IDR appeal case scheduled for 11/09/15. I submitted an incident to update the consumers file to grant 080114 start date due to a loss of MEC. Due to system limitations, the enrollment did not grant the correct date. Incident resolved, Consumer notified, Ag notified” (NYSOH Exhibit 3)

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

Applicable Law and Regulations

Special Enrollment Period

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR §155.410(a)). The initial open enrollment period for coverage in 2014 began October 1, 2013 and extended through March 31, 2014 (45 CFR §155.410(b)).

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 a life qualifying event occurs, including when a qualified individual or his or her dependent loses certain health insurance coverage (45 CFR § 155.420(d)(1)(a)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

Legal Analysis

The issue under review is whether the Marketplace properly determined on November 3, 2015, that you were eligible to enroll in a qualified health plan retrospectively to August 1, 2014, because your enrollment had been delayed due to system limitations (defects).

The record reflects that you submitted a complete application on April 28, 2014, because you expected to lose your third party health insurance, effective June 1, 2014. Since April 28, 2015 was outside the open enrollment period in 2014, which ended

March 31, 2014, you did not complete your application during the 2014 open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in the Marketplace. In order to qualify for a special enrollment period, a person must experience a triggering event.

You testified that your previous insurance coverage ended on June 1, 2014, which is considered a triggering life event.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

However, the record reflects that due to system limitations (defects), the Marketplace issued several notices between April 30, 2014 and June 28, 2014, stating in part that you were not eligible to enroll in a qualified health plan outside the open enrollment period because you did not meet the requirements for a special enrollment period when, in fact, you did qualify as of June 1, 2014.

The Marketplace recognized that there was a system limitation (defect) and, in response issued notices of eligibility redetermination on July 17, 2014 and July 22, 2014 that superseded (replaced) the previous notices of eligibility determination. These two July 2014 notices correctly stated that you did qualify for a special enrollment and needed to confirm your selection of a health plan by September 19, 2014, at the latest.

Notwithstanding, the record further reflects that after several attempts and complaints, your Marketplace account was not corrected and you were not able to confirm your health plan selection. Yet, there are two references in your Marketplace account that suggest the error was corrected and your enrollment in a silver-level qualified health plan was made effective August 1, 2014 (see, NYSOH Exhibits 1 and 3).

More specifically, as of November 3, 2015, your Marketplace account reflects that your request for retroactive coverage to August 1, 2014 was granted, which ordinarily would render your appeal moot.

However, there is no notice of eligibility redetermination or enrollment notice or enrollment history to indicate that your 2014 health insurance coverage was made effective retroactively to August 1, 2014. For this reason, your case is RETURNED to the Marketplace to confirm your retroactive enrollment start date of August 1, 2014.

Decision

Your case is RETURNED to the Marketplace to confirm your retroactive enrollment start date of August 1, 2014 in the qualified health plan you had selected.

Effective Date of this Decision: December 18, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility for advance premium tax credits or cost sharing reductions.

It simply sends your case back to the Marketplace to confirm your retroactive enrollment start date to August 1, 2014 in the qualified health plan you had selected.

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

Your case is RETURNED to the Marketplace to confirm your retroactive enrollment start date of August 1, 2014.

This decision does not change your eligibility for advance premium tax credits or cost sharing reductions.

It simply sends your case back to the Marketplace to confirm your retroactive enrollment start date to August 1, 2014 in the qualified health plan you had selected.

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:

