



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: AP000000003177

[REDACTED]

Dear [REDACTED],

On August 10, 2015, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 30, 2015 termination date of insurance coverage with Health Republic PrimarySelect Silver plan for you and your spouse, as well as the April 11, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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).

This page intentionally left blank.



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

## Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003177

[REDACTED]

## Issues

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

Did the Marketplace properly terminate health coverage through the Health Republic PrimarySelect Silver plan for you and your spouse, effective April 30, 2015?

Did the Marketplace properly find you and your spouse eligible for Medicaid, effective April 1, 2015?

## Procedural History

On November 7, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. The notice stated that as of January 1, 2015 you and your spouse were eligible for up to \$385.00 in advance premium tax credits (APTC), and that you and your spouse were going to be re-enrolled into Health Republic Insurance of New York, PrimarySelect Silver NS INN Dep25 Acupuncture plan with a premium of \$610.06 per month, effective January 1, 2015.

The notice stated that you must pay your premium bill on time, or you might not be covered effective January 1, 2015. The notice also stated that if the Marketplace had made a mistake in reaching these findings, you would need to update your account by December 15, 2014 in order for changes to be effective by January 1, 2015.

You did not update your account prior to December 20, 2014.

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).

On December 12, 2014, the Marketplace issued an enrollment confirmation notice that stated as of November 22, 2014 you and your spouse were enrolled in PrimarySelect Silver NS INN Dep25 Acupuncture, with a premium responsibility of \$225.06. The notice further stated that you must pay your monthly premium before your coverage could begin. If you paid your first month's premium, your 2015 coverage could start as early as January 1, 2015.

On December 27, 2014, the Marketplace issued a notice confirming that you and your spouse's coverage under the PrimarySelect Silver Plan during the 2014 plan year would end effective December 31, 2014, but that you would be automatically renewed in the same plan for 2015.

On April 10, 2015, the Marketplace received a revised application.

On April 11, 2015, the Marketplace issued an eligibility determination notice, mailed to your New York address, which stated that you and your spouse remained eligible for Medicaid, effective April 1, 2015. The notice stated that you should pick a plan since "your current coverage will end on April 30, 2015." This determination was issued, in part, because your household income of \$0.00 is at or below the allowable income limit of \$21,984.00.

On April 22, 2015, the Marketplace received a revised application in which you indicated that you now resided in New Jersey.

On April 23, 2015, the Marketplace issued an eligibility determination notice based on your April 22, 2015 application. It stated that you and your spouse were not eligible for Medicaid, Child Health Plus (CHP), tax credits or cost-sharing reductions. It further stated that you and your spouse were also not permitted to enroll in qualified health plan (QHP) at full cost. This determination was issued because you and your spouse were not residents of New York State. Your eligibility ended effective May 31, 2015.

On April 24, 2015, the Marketplace issued a disenrollment notice confirming that Medicaid fee-for-service coverage for you and your spouse would be discontinued as of May 31, 2015.

On May 28, 2015, you spoke to the Marketplace's Account Review Unit and appealed (1) the April 30, 2015 termination date of your and your spouse's coverage under the Health Republic Insurance of New York, PrimarySelect Silver NS INN Dep25 Acupuncture plan insofar as you were seeking a December 31, 2014 termination date, and (2) the April 11, 2015 eligibility determination insofar as you and your spouse were found eligible for Medicaid.

Between June 18, 2015 and August 7, 2015, the Marketplace received various documents reflecting that you and your spouse were no longer resided in New

York State, and that your coverage during the 2015 plan year was under Health Republic Insurance of New Jersey.

On August 10 2015, you and your spouse, acting as your Authorized Representative, had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At your request, a Mandarin-language interpreter ( [REDACTED] ) also attended the hearing. 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 testified, and your application reflects, that you and your spouse were enrolled in a Health Republic silver-level plan during the 2014 plan year.
- 2) You testified that you moved to New Jersey on or about November 22, 2014, and that you contacted the Marketplace and Health Republic a couple of days earlier to inform them of that move, and to request a cancellation of your Health Republic silver-level plan policy in New York.
- 3) You testified that you called again in December 2014 to confirm that your policy in New York had been cancelled.
- 4) You testified that also during December you spoke again with Health Republic to enroll in a New Jersey plan during the 2015 plan year.
- 5) You provided multiple documents reflecting your New Jersey residence and that during 2015 you were receiving bills from Health Republic Insurance of New Jersey.
- 6) You testified that you did not pay any premium amounts to Health Republic relating to your New York based plan during 2015.
- 7) You testified that you were seeking to terminate your coverage under the Health Republic silver-level plan policy in New York effective December 31, 2014, not April 30, 2015.
- 8) You also testified that you were unsure why you were found eligible for Medicaid on April 11, 2015, and did not believe you should have qualified for this program.

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

## **Applicable Law and Regulations**

### Termination of Coverage

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)(i)).

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)).

### 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)).

## **Legal Analysis**

The first issue under review is whether your coverage with the Health Republic Silver-level plan was properly terminated effective April 30, 2015.

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).

On December 12, 2014, the Marketplace issued an enrollment confirmation notice that stated as of November 24, 2014 you and your spouse were enrolled in Health Republic PrimarySelect Silver plan, with a premium responsibility of \$225.06. The notice further stated that if you had a premium responsibility, you must pay the first monthly premium before your coverage can begin. If you did not pay your premium, you might not have health coverage.

You testified that you did not pay any premium to Health Republic PrimarySelect Silver for any month during the 2015 plan year relating to coverage in New York. Furthermore, you testified that you affirmatively contacted the Marketplace in late November 2014 to cancel your coverage in connection with your moving to New Jersey.

Because you did not pay your first premium for 2015 coverage, your coverage under Health Republic PrimarySelect Silver never went into effect.

Therefore, your coverage under Health Republic PrimarySelect Silver is MODIFIED to reflect that you and your spouse's coverage terminated under this plan effective December 31, 2014.

The second issue is whether you and your spouse should have been found eligible for Medicaid effective April 1, 2015.

You credibly testified, and provided documentation reflecting, that you and your spouse were no longer residing in New York State as of your April 10, 2015 application. It was based on this application that you and your spouse were found eligible for Medicaid effective April 1, 2015.

Since the Marketplace lacked jurisdiction to determine whether you and your spouse were eligible for Medicaid at that time, the April 11, 2015 eligibility determination is RESCINDED.

## **Decision**

You and your spouse's coverage under Health Republic PrimarySelect Silver is MODIFIED to reflect that you and your spouse's coverage terminated under this plan effective December 31, 2014

The April 11, 2015 eligibility determination is RESCINDED.

**Effective Date of this Decision:** October 27, 2015

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

You and your spouse's coverage under the Health Republic PrimarySelect Silver plan ended effective December 31, 2014.

You and your spouse are not eligible for Medicaid for any part of 2015 through New York State of Health.

## **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
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

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).

## **Summary**

You and your spouse's coverage under Health Republic PrimarySelect Silver is MODIFIED to reflect that you and your spouse's coverage terminated under this plan effective December 31, 2014

The April 11, 2015 eligibility determination is RESCINDED.

You and your spouse's coverage under the Health Republic PrimarySelect Silver plan ended effective December 31, 2014.

You and your spouse are not eligible for Medicaid for any part of 2015 through New York State of Health.

If necessary, the Marketplace may elect to issue a revised 1095A form.

## **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:**

[REDACTED]

[REDACTED]