



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: AP000000003316

[REDACTED]

Dear [REDACTED]

On August 17, 2015, you appeared by telephone at a hearing on your appeal of your eligibility for a health insurance exemption.

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).

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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:

Was your spouse improperly blocked from enrolling in health coverage through New York State of Health Marketplace, and therefore potentially eligible for an exemption for either 2014 or 2015?

Procedural History

The Marketplace received your initial application for health insurance on April 2, 2014, in which you attested to an expected yearly income of \$40,320.00. Only your spouse and your daughter needed health insurance.

On April 3, 2014, the Marketplace issued an eligibility determination notice that was based on the information contained in the April 2, 2014 application. The notice stated your spouse was eligible to enroll in a qualified health plan (QHP); eligible for an advance premium tax credit (APTC); and eligible for cost-sharing reductions (CSR), provided you selected a silver-level plan. A separate notice stated your daughter was eligible to enroll in a plan through Child Health Plus (CHP).

On April 7, 2014, the Marketplace received a revised application in which you attested to an increased expected yearly income of \$43,680.00. In response to this application, the Marketplace prepared a preliminary eligibility determination finding your spouse eligible for an APTC of up to \$125.00 per month and CSR, effective May 1, 2014.

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On April 8, 2014, the Marketplace received four earning statements issued to you by your employer, [REDACTED], between January 31, 2014 and March 14, 2014.

Your daughter was enrolled in a Fidelis Care - Child Health Plus (CHP) plan, effective May 1, 2014.

On April 12, 2014, the Marketplace reran your family's eligibility based on the information contained in your April 7, 2014 application.

On April 19, 2014, the Marketplace issued an eligibility redetermination notice finding your spouse remained eligible to enroll in a QHP, eligible for APTC, and eligible for CSR if he selected a silver-level plan.

On April 23, 2014, the Marketplace issued a notice, confirming your spouse's eligibility, but stating that your spouse did not qualify for a special enrollment period.

On July 9, 2014, the Marketplace issued a notice stating that your spouse had been enrolled in a plan; he remained enrolled in that plan for the remainder of 2014. **(Notice indicates if you pay your first month's premium, your coverage could start as early as August 1, 2014)**

On June 4, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal for a health insurance exemption.

On November 7, 2014, the Marketplace issued a notice, stating that it was time for your family to renew its coverage for the upcoming year. Your spouse would be automatically reenrolled in his current health plan, effective January 1, 2015.

On May 27, 2015 your account was updated and the Marketplace reviewed your eligibility.

On May 28, 2015, the Marketplace issued a notice stating that your spouse was eligible to receive APTC and CSR, and that he qualified to enroll in a health plan outside of open enrollment.

On July 8, 2015, your application was updated and your Marketplace account enrollment details reflect that you selected for your spouse's coverage an MVP Health Care silver-level plan, with such coverage effective as early as August 1, 2015.

On August 17, 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.

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Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you applied for your spouse for health insurance through the Marketplace in April 2014.
- 2) You testified that you called the Marketplace on or about April 1, 2014, you spoke with a representative who took all the information for your application.
- 3) The record reflects that you submitted your initial application to the Marketplace on April 2, 2014.
- 4) Your application reflects that you enrolled your daughter in a Fidelis Care Child Health Plus (CHP) on April 8, 2014, with coverage beginning May 1, 2014. You testified that you attempted to enroll your spouse in a qualified health plan at that same time.
- 5) You testified that you called the Marketplace again on or about April 20, 2014 for information regarding your daughter's coverage. It was then you discovered that your spouse had not been enrolled in a health plan.
- 6) You testified that you called the Marketplace again on April 21, 2014 to attempt to enroll your spouse again in a plan, and were told that there was an issue with your account, and to call again in about two weeks.
- 7) A review of Marketplace records confirms that you called the Marketplace at least as early as April 21, 2014 about the problems you were having enrolling your spouse in a health plan.
- 8) The Marketplace issued a further eligibility determination notice on April 23, 2015 confirming your spouse's eligibility, but stating that your spouse did not qualify for a special enrollment period.
- 9) You testified that you called the Marketplace on May 6, 2014 and May 12, 2014 and tried to pick a plan for your spouse, but were instructed by several representatives that your inability to select a plan was due to a defect in the application process. You were told that a complaint form was being filed on your behalf to fix the technical problem.
- 10) You testified that you were later called by a Marketplace representative supervisor and told that there was no evidence that the Marketplace website did not work properly at that time.

- 11) The record reflects that you were ultimately able to select a plan for your spouse on July 8, 2014, with coverage effective August 1, 2014.
- 12) You testified that when you filed your 2014 tax return, you were assessed a shared responsibility payment of \$241.00 for your spouse not having maintained minimum essential coverage for a portion of 2014.

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

Applicable Law and Regulations

Enrollment Periods

The Marketplace must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

The initial open enrollment period for coverage purchased through the Marketplace began on 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 their enrollment to another plan. This is permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage;
 - (b) Enrolled in any non-calendar year health insurance policy that will expire in 2014, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
 - (c) Pregnancy-related coverage; or
 - (d) Medically needy coverage.
- (2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or

- (3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or
- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or
- (5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions; or
- (7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or
- (8) The qualified individual who is an Indian may enroll in a QHP or change from one QHP to another one time per month; or
- (9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide; or
- (10) A qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

(45 CFR § 155.420(d)).

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)).

Exemptions

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that

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person can show that he experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

In order for the appellant's spouse to have selected a plan after the open enrollment ended on February 28, 2014, he would have to have qualified for a special enrollment period. The initial application was not submitted until after the initial open enrollment period ended, and the Marketplace issued an eligibility determination notice on April 23, 2015 finding that he did not qualify to select a plan outside of the open enrollment period. There was no timely objection filed with regard to that determination.

Therefore, based on the record and testimony, the Appeals Unit finds that the NY State of Health Marketplace did not err in preventing the processing of the health plan selection for the appellant's spouse, and did not fail to issue a timely enrollment notice such that his health plan could not begin until August 1, 2014.

Decision

The Marketplace did not err in preventing the processing of the health plan selection for the Appellant's spouse, and did not fail to issue a timely enrollment notice such that his health plan could not begin until August 1, 2014.

Effective Date of this Decision: December 18, 2015

How this Decision Affects Your Eligibility

Your spouse's eligibility is unchanged.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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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:
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- By fax: 1-855-900-5557

Summary

The Marketplace did not err in preventing the processing of the health plan selection for the Appellant's spouse, and did not fail to issue a timely enrollment notice such that his health plan could not begin until August 1, 2014.

Your spouse's eligibility is unchanged.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

