



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

## Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003733

[REDACTED]

Dear [REDACTED],

On September 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 19, 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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## Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003733

[REDACTED]

## Issue

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

Did the Marketplace properly determine that your family's enrollments in Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 and Emblem Health ended on May 31, 2015?

## Procedural History

On November 5, 2014, the Marketplace issued a notice that it was time for you to renew your health insurance for 2015. The notice stated that you and your spouse were re-enrolled in Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25, and that your children were re-enrolled in Emblem Health through Child Health Plus, effective January 1, 2015.

On December 11, 2014, the Marketplace issued a notice confirming your enrollments.

On May 19, 2015, a disenrollment notice was issued that stated you and your spouse's insurance coverage with Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 was terminated, and your coverage would end effective May 31, 2015. The notice further stated that your children's coverage with Emblem Health was terminated, and their coverage would end effective May 31, 2015.

On July 1, 2015, you spoke to the Marketplace's Account Review Unit and appealed the disenrollment notice insofar as it terminated you and your spouse's

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coverage under your qualified health plan, and your children's coverage under their Child Health Plus plan, on May 31, 2015 and not on April 30, 2015.

On September 25, 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) The record reflects that you and your spouse were automatically re-enrolled in Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 on November 19, 2014. The record further reflects that your children were automatically re-enrolled in Emblem Health through Child Health Plus on that same day.
- 2) You testified that you paid premiums to your health plan for the months of January through April 2015.
- 3) You testified that you did not pay premiums to your health plan for the month of May 2015.
- 4) You testified that you requested to terminate your and your spouse's coverage through Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 and your children's Child Health Plus coverage with Emblem Health in April 2015. You further testified that you were informed by a Marketplace representative that the computer system was down at that time, but you could log into your Marketplace account and cancel your family's enrollment yourself.
- 5) You testified that you logged into your Marketplace account in April 2015 and believed that you had disenrolled your family from their respective health insurance coverages. There is no evidence in the record that your family was disenrolled from their health insurance coverages in April 2015.
- 6) The record reflects that your family's health insurance coverage through the Marketplace was deleted on May 18, 2015.
- 7) You testified that you terminated your coverage because you obtained health insurance through your employer as of May 1, 2015.
- 8) A letter confirming your family's enrollment in United HealthCare family coverage through your employment with [REDACTED] was received by the Marketplace on September 3, 2015.

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

## **Applicable Law and Regulations**

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)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that the coverage provided by your qualified health plan and your children's Child Health Plus plan ended on May 31, 2015.

Enrollees must be allowed to terminate their coverage with a qualified health plan if they provide appropriate notice to the Marketplace or to their health plan.

You testified that you paid the premium for you and your spouse's qualified health plan, and your children's Child Health Plus coverage, from January 2015 to April 2015. You further testified that you did not pay any premiums to either plan for the month of May 2015 because you and your family were enrolled in employer sponsored health insurance coverage, effective May 1, 2015.

You testified that you spoke to a Marketplace representative in April 2015 requesting to terminate your family's coverage, but were told that they could not complete the disenrollment. You further testified that you logged into your Marketplace account in April 2015 and deleted your family's health insurance

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enrollment. However, there is no evidence in the record that your account was adjusted in April 2015, or that such a request was made prior to May 18, 2015. The record does reflect that your family's health insurance coverage through the Marketplace was deleted on May 18, 2015.

Therefore, the Marketplace properly terminated you and your spouse's insurance coverage with Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25, and your children's Child Health Plus coverage with Emblem Health, effective May 31, 2015, which is the last day of the month following your request.

However, the federal regulation allows for an exception if the QHP issuers agree to effectuate termination in fewer than 14 days and the enrollee has requested an earlier termination date (45 CFR § 155.430(d)(2)(iii)). If you [requested an earlier cancellation date](#) and your family members did not use coverage under your respective health plans during May 2015, the health insurance issuers may agree to the earlier termination date that you had requested.

The Marketplace's May 19, 2015 disenrollment notice is AFFIRMED. You may still request an earlier cancellation date from your respective health insurance issuers directly.

## **Decision**

The Marketplace's May 19, 2015 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** October 28, 2015

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

You and your spouse's coverage through Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 ended effective May 31, 2015.

Your children's Child Health Plus coverage with Emblem Health ended effective May 31, 2015.

If you wish, you may still request an earlier cancellation date from your respective health insurance issuers directly.

## **If You Disagree with this Decision (Appeal Rights)**

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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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The Marketplace's May 19, 2015 disenrollment notice is **AFFIRMED**.

You and your spouse's coverage through Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 ended effective May 31, 2015.

Your children's Child Health Plus coverage with Emblem Health ended effective May 31, 2015.

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If you wish, you may still request an earlier cancellation date from your respective health insurance issuers directly.

## **Legal Authority**

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

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

