



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: AP000000003841

[REDACTED]

Dear [REDACTED],

On October 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 16, 2014 and July 10, 2015 disenrollment notices.

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

- 1) 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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NY State of Health Number: [REDACTED]
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Issues

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

Was your appeal of the Marketplace's September 16, 2014 notice of eligibility determination timely filed, and if so, did the Marketplace properly determine that you and your spouse's 2014 enrollment in EssentialCare Platinum Plan ended on September 30, 2014?

Did the Marketplace properly determine that you and your spouse's 2015 enrollment in PrimarySelect Gold Plan ended on July 31, 2015?

Procedural History

On December 19, 2013, the Marketplace issued notices stating that you and your spouse had chosen EssentialCare Platinum Plan- A Consumer Operated and Oriented Plan (CO-OP) Option (EssentialCare Platinum Plan).

On September 16, 2014 the Marketplace issued a disenrollment notice stating that you and your spouse would no longer have coverage through the EssentialCare Platinum Plan, effective September 30, 2014.

On December 12, 2014, January 7, 2015, January 16, 2015, March 4, 2015, March 7, 2015, and April 17, 2015 the Marketplace issued enrollment confirmation notices stating that you and your spouse were enrolled in PrimarySelect Gold NS INN Dep 25 Acupuncture (PrimarySelect Gold Plan) and that if you paid your first month's premium your coverage could start as early as January 1, 2015.

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On July 9, 2015, you spoke to the Marketplace's Account Review Unit and appealed the unpaid balance that you and your spouse owed to your health plan because you were denied retroactive disenrollment.

On July 10, 2015, the Marketplace issued a disenrollment notice stating that you and your spouse would no longer have coverage through PrimarySelect Gold Plan, effective July 31, 2015.

On October 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, your spouse also offered testimony. 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) EssentialCare Platinum Plan and PrimarySelect Gold are provided by Health Republic Insurance of New York.
- 2) You testified that you and your spouse enrolled into a health plan in December 2013 and that that coverage was effective January 1, 2014.
- 3) The Marketplace issued notices on December 19, 2013 stating that you and your spouse chose the EssentialCare Platinum Plan.
- 4) You testified that you paid premiums for the EssentialCare Platinum Plan for January, February, and March 2014.
- 5) Your spouse testified that she called Health Republic Insurance in March 2014 to disenroll you both from the EssentialCare Platinum Plan.
- 6) The Marketplace issued a disenrollment notice on September 16, 2014 stating that you and your spouse would no longer have coverage through the EssentialCare Platinum Plan, effective September 30, 2014.
- 7) You testified that you reenrolled with Health Republic for 2015 coverage because you needed health insurance.
- 8) The Marketplace issued several enrollment confirmation notices stating that you and your spouse were enrolled in the PrimarySelect Gold Plan and that if you paid your first premium your coverage could start as early as January 1, 2015.

- 9) You testified that you paid a premium for the PrimarySelect Gold Plan for January 2015.
- 10) You and your spouse testified that the first time either of you contacted the Marketplace in regards to terminating your coverage through Health Republic was July 9, 2015.
- 11) The Marketplace issued a disenrollment notice on July 10, 2015 stating that you and your spouse would no longer have coverage through the PrimarySelect Gold Plan, effective July 31, 2015.
- 12) The record reflects that you filed your appeal with the Marketplace on July 9, 2015.
- 13) You testified that you and your spouse want to be retroactively disenrolled from all health insurance plans through the Marketplace effective April 1, 2014.

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

Applicable Law and Regulations

Valid Appeal Requests

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

Qualified Health Plans - 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), (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

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- 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 first issue under review is whether the Marketplace properly determined that you and your spouse's 2014 enrollment in the EssentialCare Platinum Plan ended on September 30, 2014.

You and your spouse enrolled into EssentialCare Platinum Plan in December 2013, which was confirmed by the Marketplace in a notice issued on December 19, 2013. You testified that you paid premiums for the EssentialCare Platinum Plan in January, February, and March 2014.

Your spouse testified that she called Health Republic Insurance, the company who provides coverage through the EssentialCare Platinum Plan, in March 2014 to disenroll you both. You did not call the Marketplace at this time. The Marketplace issued a disenrollment notice on September 16, 2014 stating that you and your spouse will no longer have coverage through the EssentialCare Platinum Plan, effective September 30, 2014.

At the hearing, you testified that you and your spouse want to be retroactively disenrolled from all health insurance plans through the Marketplace effective April 1, 2014.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace.

For an appeal regarding the September 16, 2014 eligibility determination on the issue of the effective date of your and your spouse's disenrollment from the EssentialCare Platinum Plan to have been valid, as stated in the September 16, 2014 disenrollment notice, an appeal should have been filed by November 14, 2014. According to the credible evidence in the record, you did not submit an appeal request to the Marketplace until July 9, 2015, which was well beyond 60 days from the September 16, 2014 disenrollment notice.

Therefore, there has been no valid and timely appeal of the September 16, 2014 disenrollment notice and your appeal on the issue of your and your spouse's 2014 enrollment is **DISMISSED**.

The second issue under review is whether the Marketplace properly determined that you and your spouse's 2015 enrollment in PrimarySelect Gold Plan ended on July 31, 2015.

You testified that you reenrolled with Health Republic for 2015 coverage because you needed health insurance. The Marketplace issued several enrollment confirmation notices stating that you and your spouse were enrolled in the PrimarySelect Gold Plan and that if you paid your first's premium your coverage could start as early as January 1, 2015.

Since you testified that you paid a premium for the PrimarySelect Gold Plan for January 2015, your and your spouse's coverage was effective as of January 1, 2015.

Enrollees must be allowed to terminate their coverage with a qualified health plan if they provide appropriate notice to the Marketplace. When an enrollee initiates the termination as a result of no longer wanting to maintain coverage, the end date of their coverage is determined by when they provide appropriate notice.

You and your spouse testified that the first time either of you contacted the Marketplace in regards to terminating your coverage through Health Republic plans July 9, 2015.

Since there is no credible evidence to the contrary, the record indicates that you did not properly notify the Marketplace that you wished to terminate your 2015 coverage until July 9, 2015. Therefore, the Marketplace properly terminated your insurance coverage with the PrimarySelect Gold Plan effective July 31, 2015, which is the last day of the month following your request.

However, the federal regulation allows for an exception if the QHP issuer, here Health Republic Insurance of New York, agrees to effectuate termination fewer than 14 days and the enrollee has requested an earlier termination date, as in your case. If you and your spouse did not use the health plan coverage you had through Health Republic Insurance of New York after January 2015, it is up to Health Republic Insurance of New York to agree to the earlier termination date as you are requesting

The Marketplace's July 10, 2015 disenrollment notice is **AFFIRMED** and you can pursue the earlier cancellation date request with Health Republic Insurance of New York directly.

Decision

Your appeal of the September 16, 2014 enrollment confirmation notice is **DISMISSED** because it is untimely.

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The Marketplace's July 10, 2015 disenrollment notice is AFFIRMED.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You and your spouse had coverage through EssentialCare Platinum Plan from January 1, 2014 through September 30, 2014.

You had coverage through PrimarySelect Gold Plan from January 1, 2015 through July 31, 2015.

If you choose, you can take up your request for an earlier date cancellation date with Health Republic Insurance of New York directly.

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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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

Summary

Your appeal of the September 16, 2014 enrollment confirmation notice is **DISMISSED** because it is untimely.

The Marketplace's July 10, 2015 disenrollment notice is **AFFIRMED**.

You and your spouse had coverage through EssentialCare Platinum Plan from January 1, 2014 through September 30, 2014.

You had coverage through PrimarySelect Gold Plan from January 1, 2015 through July 31, 2015.

If you choose, you can take up your request for an earlier date cancellation date with Health Republic Insurance of New York directly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

