



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

## Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004010

[REDACTED]

Dear [REDACTED],

On August 20, 2015 you and your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's denial of a special enrollment period.

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: August 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004010

[REDACTED]

## Issue

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

Did the Marketplace properly determine that you and your spouse were not eligible to re-enroll into a qualified health plan?

## Procedural History

On July 16, 2015 the Marketplace issued a disenrollment notice that stated you and your spouse's coverage with Silver Select Silver NS INN Dep25 was terminated effective April 30, 2015 because premium payments had not been received.

On July 24, 2015 the Marketplace issued a notice stating that you and your spouse were eligible to receive up to \$349.00 per month in advance premium tax credits and, if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective September 1, 2015. The notice further stated that you and your spouse were eligible to enroll in a health plan outside of open enrollment period. You were instructed to review your options and confirm your selection by September 21, 2015.

Also on July 24, 2015 the Marketplace issued a notice confirming that you requested a telephone hearing. The notice listed the description of appeal as "Re enroll in a plan."

On August 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing your insurance broker, [REDACTED]

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██████████, acted as your authorized representative. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You testified that you were terminated from your health plan because of non-payment of premiums.
- 2) You testified that you experienced financial hardships that caused you to miss premium payments to your health plan.
- 3) You testified that you are seeking to reenroll into a health plan with a lower premium amount.
- 4) On July 24, 2015 the Marketplace issued a notice stating that you and your spouse were eligible to enroll in a health plan outside of open enrollment period. You were instructed to review your options and confirm your selection by September 21, 2015.
- 5) Your authorized representative testified that she attempted to reenroll you and your spouse into a health plan in July but was unable to. Your authorized representative further testified that when she called the Marketplace she was told that you would need to file an appeal.
- 6) During the hearing, your authorized representative tried again to reenroll you into a health plan but was unable to do so.

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)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)); however, the open enrollment period was further extended to February 28, 2015 for individuals who took steps to apply for

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coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-in-line%E2%80%99-provision-ahead-february-15-open>).

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.

## **Legal Analysis**

The only issue under review is whether the Marketplace properly determined that you could not reenroll into a qualified health plan.

On July 16, 2015 the Marketplace issued a disenrollment notice that stated you and your spouse's coverage with Silver Select Silver NS INN Dep25 is terminated effective April 30, 2015 because premiums payments have not been received.

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.

On July 24, 2015 the Marketplace issued a notice stating that you and your spouse were eligible to enroll in a health plan outside of open enrollment period. You were instructed to review your options and confirm your selection by September 21, 2015. Your authorized representative testified that she attempted to reenroll you and your spouse into a health plan in July but was unable to. Furthermore, during the hearing your authorized representative tried again to reenroll you into a health plan but was unable to do so.

Since the Marketplace has already granted you and your spouse a special enrollment period as stated in the July 24, 2015 eligibility determination notice, the Appeals Unit does not need to reach the merits of your appeal because the relief you are seeking has already been granted.

Therefore, your case is RETURNED to the Marketplace to allow you and your spouse the opportunity to reenroll into a health plan under the special enrollment period you were granted in the July 24, 2015 eligibility determination notice.

## **Decision**

Your case is RETURNED to the Marketplace to allow you and your spouse the opportunity to reenroll into a health plan under the special enrollment period you were granted in the July 24, 2015 eligibility determination notice.

**Effective Date of this Decision:** August 25, 2015

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

You and your spouse may reenroll into a qualified health plan. Please review your options and confirm your selection by September 21, 2015

## **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

## **Summary**

Your case is RETURNED to the Marketplace to allow you and your spouse the opportunity to reenroll into a health plan under the special enrollment period you were granted in the July 24, 2015 eligibility determination notice.

You and your spouse may reenroll into a qualified health plan. Please review your options and confirm your selection by September 21, 2015

## **Legal Authority**

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

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

[REDACTED]

[REDACTED]