



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

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004052

[REDACTED]

Dear [REDACTED],

On October 19, 2015, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 28, 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 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).

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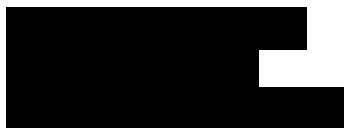


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P.O. Box 11729
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Decision

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Issue

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

Did the Marketplace properly determine on July 27, 2015, that you were disenrolled from your full cost qualified health plan effective July 31, 2015?

Procedural History

On March 26, 2015, the Marketplace received your non-financial application for health insurance for yourself only and prepared a preliminary eligibility determination that stated you were eligible to purchase a qualified health plan at full cost, effective May 1, 2015.

On March 27, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the March 26, 2015 preliminary determination.

Also on March 27, 2015, the Marketplace issued an enrollment notice confirming your enrollment in a CDPHP platinum-level qualified health plan through the Marketplace. The notice stated that coverage could start as early as May 1, 2015 if you paid your first month's premium.

On July 28, 2015, the Marketplace issued a disenrollment notice confirming that, based on your request of July 27, 2015, your coverage through the platinum-level qualified health plan you were enrolled in would end effective July 31, 2015.

On July 27, 2015, you and/or your spouse spoke with a representative from the Marketplace's Account Review Unit and appealed the Marketplace's verbal denial to retroactively disenroll you from the CDPHP platinum-level health plan as of June 30, 2015.

On October 19, 2015, you and your spouse 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

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

- 1) According to your Marketplace account and your testimony, you applied for health insurance for yourself with the assistance of a Navigator.
- 2) Your spouse testified that when you applied for health insurance on March 26, 2015, you both knew it would only be for the months of May 2015 and June 2015 because your COBRA coverage was ending April 30, 2015 through your spouse's employer and you needed coverage for these two months until your Medicare through the same insurer, CDPHP, became active on July 1, 2015.
- 3) Your spouse testified that he expressed your short need for health insurance to the Navigator, as well as the Marketplace and CDPHP, at the time of your application and enrollment selection on March 26, 2015.
- 4) Your spouse testified that you both had expected that conveying the two month need for health coverage served as adequate notice of a limited request for health coverage through the Marketplace in the CDPHP platinum-level qualified health plan you had selected.
- 5) Your spouse testified that you both expected that your health plan would be cancelled effective June 30, 2015, based on the information he had imparted at the time of your application, and that further notice was not required.
- 6) Your spouse testified that after receiving a bill for the full cost of premium for July 2015, he contacted CDPHP to request that your coverage be cancelled effective June 30, 2015, and was referred to the Marketplace.
- 7) Your spouse testified that he was unable to make contact with the Marketplace and he was connected to the Accounts Review Unit.

- 8) According to your Marketplace account and your spouse's testimony, his request to have your CDPHP platinum-level qualified health plan cancellation backdated to June 30, 2015 was verbally denied on July 27, 2015.
- 9) Your spouse testified that you do not want to be responsible for the premium for the month of July 2015 because you gave proper notice on March 26, 2015 to the Navigator, the Marketplace, and CDPHP that you were only seeking two months of coverage.
- 10) You and your spouse testified that the cost of your medical treatment and prescription medication in July 2015 was covered under your Medicare plan and that you did not intend to have nor use any coverage through the CDPHP platinum-level qualified health plan in July 2015.
- 11) You want your disenrollment from the CDPHP platinum-level qualified health plan that you purchased through the Marketplace to be cancelled retroactively to June 30, 2015, and you do not want to be responsible for any premium for the month of July 2015, even though your spouse testified that you have not received any more bills from CDPHP for insurance premium that month.

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

Applicable Law and Regulations

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)). An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Enrollee 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 other minimum essential

coverage, with appropriate notice to the Marketplace or the qualified health plan (45 CFR § 155.430(b)(1)).

In the case of termination in accordance with paragraph (b)(1), the last day of coverage is:

- (i) The termination date specific by the enrolled, if he or she provides reasonable notice;
- (ii) Fourteen days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice; or
- (iii) On a date on or after the date on which the termination is requested by the enrollee, subject to the determination of the enrollee's QHP issuer, if the enrollee's QHP issuer agrees to effectuate termination in fewer than fourteen days, and the enrollee requests an earlier termination effective date...

Legal Analysis

The only issue under review is when your health insurance coverage through your platinum-level qualified health plan should end.

On July 27, 2015, your spouse spoke with a Marketplace representative and his request to have your health plan retroactively cancelled to June 30, 2015 was verbally denied. However, the record does not contain a notice of eligibility determination or redetermination on the issue of retroactive disenrollment. It does contain a July 28, 2015 notice in which the Marketplace acknowledges receipt of an appeal request and identifies the issue on appeal as "Retroactive dis-enrollment."

In this particular case, the lack of a notice of eligibility determination on the issue of retroactive disenrollment does not prevent the Appeals Unit from reaching the merits of the case nor constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. The text of the July 28, 2015 notice, which acknowledges the appeal on the issue of denial of retroactive disenrollment, permits an inference that the Marketplace did deny your request. Since Appeals Unit review of Marketplace determinations is performed on a de novo basis, no deference would have been granted to the notice of eligibility determination had it been issued.

As to the merits of your case, the Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan with appropriate notice to the Marketplace. If the enrollee has provided reasonable notice, the last day of coverage through their qualified health plan is the day specific provided the enrollee has given 14 days advance notice.

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).

You became eligible to purchase a qualified health plan at full cost, effective May 1, 2015, and were enrolled in the CDPHP platinum-level qualified health plan you had selected, also effective May 1, 2015. You and your spouse credibly testified that you informed the Navigator, the Marketplace and CDPHP on March 26, 2015, that you only needed coverage for two months, or up to June 30, 2015, which is the equivalent of 66 days' notice. As such, it is reasonable to infer that you provided the Marketplace and CDPHP with specific information of the last day of coverage, which was also more than the 14 days' notice as required by law. Therefore, your enrollment through the CDPHP platinum-level qualified health plan you had selected through the Marketplace should have been terminated effective June 30, 2015.

Your case is RETURNED to the Marketplace to facilitate the termination of your enrollment through your CDPHP platinum-level qualified health plan, effective June 30, 2015.

Since you did not have coverage through the CDPHP platinum-level qualified health plan as of July 1, 2015, you are not responsible for paying any insurance premium to CDPHP for that plan that month.

Decision

The July 28, 2015 disenrollment notice is MODIFIED to state your disenrollment from the CDPHP platinum-level qualified health plan through the Marketplace is effective June 30, 2015.

Your case is RETURNED to the Marketplace to facilitate the termination of your enrollment through your CDPHP platinum-level qualified health plan, effective June 30, 2015.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

Your disenrollment from the CDPHP platinum-level qualified health plan you had through the Marketplace is effective June 30, 2015.

You do not have health insurance coverage through the Marketplace as of July 1, 2015.

You are not responsible for paying any insurance premium for the CDPHP platinum-level qualified health plan for July 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

The July 28, 2015 disenrollment notice is MODIFIED to state your disenrollment from the CDPHP platinum-level qualified health plan through the Marketplace is effective June 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).

Your case is RETURNED to the Marketplace to facilitate the termination of your enrollment through your CDPHP platinum-level qualified health plan, effective June 30, 2015.

Your disenrollment from the CDPHP platinum-level qualified health plan you had through the Marketplace is effective June 30, 2015.

You do not have health insurance coverage through the Marketplace as of July 1, 2015.

You are not responsible for paying any insurance premium for the CDPHP platinum-level qualified health plan for July 2015.

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:

