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

Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [redacted]
Appeal Identification Number: AP000000004110

[redacted]

Dear [redacted],

On October 14, 2015 you appeared by telephone at a hearing of the Marketplace's July 28, 2015 eligibility determination 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: November 25, 2015

NY State of Health Number: [redacted]
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Issue

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

> Was your insurance through UnitedHealthcare Compass Gold ST INN Pediatric Dental Dep 25 properly terminated effective January 31, 2015?
>
> Did the Marketplace properly determine that you were not eligible for a special enrollment period to enroll in a qualified health plan?

Procedural History

On December 22, 2014 the Marketplace issued an eligibility determination notice that you are eligible to purchase a qualified health plan at full cost through New York State of Health effective January 1, 2015.

On December 23, 2014 the Marketplace issued a notice confirming that you were enrolled in UnitedHealthcare Compass Gold ST INN Pediatric Dental Dep25 and coverage could start as early as January 1, 2015.

On July 27, 2015 you uploaded an appeal request to your Marketplace account. You stated that you are “appealing for my health insurance policy to be reinstated.”

On July 28, 2015 the Marketplace issued an eligibility determination notice that you are eligible to purchase a qualified health plan at full cost through New York State of Health effective September 1, 2015. The notice also stated that you do not qualify to select a health plan outside of the open enrollment period.

On October 14, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open until October 14, 2015 to submit additional documentation.

On October 14, 2015 up loaded additional documentation to your Marketplace account. The record is now complete and closed.

Findings of Fact

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

1. You were enrolled in UnitedHealthcare Compass Gold ST INN Pediatric Dental Dep 25 on December 22, 2014 and coverage began on January 1, 2015.

2. You testified that you paid your January 2015 health insurance premium and received a medical insurance premium bill in February 2015 for $-115.81.

3. You testified that first became aware that there was an issue with your United Healthcare policy in March 2015 when you attempted to acquire your prescriptions.

4. You testified that you called United Healthcare in March 2015 and were notified that your insurance has been terminated on January 31, 2015 for non-payment of premiums.

5. You testified that you received a notice from United Healthcare on April 29, 2015 stating that your insurance had been canceled on January 31, 2015 for non-payment of premiums.

6. According to your Marketplace account, you were enrolled in UnitedHealthcare Compass Gold ST INN Pediatric Dental Dep 25 from January 1, 2015 until January 31, 2015.

7. On July 27, 2015 you updated your Marketplace account. On the following day the Marketplace issued an eligibility determination notice that you do not qualify to select a qualified health plan outside of the open enrollment period.

8. On July 27, 2015 you uploaded an appeal request to your Marketplace account. It states that you are “appealing for my health insurance policy to be reinstated.”

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Special Enrollment Period

The Marketplace must provide an annual open enrollment period during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)). The open enrollment period for the benefit year beginning on January 1, 2015 during which a qualified individual may enroll in a QHP and enrollees may change QHPs begins on November 15, 2014 and extends through February 15, 2015 (45 CFR § 155.410(e)).

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 to another QHP. A special enrollment period may be permitted when one of the following triggering events occurs:

1) The qualified individual or his or her dependent

    i) loses health insurance considered to be minimum essential coverage

    ii) is enrolled in a non-calendar-year health insurance policy that will expire in 2015, even if they have the option to renew the policy

    iii) loses pregnancy-related coverage

    iv) loses 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,

3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status,

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,

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,

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,

7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move,

8) The qualified individual who is an Indian may enroll in a QHP or change from one QHP to another one time per month,

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)).

The loss of minimum essential coverage by a qualified individual or a dependent as a result of a failure to pay premiums on a timely basis, including COBRA premiums prior to the expiration of coverage, is not a sufficient basis to be awarded a special enrollment period (45 CFR § 155.420(e)).

Legal Analysis

The first issue is whether or not your United Healthcare health insurance coverage was terminated as of January 31, 2015.

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Since the issue of termination for failure to pay health insurance premiums is not one that the NY State of Health Appeals Unit is authorized to address, we must dismiss that basis of your appeal request.

However, UnitedHealthcare may be able to help you with your request for coverage. If you have not already been assisted with your current coverage issue, please contact UnitedHealthcare at 1-877-856-2429.

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at http://www.dfs.ny.gov/consumer/fileacomplaint.htm

The Marketplace provided an open enrollment from November 15, 2014 until February 15, 2015. The record indicates that during the open enrollment period you enrolled in the UnitedHealthcare Compass Gold ST INN Pediatric Dental Dep 25. As a result of nonpayment of premiums, your Platinum Plus-P2 coverage ended on January 31, 2015.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to change to another health plan offered in the Marketplace.

In certain circumstances, a special enrollment period is granted to individuals so that they may enroll in a qualified health plan outside of the open enrollment period if the individual experiences a triggering event. Loss of insurance coverage may be considered a triggering event for purposes of being granted a special enrollment period. However, loss of insurance coverage as a result of failing to pay insurance premiums on a timely basis is not considered a triggering event to support approval of special enrollment period.

Therefore, since your insurance coverage ended for non-payment of premiums, a non-qualifying event, you are not entitled to a special enrollment period under 45 CFR § 155.420(d)(1).

No evidence has been offered, or argument made, to support granting of a special enrollment period under the remaining provisions of CFR § 155.420(d).

Since the credible evidence of record confirms that you were ineligible for a special enrollment period, the denial of a special enrollment period is AFFIRMED.

Decision

The July 28, 2015 eligibility determination notice is AFFIRMED.

This decision does not address your termination of coverage. It informs you of contact information if you choose to pursue your complaint further.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility

If you believe you made your premium payment within the required timeframe, please contact your plan directly at 1-877-856-2429.

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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  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The July 28, 2015 eligibility determination notice is AFFIRMED.

This decision does not address your termination of coverage. It informs you of contact information if you choose to pursue your complaint further.

This decision does not change your eligibility

If you believe you made your premium payment within the required timeframe, please contact your plan directly at 1-877-856-2429.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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