



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: AP000000004164

[REDACTED]

Dear [REDACTED],

On October 14, 2015 you appeared by telephone at a hearing of the Marketplace's June 18, 2015 disenrollment and July 14, 2015 enrollment 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
- 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).

This page intentionally left blank.



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

## Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004164



## Issue

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

Was your insurance through Empire HMO 2450 Silver NS INN Pediatric Dental Dep 25 properly terminated effective April 30, 2015?

Did the Marketplace properly find that your Empire Blue Cross Blue Shield (Medical Downstate) should start on August 1, 2015, not July 1, 2015?

## Procedural History

On December 23, 2014 the Marketplace issued a notice confirming that you were enrolled in Empire HMO 2450 Silver NS INN Pediatric Dental Dep 25 (Empire) and coverage could start as early as January 1, 2015.

On June 18, 2015 the Marketplace issued a disenrollment notice that your Empire plan is terminated effective April 30, 2015 because Empire had not received payment for health insurance premiums.

On July 14, 2015 the Marketplace issued an eligibility determination notice that you are conditionally eligible for up to \$85.00 of advance premium tax credits effective August 1, 2015.

On July 14, 2015 the Marketplace issued an enrollment notice confirming that you are enrolled in Empire Blue Cross Blue Shield and coverage could start as early as August 1, 2015.

On August 3, 2015 you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the disenrollment of your coverage and the effective date of coverage.

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 closed at the end of the hearing.

## **Findings of Fact**

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

1. You were enrolled in Empire HMO 2450 Silver NS INN Pediatric Dental Dep 25 (Empire) on December 23, 2014 and coverage began on January 1, 2015.
2. The Marketplace issued a disenrollment notice of your Empire plan on June 18, 2015 for failure to pay health insurance premiums.
3. You testified that you became aware that your plan was cancelled when you received a disenrollment notice from Empire.
4. On July 13, 2015 you enrolled in Empire Blue Cross Blue Shield (Medical Downstate) through the Marketplace.
5. On July 14, 2015 the Marketplace issued an enrollment notice confirming that your coverage through Empire Blue Cross Blue Shield (Medical Downstate) was effective August 1, 2015.
6. You testified that you were hospitalized in July 2015 and want your health insurance through Empire to be backdated to July 1, 2015.

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

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).

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 initial open enrollment period and 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)). The open enrollment period for the 2015 calendar year began November 15, 2014 and ended on February 15, 2015 (45 CFR § 155.410(e)(1)).

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals or their dependents. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another QHP (45 CFR § 155.420(a)(1)).

### Special Enrollment Period Effective Date:

Generally, the effective date for a QHP is the first day of the following month if the enrollment is received by the Marketplace on or before the fifteenth day of the month, and enrollments received after the fifteenth day of the month are effective the first day of the second following month (45 CFR § 155.420(b)(1)).

## **Legal Analysis**

The first issue is whether or not your Empire health insurance coverage was terminated as of April 30, 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, Empire 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 Empire at 1-855-748-1806.

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).

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 Empire HMO 2450 Silver NS INN Pediatric Dental Dep 25 (Empire) on December 23, 2014. As a result of nonpayment of premiums, your coverage ended on April 30, 2015.

The second issue under appeal is whether or not the Marketplace correctly determined that your qualified health plan start date is August 1, 2015, not July 1, 2015.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in a plan or 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.

Generally, when a qualified individual or their dependent enrolls in a qualified health plan during a special enrollment period, the date in which the plan can take effect depends on the day a person selects the plan for enrollment.

On July 13, 2015 you enrolled in Empire Blue Cross Blue Shield (Medical Downstate) through the Marketplace. On the following day the Marketplace issued an enrollment notice stating that your enrollment with the Empire Health Plan would be effective August 1, 2015.

When a plan is selected between the first day and fifteenth day of a month, the plan's effective date is on the first day of the following month.

You selected the Empire Health Plan on July 13, 2015, so it must take effect on the first day of the month after July 2015, which is August 1, 2015.

## **Decision**

The July 14, 2015 enrollment 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

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).

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

This decision does not change your eligibility

Your enrollment start date for your Empire health plan is August 1, 2015.

If you believe you made your premium payment within the required timeframe, please contact your plan directly at 1-855-748-1806.

## **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

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).

## **Summary**

The July 14, 2015 enrollment 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.

Your enrollment start date for your Empire health plan is August 1, 2015.

If you believe you made your premium payment within the required timeframe, please contact your plan directly at 1-855-748-1806.

## **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**

