



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: AP000000004316

[REDACTED]

Dear [REDACTED],

On November 13, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 9, 2015 enrollment confirmation 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).

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Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
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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 that your enrollment in a qualified health plan, as well as the application of advance premium tax credits, was effective August 1, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a notice stating that it was time to renew your health insurance for 2015. That notice stated that, based on information from federal and state sources, the Marketplace could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2014 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2014.

On December 22, 2014 the Marketplace issued an eligibility determination notice stating that you are not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

On July 7, 2015 and on July 8, 2015, the Marketplace received your updated applications for health insurance.

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On July 9, 2015, the Marketplace issued a notice of eligibility redetermination based on the July 8, 2015 application, stating that you were eligible to receive advance premium tax credits of up to \$256.00 per month and cost-sharing reductions. This eligibility was effective August 1, 2015.

Also on July 9, 2015, the Marketplace issued an enrollment confirmation notice stating that your enrollment in a qualified health plan would be effective August 1, 2015 and your advance premium tax credit would be applied to your monthly premium effective August 1, 2015.

On August 13, 2015 you spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your enrollment in a qualified health plan and your financial assistance eligibility on August 1, 2015 and not May 1, 2015.

On November 13, 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 support the following findings of fact:

- 1) You testified, and your Marketplace account confirms, that you elected to receive your communication from the Marketplace via electronic mail.
- 2) You testified that you received three emails from the Marketplace in November and December 2014 alerting you to notices in your Marketplace account.
- 3) You testified that you did not read the notices that were in your Marketplace account because the emails you received said "Do Not Reply" and you thought that meant do not reply to the notices.
- 4) You testified that you did not know you were without coverage until the end of May when you went to get your annual exam.
- 5) The information in your Marketplace account was not successfully updated until July 7, 2015. That application was updated again on July 8, 2015.

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

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Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Enrollment in a Qualified Health Plan

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 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,

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<http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-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 (45 CFR § 155.420(d)).

For individuals who are eligible for a special enrollment period, the Marketplace must ensure coverage is effective the first day of the following month, for QHP selections received by the Marketplace between the first and the fifteenth of any month (45 CFR § 155.420(b)(1)(i)). The Marketplace must ensure coverage is effective the first day of the second following month, for QHP selections received by the Marketplace between the sixteenth and the last day of any month (45 CFR § 155.420(b)(1)(ii)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your enrollment in a qualified health plan as well as your eligibility for advance premium tax credits was effective August 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 6, 2014, the Marketplace issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify for financial help paying for your health coverage. You were asked to update the information in your account by December 15, 2014 or the financial help you were receiving might end.

No updates were made to your account prior to the December 15, 2014 deadline.

On December 22, 2014 the Marketplace issued an eligibility determination notice stating in part that you are not eligible to receive tax credits or cost-sharing reductions to help pay for the cost of insurance and you are not eligible to enroll in a qualified health plan at full cost because you did not respond to the renewal notice within the required timeframe.

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You testified, and your Marketplace account confirms, that you elected to receive your communication from the Marketplace via electronic mail. You testified that you received three emails from the Marketplace in November-December 2014 alerting you to notices in your Marketplace account.

You testified that you did not read the notices that were in your Marketplace account because the emails you received said “Do Not Reply” and you thought that meant do not reply to the notices.

Even though you did not read the notices, the Marketplace still alerted you that they were there and nothing prevented you from going into your Marketplace inbox and reading the notices. Therefore, you received proper notice that you needed to update your application in order to continue your insurance coverage.

The record shows that your application was updated on July 7, 2015 and again on July 8, 2015. The July 8, 2015 application resulted in the July 9, 2015 eligibility redetermination finding you eligible to receive advance premium tax credits of up to \$256.00 per month and for cost-sharing reductions. The July 8, 2015 application also resulted in the July 9, 2015 enrollment confirmation notice stating that your enrollment in your qualified health plan was effective August 1, 2015 and your advance premium tax credit will be applied to your monthly premium effective August 1, 2015.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month.

Therefore, the Marketplace’s July 9, 2015 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your qualified health plan as well as your advance premium tax credits on August 1, 2015.

Decision

The July 9, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

Your enrollment in your qualified health plan as well as your eligibility for advance premium tax credits is effective August 1, 2015.

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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 9, 2015 enrollment confirmation notice is AFFIRMED.

Your enrollment in your qualified health plan as well as your eligibility for advance premium tax credits is effective August 1, 2015.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

