



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

Notice of Decision

Decision Date: December 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004640

[REDACTED]

Dear [REDACTED],

On December 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 20, 2015, eligibility determination and disenrollment 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).

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Issue

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

Did the Marketplace properly determine that you were no longer eligible to receive financial assistance or enroll in a qualified health plan, effective July 31, 2015?

Did the Marketplace properly disenroll you from Fidelis Care Silver ST INN Pediatric Dental Dep25 effective July 31, 2015?

Procedural History

On February 28, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$157.00 monthly of advance premium tax credits and cost sharing reductions, effective April 1, 2015. The notice further requested that you provide proof of your incarceration status before May 28, 2015.

On the same day the Marketplace issued a notice confirming your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep25 and coverage could start as early as April 1, 2015.

On June 30, 2015, you uploaded a paystub to your Marketplace Account.

On July 7, 2015, the Marketplace issued a notice that you have submitted documentation regarding your incarceration status, but the documentation is insufficient to resolve the request.

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).

On July 20, 2015, the Marketplace issued a notice of eligibility determination stating that you were no longer eligible for financial assistance or to enroll in health insurance through the Marketplace because you had not provided proof of your incarceration status. Your eligibility for coverage ended effective July 31, 2015.

On the same day the Marketplace issued a notice that stated your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep25 will be terminated effective July 31, 2015.

On September 8, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 20, 2015, notices insofar as being disenrolled from your health plan through the Marketplace.

On December 8, 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. On February 28, 2015 the Marketplace issued an eligibility determination that you were conditionally eligible to receive up to \$157.00 monthly of advance premium tax credits and cost sharing reductions, effective April 1, 2015. The notice further requested that you provide proof of your incarceration status before May 28, 2015.
2. The February 28, 2015 eligibility determination notice provided a "Documentation List." This list contained examples of documentation that an individual can submit to confirm their eligibility. A "Current Paystub" was listed as a document that could be submitted to confirm incarceration status.
3. According to your Marketplace account, you were enrolled in Fidelis Care Silver INN Pediatric Dental Dep25 with a start date of April 1, 2015 and was terminated on July 31, 2015.
4. According to your Marketplace account, your current address is [REDACTED].
5. On June 30, 2015 you faxed a paystub from [REDACTED]. The paystub was dated June 24, 2015 and was addressed to you with the address that is currently listed in your Marketplace account.

6. On July 7, 2015 the Marketplace issued a notice that “[y]ou have...submitted documentation to resolve the inconsistency; however, the documentation appears to be insufficient to resolve the request.”
7. You testified that you have outstanding medical bills from August, September and December 2015.
8. You testified that you had been incarcerated for one week, four years ago.

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

Applicable Law and Regulations

Eligibility for Enrollment in a Qualified Health Plan

Generally, an applicant is eligible for enrollment in a qualified health plan (QHP) through the Marketplace if he or she: (1) is a citizen or national of the United States, (2) is not incarcerated, and (3) is a resident of the state (45 CFR § 155.305(a)(1)-(3)).

The Marketplace must verify an applicant’s attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting the applicant’s attestation when electronic data sources are unavailable (45 CFR § 155.315(e)). However, if an applicant’s attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, the Marketplace must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(e)(3), (f)(2)(i)-(ii)).

If the Exchange remains unable to verify the attestation after the 90-day period ends, then it must determine the applicant’s eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were no longer eligible to enroll in a qualified health plan through the Marketplace, effective July 31, 2015.

An applicant is eligible to enroll in a qualified health plan (QHP) if he or she is a citizen or national of the United States, is not incarcerated, and is a resident of New York State.

If the Marketplace cannot verify the information required to determine the applicant's eligibility, the Marketplace must provide the applicant a period of 90 days to resolve the inconsistency.

In the eligibility determination issued on February 28, 2015, you were advised that your eligibility was only conditional, and that you needed to provide proof of your incarceration status before May 28, 2015.

The record reflects that the February 28, 2015, eligibility determination notice stated that "Current Paystub" was sufficient documentation as proof of not being incarcerated.

On June 30, 2015, you faxed a copy of your current paystub to the Marketplace. However, on July 7, 2015 the Marketplace issued a notice that the documentation submitted was not sufficient to confirm your eligibility regarding your incarceration status.

Since you submitted sufficient documentation based on the Marketplace's notices, the Marketplace improperly determined that you were no longer eligible to enroll in health insurance through the Marketplace because you did provide the information requested by the Marketplace.

Therefore, the Marketplace's July 20, 2015, eligibility determination and disenrollment notices are **RESCINDED**.

The February 28, 2015 enrollment notice is **REINSTATED**.

Decision

The July 20, 2015, eligibility determination and disenrollment notices are **RESCINDED**.

The February 28, 2015 enrollment notice is **REINSTATED**.

Effective Date of this Decision: December 18, 2015

How this Decision Affects Your Eligibility

The July 20, 2015, eligibility determination and July 20, 2015, disenrollment notices are cancelled.

Your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep25 is effective April 1, 2015 through December 31, 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).

You will be responsible for any health insurance premiums due for your health insurance coverage and will be billed directly by the insurance carrier.

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 20, 2015, eligibility determination and disenrollment notices are **RESCINDED**.

The February 28, 2015 enrollment notice is **REINSTATED**.

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).

The July 20, 2015, eligibility determination and July 20, 2015, disenrollment notices are cancelled.

Your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep25 is effective April 1, 2015 through December 31, 2015.

You will be responsible for any health insurance premiums due for your health insurance coverage and will be billed directly by the insurance carrier.

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:

