



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

Notice of Dismissal- Untimely Appeal Request

Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004875

[REDACTED]

Dear [REDACTED],

On December 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 12, 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.

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).

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545(b).

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Notice of Dismissal- Untimely Appeal Request

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004875

[REDACTED]

Issue

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

Was your appeal of the Marketplace's February 12, 2015 eligibility determination timely?

Procedural History

On November 5, 2014 the Marketplace issued a renewal notice stating that you were re-enrolled into your qualified health plan with a start date of January 1, 2015. The notice further stated that you qualified for up to \$16.31 in tax credits effective January 1, 2015.

On December 11, 2014 the Marketplace issued an enrollment confirmation notice stating that your enrollment in your qualified health plan with a \$446.70 premium could start as early as January 1, 2015 if you paid your first month's premium.

On February 11, 2015, your application was updated.

On February 12, 2015 the Marketplace issued an eligibility determination notice stating that you were eligible to receive up to \$323.00 per month in advance premium tax credits and cost-sharing reductions, effective March 1, 2015.

Also on February 12, 2015 the Marketplace issued an enrollment confirmation notice stating that your enrollment in your qualified health plan with a \$140.01

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premium could start as early as January 1, 2015 if you paid your first month's premium.

On April 23, 2015 the Marketplace issued a disenrollment notice stating that your qualified health plan was terminated effective January 31, 2015 because a premium payment had not been received.

On June 1, 2015 you contacted the Marketplace's Customer Service and filed complaint regarding the premium amount your health plan was billing you for 2015.

On October 6, 2015 a formal appeal was filed with the Marketplace's Account Review Unit based on the February 12, 2015 eligibility determination insofar as your advance premium tax credit was not applied to your January premium amount.

On December 9, 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 testified you updated your Marketplace account in February 2015.
- 2) You testified a representative from the Marketplace told you your eligibility for advance premium tax credits would be made retroactive to January 1, 2015.
- 3) You testified you paid \$400.00 to your health plan in February for what you believed was three months' worth of premiums, however your health plan applied that money to the January premium only.
- 4) The record reflects the earliest you contacted the Marketplace about the amount of premium you were being billed was June 1, 2015 (Complaint # [REDACTED]).
- 5) You testified through your appeal you were seeking in part a refund from your qualified health plan for the premium you paid in January 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

Valid Appeal Requests

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).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The only issue under review is whether your appeal of the Marketplace's February 12, 2015 eligibility determination was timely.

On February 12, 2015 the Marketplace issued an eligibility determination notice stating that you were eligible to receive up to \$323.00 per month in advance premium tax credits and cost-sharing reductions, effective March 1, 2015.

The record reflects that the earliest you contacted the Marketplace about the premium level you were being charged for the month of January 2015 was June 1, 2015. Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace.

For an appeal to have been valid on the issue of the effective date of your advance premium tax credits as stated in the February 12, 2015 notice, an appeal should have been filed by April 13, 2015. According to the credible evidence in the record, you did not contact the Marketplace until June 1, 2015,

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and did not file a formal appeal until October 6, 2015 which is well beyond 60 days from the February 12, 2015 eligibility determination notice.

Therefore, there has been no valid appeal of the February 12, 2015 eligibility determination notice and your appeal on the issue of the effective date of your advance premium tax credit eligibility as stated in that notice is **DISMISSED**.

Please note that through your appeal you were seeking in part a refund from your qualified health plan for the premium you paid in January 2015. You testified that you paid \$400.00 to your health plan in February and your health plan applied that money to the January premium only. At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. If you should have been entitled to an advance premium tax credit in the month of January, you may receive it in the form of a refund on your 2015 income tax return.

Additionally, disputes between an appellant and an insurance carrier as to the timely payment and receipt of premiums are not reviewable by the Appeals Unit of New York State of Health.

Decision

Your appeal of the January 14, 2015 eligibility determination notice is untimely and is dismissed.

Effective Date of this Decision: December 16, 2015

How this Decision Affects Your Eligibility

Your eligibility remains the same.

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.

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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
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Summary

Your appeal of the January 14, 2015 eligibility determination notice is untimely and is dismissed.

Your eligibility remains the same.

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:

