



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

Notice of Decision

Decision Date: April 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005749

[REDACTED]

Dear [REDACTED],

On March 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 24, 2015 enrollment 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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005749



Issue

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

Did the Marketplace properly determine that your plan enrollment start date in the Essential Plan should be February 1, 2016?

Procedural History

On October 24, 2015 the Marketplace issued a notice that it was time to renew your health insurance for 2016. 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, 2015 or you might lose the financial assistance you are currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, the Marketplace issued an eligibility determination that your spouse was newly eligible to purchase a qualified health plan at full cost through NY State of Health, effective January 1, 2016.

On December 23, 2015, your Marketplace account was updated.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the plan enrollment start date of your Essential Health Plan.

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On December 24, 2015 the Marketplace issued an eligibility determination stating that you were eligible to enroll in the Essential Plan, effective as of February 1, 2016.

On December 24, 2015 the Marketplace issued an enrollment notice confirming your enrollment in Essential Plan 1 (Empire Blue Cross Blue Shield HealthPlus) with a plan enrollment date of February 1, 2016.

On March 8, 2016, you had a scheduled telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You requested to adjourn the hearing until March 16, 2016, and waived the 15-day formal notice of hearing requirement.

On March 16, 2016, you had a scheduled telephone hearing with a Hearing Officer from the Marketplace Appeals Unit. Testimony was taken during the hearing and record was developed. The record is now complete and closed.

Findings of Fact

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

- 1) On October 24, 2015 the Marketplace issued a notice that it was time to renew your health insurance for 2016. That notice stated that you needed to update your account by December 15, 2015 or you might lose the financial assistance that is currently be received.
- 2) Your Marketplace account indicates that you receive notices from the Marketplace via electronic mail.
- 3) You testified that you did not receive notice from the Marketplace requesting that you update the information in your Marketplace to ensure that your financial assistance would continue in 2016.
- 4) You testified that you became aware that your coverage was discontinued when you received a notice from the Marketplace that your health insurance had expired.
- 5) According to your Marketplace account, the information in your Marketplace Account was updated on December 23, 2015.
- 6) On December 24, 2015 the Marketplace issued an enrollment notice confirming your enrollment in Essential Plan 1 (Empire Blue Cross Blue Shield HealthPlus) with a plan enrollment date of February 1, 2016.
- 7) You testified that you did not incur any medical expenses for the month of January 2016.

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

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 upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is affordability programs for the 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 individual's projected eligibility for the upcoming 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)).

Essential Health Plan Effective Date

Generally, if the individual enrolls in an Essential Plan between the first and fifteenth day of any month, the Marketplace must ensure a coverage effective date of the first day of the following month.

If an individual enrolls between the sixteenth and last day of the month for any month, the Marketplace must ensure a coverage effective date of the first day of the second following month (N.Y. Social Services Law § 369-gg(4)(c)); 45 CFR § 155.420(b)(i-ii)).

However, the enrollment period was further extended to December 19, 2015 for individuals to have coverage effective January 1, 2016 (Press Release: NY State of Health Extends Enrollment Deadline for January 1

Coverage: https://www.health.ny.gov/press/releases/2015/2015-12-15_enrollment_deadline_extension.htm

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)).

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Legal Analysis

The issue under review is whether the Marketplace properly determined that your plan enrollment start date in your Essential Health Plan should be February 1, 2016.

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 October 24, 2015, 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 with paying for your health coverage. You were asked to update the information in your account by December 15, 2015, or the financial help you were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance was terminated December 31, 2015.

However, you testified and the record reflects that you elected to receive alerts regarding notices from the Marketplace electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which directed you to update the information in your Marketplace account. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your application.

Therefore, it is concluded that the Marketplace did not give you the proper notice that you needed to update your account.

You first renewed your eligibility for financial assistance through the Marketplace for 2016 on December 23, 2015, and therefore the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the December 24, 2015, notice of enrollment is MODIFIED to state that your enrollment in Essential Plan 1 (Empire Blue Cross Blue Shield HealthPlus) shall have an effective date of January 1, 2016.

Decision

The December 24, 2015, notice of enrollment is MODIFIED to state that your enrollment in Essential Plan 1 (Empire Blue Cross Blue Shield HealthPlus) shall have an effective date of January 1, 2016.

Effective Date of this Decision: April 11, 2016

How this Decision Affects Your Eligibility

The effective date of your Essential Plan 1 (Empire Blue Cross Blue Shield HealthPlus) is January 1, 2016.

You may be responsible for additional health insurance premiums in order to effectuate this coverage.

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:

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Summary

The December 24, 2015, notice of enrollment is MODIFIED to state that your enrollment in Essential Plan 1 (Empire Blue Cross Blue Shield HealthPlus) shall have an effective date of January 1, 2016.

The effective date of your Essential Plan 1 (Empire Blue Cross Blue Shield HealthPlus) is January 1, 2016.

You may be responsible for additional health insurance premiums in order to effectuate this coverage.

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:

