



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

## Notice of Decision

Decision Date: March 5, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001131

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]. [REDACTED],

On December 22, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 16, 2014 eligibility determination and November 17, 2014 disenrollment 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

Decision Date: March 5, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001131

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine that as of November 16, 2014, you were not eligible to be enrolled in a qualified health plan at full cost or receive financial assistance through the Marketplace and were disenrolled as of November 30, 2014?

## Procedural History

The Marketplace received your initial application on December 9, 2013.

On December 16, 2013, the Marketplace issued a notice of eligibility determination on your December 9, 2013 application. It said you are temporarily eligible to enroll in a qualified health plan (QHP), receive advance premium tax credits up to \$295.00 monthly and, if you selected a silver-level QHP, eligible for cost-sharing reductions. The notice further informed you that additional information was required to make a final determination on your application. The notice also confirmed that you had chosen a qualified health plan and dental plan and would receive benefits information shortly after paying your first premium.

On November 6, 2014, the Marketplace sent you a notice that said “[i]t’s time to renew your NY State of Health coverage,” but more information is needed to decide whether or not you qualify for financial help to pay for your health coverage. The notice instructed you to update the information in your account by December 15, 2014, so the Marketplace can make an appropriate decision.

On November 16, 2014, your eligibility through the Marketplace was redetermined.

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That same day, the Marketplace issued a notice of eligibility redetermination. The notice stated that you were not eligible for Medicaid, Child Health Plus, or tax credits or cost-sharing reductions to help pay for the cost of insurance. It also stated that you cannot enroll in a QHP at full cost through the Marketplace. The notice further stated that you did not provide information on your citizenship status, which the Marketplace must obtain in order to confirm your eligibility. Lastly, the Notice informed you that, if you are enrolled in a health plan, you will no longer receive coverage through your plan and you will receive a separate notice confirming that your coverage has ended.

On November 17, 2014, the Marketplace issued a disenrollment notice. The notice stated that your 2014 coverage in Adult Smiles and Empire Blue Cross Blue Shield Silver Guided Access would end effective November 30, 2014, because you are no longer eligible to enroll in health insurance through New York State of Health.

On December 2, 2014, you spoke with the Marketplace's Account Review Unit and appealed the November 16, 2014 eligibility determination.

On December 22, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit documentary evidence that your health insurance was cancelled and your December 2014 premium was refunded. The record was to be closed after 15 days or upon receipt of the documentation, whichever occurred earlier.

On December 23, 2014, the Marketplace's Appeals Unit received a three page fax from you. It consisted of: (1) A cover page; (2) A copy of the premium refund check for December 2014 premium paid; and (3) Your November 24, 2014 letter to the Marketplace.

This three page fax was made part of the record as "Appellant's Exhibit E." Since the requested evidence was received, the record was closed that same day.

## **Findings of Fact**

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

- 1) You were enrolled in Adult Smiles and Empire Blue Cross Blue Shield Silver Guided Access beginning on January 1, 2014 up until November 30, 2014, when you were disenrolled for failure to provide citizenship documentation.
- 2) You testified that you elected to take your full advance premium tax credit of \$295.00 monthly, always paid your monthly premium of \$134.41 for health insurance in advance of the month of coverage, and had paid your December 2014 premium in November 2014.

- 3) According to your Marketplace account, you uploaded your 2013 tax return on February 21, 2014 (Appellant's Exhibit C). You testified that you thought this tax return was the additional information the Marketplace needed at that time.
- 4) You testified that you did not look at your Marketplace online account afterward and did not know that additional information regarding your citizenship status had been requested and was needed.
- 5) You testified that you did not know there was a problem with your citizenship status until you received the November 17, 2014 disenrollment notice in the mail.
- 6) You testified that on or about November 21, 2014, you called the Marketplace's Customer Service Unit once you received the disenrollment notice and were told to upload your passport.
- 7) You uploaded a copy of your United States passport ( [REDACTED] ) two times on November 21, 2014 (Appellant's Exhibits A and B).
- 8) You testified and indicated in a letter that you became a naturalized citizen at age 5 and have lived in the United States for the past 43 years (Appellant's Exhibit B).
- 9) In a November 24, 2014 correspondence from you to the Marketplace, you explained that you uploaded your passport to your account and asked for an appeal (Appellant's Exhibit D and E, p.3).
- 10) Your health insurer, Empire Blue Cross Blue Shield, sent you a refund check for the December 2014 premium you had paid. The statement portion above the check stated that, effective December 1, 2014, your health insurance contract was cancelled (Appellant's Exhibit E, p.2). You testified that you have not cashed the refund check because you were appealing the Marketplace's disenrollment and the health insurer's cancellation of health insurance as of December 1, 2014.
- 11) According to your Marketplace account, on December 16, 2014, the Marketplace verified your citizenship status based on your United States passport.

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

## **Applicable Law and Regulations**

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present

noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

## **Legal Analysis**

Federal regulation requires that a person seeking enrollment in a qualified health plan through the Marketplace have United States citizenship or satisfactory or immigration status. These regulations require the Marketplace to obtain or verify a person's immigration status in order to allow that person enrollment in a qualified health plan.

When the November 16, 2014 notice of eligibility determination was issued, evidence of your citizenship or immigration status was not available in your Marketplace file. Therefore, we must AFFIRM the November 16, 2014 notice of eligibility redetermination and the November 17, 2014 disenrollment notice.

However on November 21, 2014, you uploaded a copy of your United States passport to your Marketplace account. On December 16, 2014, the Marketplace verified your citizenship based on your United States passport. Since you provided satisfactory documentation, which the Marketplace has already verified as valid proof of citizenship, no further action is needed.

## **Decision**

The November 16, 2014 eligibility determination is AFFIRMED.

You remain disenrolled from your 2014 health plans as of November 30, 2014.

Your current eligibility determination is not effected. You remain eligible to purchase a qualified health plan (QHP) through the Marketplace. Your enrollment in Empire HMO 2450 Silver remains effective January 1, 2015.

**Effective Date of this Decision:** March 5, 2015

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

This decision does not change your eligibility.

You remain disenrolled from your 2014 health plans as of November 30, 2014.

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).

However, your current eligibility determination is not effected. You remain eligible to purchase a qualified health plan (QHP) through the Marketplace. Your enrollment in Empire HMO 2450 Silver remains effective January 1, 2015.

## **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  
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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The November 16, 2014 eligibility determination is **AFFIRMED**.

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This decision does not change your eligibility.

You remain disenrolled from your 2014 health plans as of November 30, 2014.

Your current eligibility determination is not effected. You remain eligible to purchase a qualified health plan (QHP) through the Marketplace. Your enrollment in Empire HMO 2450 Silver remains effective January 1, 2015.

## **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:**

[REDACTED]  
[REDACTED]  
[REDACTED]