



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: AP000000001145

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

Dear [REDACTED] [REDACTED],

On December 30, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 6, 2014 disenrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 letter.

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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[REDACTED]
[REDACTED] [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 6, 2014, [REDACTED] and [REDACTED] were no longer eligible to enroll in a qualified health plan at full cost through the Marketplace?

Procedural History

The Marketplace received your initial non-financial application for health insurance on January 3, 2014 for your children [REDACTED] and [REDACTED]. A preliminary eligibility determination rendered that day stated that you were eligible to enroll in a qualified health plan (QHP) through the Marketplace.

On November 6, 2014, the Marketplace issued a disenrollment notice. The notice stated that your children's 2014 coverage with EmblemHealth Select Care Platinum would be terminated effective November 30, 2014 because they were no longer eligible to enroll in health insurance through New York State of Health.

On or around December 4, 2014, you spoke with the Marketplace's Account Review Unit and appealed the November 6, 2014 disenrollment notice for your children.

On December 4, 2014, your children's eligibility through the Marketplace was redetermined.

On December 5, 2014, an eligibility determination notice was issued. The notice stated that your children were conditionally eligible to purchase a QHP at full cost through New York State of Health effective January 1, 2015.

On December 6, 2014, you uploaded a copy of your children's Certificate of Naturalization to your Marketplace account. On the same day, you also uploaded a copy of your children's passports to your Marketplace account.

On December 8, 2014, you faxed a copy of the same documents to the Marketplace.

On December 9, 2014, your children's eligibility through the Marketplace was redetermined.

On December 11, 2014, an eligibility determination notice was issued. The notice stated that your children were eligible to purchase a QHP at full cost through New York State of Health effective January 1, 2015.

On December 30, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your spouse, [REDACTED], also appeared and provided testimony during the hearing. The record was developed during the hearing and was closed at the end of the hearing.

Findings of Fact

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

- 1) You are not currently seeking financial assistance through the Marketplace for your children.
- 2) Your children were enrolled in EmblemHealth Select Care Platinum up until November 30, 2014 when they were disenrolled for failing to provide citizenship documentation.
- 3) The record reflects that your children are naturalized citizens.
- 4) You testified that you did not receive notice that you needed to provide proof of citizenship for your children prior to their disenrollment. You further testified that you did not receive notice of a pending termination until after your children were terminated.
- 5) The record reflects that the Marketplace issued a disenrollment notice for your children on November 6, 2014, with their termination effective November 30, 2014. The record also reflects that the November 6, 2014 disenrollment notice was the first notice issued regarding a termination of

coverage. The record does not reflect that you were issued notice directing you to provide proof of citizenship for your children prior to the November 6, 2014 disenrollment notice.

- 6) You testified that you would like your children's health insurance coverage to be reinstated for December 2014.
- 7) According to your Marketplace account, you currently reside in New York County, New York.

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 noncitizen who is 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)).

If an applicant attests to citizenship, status as a national, or lawful presence, the Marketplace must verify the attestation through the Social Security Administration or the Department of Homeland Security and must provide the applicant 90 days from the date of notice to provide satisfactory documentary evidence (45 CFR § 155.315(c)(3)).

If the Marketplace cannot verify the required information, then the Marketplace must make a reasonable effort to identify and address any inconsistencies. However, if the Marketplace is unable to resolve the inconsistency, then it must provide notice to the applicant regarding the inconsistency and provide the applicant 90 days from the notice date to present satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315(f)(1)-(2)).

Legal Analysis

A person seeking enrollment in a qualified health plan through the Marketplace must have United States citizenship or satisfactory or immigration status. Federal

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.

The Marketplace must make reasonable efforts to address inconsistencies that arise. If the Marketplace is unable to resolve an inconsistency, it must provide that person notice of the inconsistency and a period of 90 days to provide satisfactory evidence to resolve the inconsistency.

When the November 6, 2014 disenrollment notice was issued, evidence of your children's citizenship or immigration status was not available in your Marketplace file.

The record reflects that no notice was issued indicating an inconsistency which would require you to provide evidence of your children's citizenship or immigration status.

Since the record reflects that you were not issued notice of an inconsistency in your children's application for health insurance, and you did not have an opportunity to submit satisfactory evidence to resolve the inconsistency, we will RESCIND the November 6, 2014 disenrollment notice.

Your case is REMANDED to the Marketplace to reinstate [REDACTED] and [REDACTED] enrollment in EmblemHealth Select Care Platinum for the month of December 2014.

Decision

The November 6, 2014 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace to reinstate [REDACTED] and [REDACTED] enrollment in EmblemHealth Select Care Platinum for the month of December 2014.

Effective Date of this Decision: March 5, 2015

How this Decision Affects Your Eligibility

This decision does not change your current eligibility for 2015 health insurance coverage through New York State of Health.

This decision directs the Marketplace to reinstate your children's enrollment in EmblemHealth Select Care Platinum for the month of December 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).

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 November 6, 2014 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace to reinstate [REDACTED] and [REDACTED] enrollment in EmblemHealth Select Care Platinum for the month of December 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).

This decision does not change your children's eligibility for 2015 health insurance coverage through New York State of Health.

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] [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]