



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

Notice of Decision

Decision Date: May 29, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001186

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s November 16, 2014 eligibility redetermination.

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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[REDACTED]
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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 should be disenrolled as of November 30, 2014?

Procedural History

The Marketplace received your initial application for health insurance on October 20, 2013.

The Marketplace made a preliminary eligibility determination that you are eligible to enroll in a qualified health plan (QHP), receive an advance premium tax credit (APTC) of up to \$284.00 monthly, and receive cost-sharing reductions (CSR). However, in order for your eligibility to be finalized, you were to submit citizenship status documents to the Marketplace by May 19, 2014, to confirm that the information you provided in your application is accurate.

On November 25, 2013, you modified your application. The Marketplace a preliminary determination that you and your spouse are eligible to enroll in a QHP, receive APTC of up to \$665.00 monthly, and receive CSR.

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On November 16, 2014, an eligibility determination notice was issued. The notice stated that you and your spouse are not eligible for Medicaid, Child Health Plus, APTC or CSR and you cannot enroll in a QHP at full cost through the Marketplace. The notice explained that you did not provide information on your citizenship status, which the Marketplace must obtain in order to confirm your eligibility.

On November 17, 2014, the Marketplace issued a disenrollment notice. The notice stated that your 2014 coverage in Fidelis Care Silver would end effective November 30, 2014 because you were no longer eligible to enroll in health insurance through New York State of Health.

On November 26, 2014, the Marketplace received a letter and copy of your and your spouse's Certificates of Naturalization.

On December 15, 2014, you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as you were found 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.

On December 16, 2014, the Marketplace issued a notice of eligibility redetermination that you and your spouse are conditionally eligible to receive up to \$661.00 per month of APTC and for CSR.

That same day, the Marketplace issued an enrollment notice confirming that you and your spouse were enrolled in Fidelis Care Silver, effective January 1, 2015, and had a monthly premium responsibility of \$98.58 after your APTC of \$661.00 was applied.

On December 19, 2014, the Marketplace issued a Notice of Telephone Hearing to you advising you that the hearing requested was scheduled for January 5, 2014.

On January 5, 2014, you failed to appear by telephone for your scheduled hearing. Accordingly, your appeal was dismissed for failure to appear and a notice to that effect, dated January 30, 2015, was sent to you.

On January 22, 2015, the Marketplace issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in a QHP with an APTC of up to \$661.00 per month and, while enrolled in a silver level QHP, for CSR.

Based on a February 16, 2015 fax that the Marketplace received from you, it vacated the dismissal of your appeal and scheduled a hearing for April 28, 2015.

On April 28, 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.

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Findings of Fact

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

- 1) You and your spouse were enrolled in Fidelis Care Silver from January 1, 2014 up until November 30, 2014, when you were both disenrolled for failure to provide citizenship documentation.
- 2) You testified that you elected to take your full advance premium tax credit of \$284.00 monthly, always paid your monthly premium for health insurance in advance of the month of coverage, and had paid your December 2014 premium during November 2014.
- 3) You testified that you did not look at your Marketplace online account after enrolling and did not know that additional information regarding your or your spouse's citizenship status had been requested and was needed.
- 4) 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.
- 5) You testified that on or about that date, you called the Marketplace's Customer Service Unit once you received the disenrollment notice and were told to upload both of your certificates of naturalization.
- 6) On or about November 26, 2014, you provided the Marketplace with copies of your Certificates of Naturalization (Appellant's Exhibit A).
- 7) You testified that neither you nor your spouse needed medical attention during December 2014, so you do not need coverage reinstated for that month.
- 8) You testified that you paid your December 2014 premium to Fidelis Care and had not received a refund, but your current bill shows that it may have been applied. You agreed at the hearing that you would contact your insurance carrier directly to confirm that this was in fact the case.
- 9) You testified that you and your spouse have been enrolled in Fidelis Care Silver beginning January 1, 2015, have paid your monthly premiums in advance, and have used your health insurance successfully.

10) According to your Marketplace account, on January 21, 2015, the Marketplace verified your citizenship status based on your and your spouse's certificates of naturalization.

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

To enroll in a qualified health plan through the Marketplace, a person must have United States citizenship or satisfactory or immigration status. Federal regulations require the Marketplace to obtain or verify a person's immigration status.

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 AFFIRM the November 16, 2014 notice of eligibility redetermination and the November 17, 2014 disenrollment notice.

However on November 26, 2014, you provided the Marketplace with copies of your and your spouse's certificates of naturalization. On December 16, 2014, the Marketplace redetermined that you and your spouse were conditionally eligible for APTC and CSR. On January 21, 2015, the Marketplace verified both of your citizenships based on your certificates of naturalization. Since you provided satisfactory documentation, which the Marketplace has verified as valid proof of citizenship and you testified that you are satisfied with your and your spouse's enrollment in Fidelis Care Silver since January 1, 2015, no further action is needed.

Decision

The November 16, 2014 notice of eligibility determination and November 17, 2014 disenrollment notice are AFFIRMED.

Effective Date of this Decision: May 29, 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.

However, your and your spouse's current eligibility determination is not affected. You both remain eligible to purchase a qualified health plan through the Marketplace and to share an advance premium tax credit of up to \$661.00 per month and eligible for cost-sharing reductions. Your enrollment in Fidelis Care 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.

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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:
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- By fax: 1-855-900-5557

Summary

The November 16, 2014 notice of eligibility determination and the November 17, 2014 disenrollment notice are **AFFIRMED**.

You and your spouse remain disenrolled from your 2014 health plan as of November 30, 2014.

Your and your spouse's current eligibility determination is not affected. You both remain eligible to purchase a qualified health plan through the Marketplace and to share an advance premium tax credit of up to \$661.00 per month and eligible for cost-sharing reductions. Your enrollment in Fidelis Care Silver remains effective January 1, 2015.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]