



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

Notice of Decision

Decision Date: April 17, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001259

[REDACTED]
[REDACTED]
[REDACTED]

Dear Mrs. [REDACTED],

On February 2, 2015, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s November 16, 2014 eligibility determination.

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).

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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 15, 2014, you were no longer eligible to remain enrolled in a qualified health plan through the Marketplace?

Procedural History

The Marketplace received your initial non-financial application for health insurance on December 7, 2013. In it you indicated your Citizenship/Immigration Status as "US Citizen" rather than as "Naturalized Citizen."

On December 7, 2013, you enrolled in a bronze-level qualified health plan with coverage beginning on January 1, 2014.

On December 10, 2013, the Marketplace issued a notice of eligibility determination stating that you were temporarily eligible to enroll in a qualified health plan through the Marketplace. The notice also stated: "What you told us doesn't match the records we have for you. We need more information from you." It directed you to provide proof of citizenship within 90 days and advised you that, if you did not do so, "New York State of Health may determine you unqualified for health insurance."

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On December 11, 2013, the Marketplace sent you a letter confirming that you had chosen to receive all information electronically.

On November 6, 2014, the Marketplace issued a Notice of Annual Open Enrollment, which stated: “Based on the information from federal and state sources, we cannot make a decision about whether or not you qualify for health coverage. Please update the information on your NY State of Health account by December 16, 2014 so we can make an appropriate decision. If you miss this deadline, your coverage in 2015 may not be continued.”

The Marketplace redetermined your eligibility and, on November 16, 2014, issued an eligibility determination notice. The notice stated that you were not eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace because you did not provide information on your citizenship status.

On November 17, 2014, the Marketplace issued a disenrollment notice stating that you were no longer eligible to enroll in health insurance through New York State of Health. It stated that your 2014 enrollment in a bronze QHP and a dental plan would end effective November 30, 2014.

On November 18, 2014, the Marketplace redetermined your eligibility. On November 28, 2014, it issued a notice of eligibility redetermination stating that you were conditionally eligible to purchase a QHP at full cost through New York State of Health, effective January 1, 2015. That notice also directed you to provide proof of your citizenship status by February 18, 2015.

On December 22, 2014, you appealed the November 16, 2014 eligibility redetermination notice and the November 17, 2014 disenrollment notice.

On February 2, 2015, you and your spouse had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the hearing and was left open for 15 days to allow you the opportunity to provide a copy of your United States passport. You faxed a copy of your U.S. passport to the Appeals Unit, along with a fax receipt report, the next day. This fax was made part of the record as “Appellant’s Exhibit A.”

Since the requested evidence was received, the record was closed that same day.

On February 7, 2015, the Marketplace issued a notice stating that your eligibility had been redetermined and that, as of March 1, 2015, you were eligible to enroll a qualified health plan at full cost “because you met all of the eligibility requirements.”

Findings of Fact

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

- 1) You testified that you have been a naturalized citizen of the United States since 1989.
- 2) You hold a United States passport that was issued during 2010 and remains valid until 2020. It states that your place of birth is India (Appellant's Exhibit A).
- 3) When you filed your Marketplace application on December 7, 2014, you gave your citizenship/immigration status as "US Citizen," rather than as "Naturalized Citizen."
- 4) In a December 10, 2013 notice, the Marketplace stated that you were temporarily eligible to enroll in a qualified health plan (QHP) for 2014. It directed you to provide proof of citizenship within 90 days and advised you that if you failed to do so you could be determined unqualified for health insurance.
- 5) You enrolled a bronze-level QHP and a dental plan, effective January 1, 2014.
- 6) The record does not contain proof of your citizenship received by the Marketplace on or before November 16, 2014.
- 7) When you initially enrolled in the Marketplace, you chose to receive all notices electronically.
- 8) Your spouse testified that the November 16, 2014 notice terminating your 2014 eligibility was received on or about November 18, 2014 by regular mail.
- 9) Your spouse further testified that he called the Marketplace when you received the notice in the mail and learned they had a wrong e-mail address for you. The e-mail address was then corrected in your account on November 18, 2014. Your spouse testified that he was told to send the Marketplace proof of your citizenship and that your coverage could be reinstated as of December 1, 2014.
- 10) On December 18, 2014, the Marketplace determined that, pending receipt of your proof of citizenship, you were temporarily eligible to purchase

coverage, effective January 1, 2015. No redetermination was issued with regard to your terminated 2014 coverage.

11) Your spouse testified that he mailed a copy of your U.S. Passport during the second week of December 2014, and was told by the Marketplace that it would take a couple of weeks to upload it into your Marketplace account. He testified that he faxed in another copy on January 29, 2015 because your coverage had not been reinstated. The record shows that your U.S. Passport was uploaded to your Marketplace account on February 3, 2015.

12) On February 7, 2015, the Marketplace issued a notice confirming that you had met all of the eligibility requirements to enroll in a QHP.

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

Applicable Law and Regulations

Citizenship / Immigration Status

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)).

Electronic Notice

The Marketplace must permit individuals a choice to receive notices and information in electronic format or by regular mail and must be permitted to change such election (42 CFR §435.918(a)).

If the individual elects electronic communications, the Marketplace must send “an email or other electronic communication alerting the individual that a notice has been posted to his or her account” and send a notice by regulation mail within three business days if the electronic communication cannot be delivered (42 CFR §435.918(b)(4), (5)).

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Legal Analysis

Federal regulations require the Marketplace to confirm that people who are enrolled in health insurance plans through the Marketplace have United States citizenship or satisfactory immigration status.

According to the credible evidence of record, as a naturalized citizen with a valid United States passport, you were fully eligible to enroll in a full-cost qualified health plan during the entire year of 2014.

When you submitted your application for health insurance on December 7, 2013 you indicated Citizenship/Immigration Status as “US Citizen” rather than as “Naturalized Citizen.” Thus, you selected a status that, while not entirely incorrect, was not the most accurate choice available for you on the application and appeared in the system as a discrepancy. Because of this discrepancy, the Marketplace found you to be only temporarily eligible to enroll and directed you to provide proof of citizenship within 90 days.

Since there is no evidence in the record that you provided that information within the time required, the Marketplace was unable to verify your citizenship as required. Thus, it did not act improperly when it terminated your coverage effective November 30, 2014.

On December 11, 2013, the Marketplace sent you a letter confirming that you had chosen to receive all information electronically.

On November 6, 2014, the Marketplace issued a notice regarding coverage for 2015. It stated that the New York State of Health did not have enough information to make a determination for 2015 and directed you to return to your account and provide more information by December 16, 2014.

On November 16 and 17, 2014, the Marketplace issued notices on your existing 2014 coverage. The November 16, 2014 notice stated that you were not eligible to enroll in a qualified health plan (QHP) because you did not provide information on your citizenship status. The November 17, 2014 notice stated your 2014 QHP and dental plan would end on November 30, 2014 because you were no longer eligible to enroll.

On November 18, 2014, you received a print copy of the November 16, 2014 notice. That same day, your spouse spoke with Customer Service and learned that documentation of your citizenship information was needed. The Marketplace redetermined your eligibility and issued a notice that stated you were conditionally eligible to purchase a QHP in 2015 but did not address your 2014 QHP and dental plan termination.

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The November 17, 2014 notice terminated your QHP and dental plan at the end of November; and the November 18, 2014 redetermination (set out in the November 18, 2014 notice) restored coverage at the beginning of January; so the only matter at issue is a one-month coverage gap during December.

As a documented, naturalized citizen you were and are fully eligible to enroll in QHP and dental plans during 2014 and 2015. The record suggests that, due to an e-mail address problem, you may not have received all necessary notices in a timely manner. It also indicates that when you received a paper notice your spouse promptly spoke with Marketplace Customer Service; they told him to provide the missing documentation and told him that coverage could be reinstated December 1, 2014. The Marketplace did not issue a notice either restoring or denying coverage for the period December 1, 2014 through December 31, 2014. It did find you eligible to purchase a QHP effective January 1, 2015, and according to the record you have now demonstrated that “you met all of the eligibility requirements.”

The November 16, 2014 notice stating that you had not provided the requested citizenship documentation was correct when issued and is AFFIRMED. However, the particular facts of this case indicate that the November 17, 2014 notice should be MODIFIED to state that your 2014 QHP and dental plan terminated on December 31, 2014.

Because your QHP and dental plan coverage were in effect during December 2014, you must pay the carriers the premiums for that month of coverage if you have not already done so.

Decision

The November 16, 2014 eligibility redetermination is AFFIRMED.

The November 17, 2014 notice is MODIFIED to state that your 2014 qualified health plan and dental plan terminated on December 31, 2014.

Effective Date of this Decision: April 17, 2015

How this Decision Affects Your Eligibility

Your qualified health plan and dental plan were in effect during 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).

You owe the carriers the premiums for that month of coverage if you have not already paid them.

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

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Summary

The November 16, 2014 eligibility redetermination is AFFIRMED.

The November 17, 2014 notice is MODIFIED to state that your 2014 qualified health plan and dental plan terminated on December 31, 2014.

Your qualified health plan and dental plan were in effect during December 2014.

You owe the carriers the premiums for that month of coverage if you have not already paid them.

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]