



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

## Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001327

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On January 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 4, 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).

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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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001327

[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 15, 2014, your wife was no longer eligible to remain enrolled in a qualified health plan or to receive financial assistance through the Marketplace?

## Procedural History

The Marketplace received your initial non-financial application for health insurance on February 4, 2014 and, on February 5, 2014, prepared a notice of eligibility determination that your wife is temporarily eligible to enroll in a qualified health plan and receive advance premium tax credits together with you of up to \$283.00 monthly, effective March 1, 2014. The notice informed you that your wife needed to provide proof of her citizenship within 90 days or the Marketplace may be unable to continue to provide her with health insurance.

On February 4, 2014, you and your wife were enrolled in a silver-level qualified health plan (QHP) beginning March 1, 2014 to December 31, 2014.

On February 16, 2014, the Marketplace issued a notice confirming your and your wife's health plan enrollment. That notice also informed you that your health insurance coverage will begin shortly after you selected a health plan and paid the first premium and reminded you that additional information is still needed to make a final determination on your application.

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On November 3, 2014, your eligibility through the Marketplace was redetermined.

On November 4, 2014, an eligibility determination notice was issued. The notice stated that your wife was not eligible for Medicaid, Child Health Plus, or tax credits or cost sharing reductions to help pay for the cost of insurance. She was also not eligible to enroll in a QHP at full cost through the Marketplace. The notice further stated that she did not provide information on her citizenship status, which the Marketplace must obtain in order to confirm her eligibility.

On November 5, 2014, the Marketplace issued a disenrollment notice that stated your wife's 2014 coverage in Empire Silver Guided Access - cbnw will end effective November 30, 2014, because she was no longer eligible to enroll in health insurance through New York State of Health.

On November 26, 2014, the Marketplace redetermined your eligibility and issued a corresponding notice of eligibility redetermination on November 27, 2014, that you and your wife are eligible to receive advance premium tax credits of up to \$594.00 monthly and, if you select a silver-level qualified health plan, for cost-sharing reductions, effective January 1, 2015.

On December 12, 2014, the Marketplace issued a letter confirming your and your wife's enrollment in Empire HMO 2000 Silver ST INN with Dental beginning January 1, 2015, and your monthly premium responsibility of \$348.38.

On January 2, 2015, you appealed the November 4, 2014 eligibility redetermination and your wife's disenrollment from the qualified health plan that she had been enrolled in from March 1, 2014 until November 30, 2014.

On January 27, 2014, you 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 wife's U. S. passport and proof that you had faxed it to the Marketplace in November 2014. You also faxed a copy of her U.S. passport to the Appeals Unit, along with a fax receipt cover page addressed to the Marketplace, the next day. This fax was made part of the record as "Appellant's Exhibit B."

Since the requested evidence was not received, the record remained open until February 11, 2015. Since nothing further was faxed to the Marketplace's Appeals Unit by the close of business that day, the record was closed.

## **Findings of Fact**

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

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- 1) Your wife was enrolled in Empire Silver Guided Access – cbnw in a couple’s plan with you from March 1, 2014 until November 30, 2014, when she was disenrolled by the Marketplace for failing to provide citizenship documentation. You testified that you paid your premiums in full for every month, including the December 2014 premium.
- 2) You testified that your wife has been a naturalized citizen for 8 years, or since 2007.
- 3) You testified that, when you received the November 4, 2015 eligibility redetermination notice, you contacted the Marketplace immediately and provided your wife’s immigration numbers over the telephone. Also on that same day, you faxed in a copy of your wife’s U. S. passport.
- 4) You testified, and your Marketplace account reflects, that you uploaded a copy of your wife’s U.S. passport on November 25, 2014, which was issued on April 26, 2010 and expires April 25, 2020 and, according to your Marketplace account, was verified by the Marketplace on November 26, 2014.
- 5) You testified that, during a second telephone conversation with a Marketplace customer service representative in November 2014, you inquired about your wife keeping her doctor’s appointment in December 2014. You testified that you were assured by the Marketplace that once the information you provided is verified and shows your wife has been compliant, her health insurance will be re-instated for December 2014.
- 6) Your wife attended her December 2014 doctor appointments as scheduled, and learned afterward that she did not have coverage under her 2014 health plan.
- 7) You testified that this prompted you to called the Marketplace a third time, during which during conversation, you were informed that it takes time for the Marketplace to re-instate coverage because it goes through the Exchange to the Department of Health, and then to the insurance company.
- 8) You testified that, at some point, the health insurance company issued a refund check for the portion of the premium that related to your wife’s share of December 2014 health premium.
- 9) You further testified that in January 2015, you were told by the Marketplace that your request to have your wife’s coverage reinstated for December 2014 had

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been denied because you had missed the May 2014 deadline within which to comply with proof of citizenship.

- 10) You testified that you now have doctor's bills from December for care that could have been provided in January 2015, when your wife's coverage took effect again.

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)).

## **Legal Analysis**

Federal regulations require that a person seeking enrollment in a qualified health plan through the Marketplace have United States citizenship or satisfactory or immigration status. These regulations requires 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 4, 2014 notice of eligibility determination was issued, evidence of your wife's citizenship or immigration status was not available in your Marketplace file. Therefore, we must AFFIRM the November 4, 2014 notice.

However, on November 25, 2014, your Marketplace account reflected that you uploaded a copy of your wife's U. S. passport before the November 30, 2014 termination date. Since documentation of your wife's citizenship status is now available in the record, your case is returned to the Marketplace to verify the submitted documentation and redetermine her eligibility for December 2014.

## **Decision**

The November 4, 2014 eligibility redetermination is AFFIRMED.

Your case is being returned to the Marketplace to verify the citizenship/immigration documents you have provided and to redetermine your wife's eligibility for December 2014, if it has not already done so.

**Effective Date of this Decision:** August 7, 2015

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

This decision does not change your wife's eligibility.

Your case is being returned to the Marketplace to verify the citizenship/immigration documents you have provided and to redetermine your wife's eligibility for December 2014, if it has not already done so.

## **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..

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## **If You Have Questions about this Decision (Customer Service Resources):**

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- By calling the Customer Service Center at 1-855-355-5777
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- By fax: 1-855-900-5557

## **Summary**

The November 4, 2014 eligibility redetermination is AFFIRMED.

This decision does not change your wife's eligibility.

Your case is being returned to the Marketplace to verify the citizenship/immigration documents you have provided and to redetermine your wife's eligibility for December 2014, if it has not already done so.

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## **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]