



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

## Notice of Decision

Decision Date: June 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001437

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 6, 2014 and November 16, 2014 renewal notices, as well as the December 22, 2014 and January 9, 2015 eligibility determinations.

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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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001437

[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 you and your family were eligible to enroll in a qualified health plan at full cost no earlier than February 1, 2015?

## Procedural History

On December 20, 2013, a copy of your current U.S. passport was uploaded to your Marketplace account.

In 2014, your entire family was enrolled in health insurance coverage through the Marketplace effective January 1, 2014, when you changed your application to one declining financial assistance. The Marketplace issued a notice on March 28, 2014, stating that your individual eligibility was temporary, pending the submission of proof of citizenship. The notice gave you 90 days to produce such evidence and stated that a U.S. Passport was appropriate documentation.

On November 6, 2014 and on November 16, 2014, the Marketplace issued notices that stated it was time to renew your family's health insurance coverage for 2015. The notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether anyone in your family qualified for health coverage. You were asked to update the information in your NY State of Health account by December 16, 2014 or your family's coverage might not be continued in 2015. Neither letter explained what information was being requested.

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On December 22, 2014, the Marketplace issued two eligibility redetermination notices in your case. The first stated that you individually were not eligible to remain enrolled in a qualified health plan at full cost through the Marketplace because you did not provide proof of your citizenship status.

The second notice stated that your spouse and all your children were eligible to purchase a qualified health plan at full cost through New York State of Health. The notice further stated that your family must pick a health plan because the current coverage would end on December 31, 2014. This eligibility was effective January 1, 2015.

On December 27, 2014, the Marketplace issued a disenrollment notice, which stated that your family's health insurance coverage with Platinum Select will end for all family members effective December 31, 2014, because you individually were no longer eligible to enroll in health insurance coverage through New York State of Health, and your other family members were no longer eligible to remain enrolled in their current health plan.

On January 7, 2015, a copy of your Certificate of Naturalization was uploaded to your Marketplace account.

You modified your account multiple times on January 7, 2015 and January 8, 2015. In response to these modifications, the Marketplace made multiple preliminary determinations. When your modifications indicated a non-financial application, all the members of your family were eligible to enroll in a qualified health plan (QHP). When the applications requested financial assistance, you and your spouse's coverage were eligible for advance premium tax credits, seven of your eight children were eligible for coverage under Child Health Plus (CHP), and one of your children (██████) was not eligible for financial assistance because she was, "Receiving Medicaid/CHP/Refugee Public MEC." There is also a reference in your child's eligibility history that there was a pending approval for her for Medicaid effective January 1, 2014 to December 31, 2014, but there is no determination in your file to verify this finding, nor is there any indication she was eligible for any public assistance for 2015.

On January 8, 2015, the Marketplace issued a notice stating that ██████ "[did] not qualify for Child Health Plus because federal and state data sources show that [she was] already enrolled in Medicaid, Child Health Plus or another program. Children enrolled in Medicaid, Child Health Plus or another program do not qualify for Child Health Plus."

On January 9, 2015, after you changed your application to one declining financial assistance, the Marketplace issued an eligibility determination notice that stated you and all your family members were eligible to purchase a qualified health plan

at full cost through New York State of Health. This eligibility was effective February 1, 2015.

Also on January 9, 2015, the Marketplace issued an enrollment confirmation notice confirming your family's enrollment in your selected health plan. The notice further stated that your health insurance coverage could start as early as February 1, 2015 if you paid your first month's premium.

On January 12, 2015, you spoke with the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it began your enrollment eligibility on February 1, 2015, not January 1, 2015.

On March 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit evidence to support your position.

On March 19, 2015, the Marketplace's Appeals Unit received your supporting evidence via fax, which included a copy of your health insurance invoice issued for January 2015 coverage. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

The record was closed on March 19, 2015.

## **Findings of Fact**

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

- 1) You testified that when you originally applied for health insurance through the Marketplace on December 20, 2013, you elected to receive electronic communications. You further testified that you have never received any email notifications or paper notices from the Marketplace.
- 2) You testified that the only notices you received regarding your health insurance coverage were sent directly by your health insurance plan provider.
- 3) The record reflects that you and your family were enrolled in your plan through the Marketplace effective January 1, 2014 to December 31, 2014.
- 4) The record reflects that you originally submitted a non-financial application for health insurance on December 20, 2013. The record further reflects that your application was changed to an application

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requesting financial assistance on January 7, 2015. Your application was then resubmitted as a non-financial application on January 8, 2015. You testified that the Marketplace changed your application type and health insurance plan without your approval on January 7, 2015, which caused you to change your application type again on January 8, 2015.

- 5) You testified that you received a standard invoice from your insurance plan in December 2014 for January 2015 coverage. You provided evidence of this invoice for January 2015 coverage (Appellant's Exhibit 1, March 19, 2015). You further testified that you paid the premium for January 2015 coverage.
- 6) You testified that you were not aware of the renewal period because did not receive the renewal notices issued by the Marketplace, nor did you receive any email alerts from the Marketplace to check your account for such notices.
- 7) You testified that you did not receive notice from the Marketplace or your plan that your coverage had been terminated effective December 31, 2014. You testified that your spouse called your plan in January 2015, at which time she was informed that your family's insurance coverage was no longer active. You further testified that you called the Marketplace after you were made aware that your coverage was terminated, and were told that you did not submit requested documentation regarding proof of your citizenship.
- 8) You testified, and the record reflects, that a copy of your passport was submitted on December 20, 2013 as proof of your citizenship. The record further reflects that this document was found to be "invalid" as proof of citizenship on March 27, 2014. The record reflects that a copy of your Certificate of Naturalization was uploaded to your Marketplace account on January 7, 2015.
- 9) You testified that one of your children is ill and requires medical treatments. You further testified that you needed to take your child to the doctor in January 2015 and incurred thousands of dollars in medical bills during the period in which your insurance was terminated. You requested your health insurance coverage with your plan be reinstated for January 2015 coverage.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for the upcoming year for qualified individuals who are enrolled for health insurance through the Marketplace (45 CFR § 155.335(a)(1), 45 CFR §155.410(d)).

The Marketplace must provide a qualified individual with an annual redetermination notice including the qualified individual's projected eligibility determination for the following year, after considering any updated information, including, if applicable, the amount of any financial assistance (45 CFR § 155.335(c)).

The Marketplace must generally require a qualified individual to report any change with respect to eligibility standards within 30 days of such change (45 CFR § 155.335(e)). If an individual fails to timely respond, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (42 CFR § 155.335 (h)(1)).

### Eligibility to Enroll Through the Marketplace

The Marketplace must generally determine an applicant eligible for enrollment in a qualified health plan (QHP) through the Marketplace if 1) he or she is a citizen or national of the United States or is a non-citizen who is lawfully present in the United States, 2) is not incarcerated, and 3) meets the applicable residency requirements (45 CFR § 155.305(a)).

### Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)). If an email notice fails to be delivered, the Marketplace must send the notice by regular mail within three business days of the date of a failed electronic communication (*id.*).

## Legal Analysis

The Marketplace must redetermine a qualified individual's eligibility for health insurance, and financial assistance to help pay for that health insurance, annually.

On November 6, 2014 and November 16, 2014, the Marketplace issued annual eligibility redetermination notices in your case. These notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether any of the members of your family qualified for health coverage. You were asked to update the information in your New York State of Health account by December 16, 2014, or your family's coverage might not be continued in 2015.

There is no explanation in your account as to why, when you had never been asked for any information regarding any member of your family other than yourself, this warning had been applied to every member of your family.

No changes were made to your account before December 16, 2014.

Therefore, the Marketplace was required to use the information that was contained in the November 6, 2014 and the November 16, 2014 notices in order to determine your family's eligibility for coverage effective January 1, 2015.

On December 22, 2014, the Marketplace issued two notices. The first stated that you (individually) were not eligible to purchase a qualified health plan (QHP) through the Marketplace at full cost because you did not provide proof of your citizenship status. The second notice stated that the other members of your family were eligible to purchase a QHP at full cost through the Marketplace effective January 1, 2015.

There is no explanation in your account as to why, when your other family members had also received the same warning that had been given to you, their eligibility for coverage was continued but yours was not.

Additionally, a copy of your U.S. passport had been uploaded to your Marketplace account on December 20, 2013. Although the Marketplace later informed you that you needed to submit a copy of your naturalization certificate, your passport was sufficient evidence to allow you to continue in your enrollment in your QHP at full cost, and there is no evidence to explain why the additional evidence of your Certificate of Naturalization was necessary.

Therefore, in the November 6, 2014 and November 16, 2014 notices, the Marketplace improperly stated that your eligibility to purchase a QHP through the Marketplace could not be verified.



Further, you testified credibly that you had never received any notices, whether electronic or otherwise, that you had to update your account or that your family's coverage was in danger of being terminated. There is no evidence to show that you were sent any notice regarding failed email messages through the mail. Therefore, the Marketplace failed to provide you the proper notice regarding the steps you would have to take to renew your coverage for 2015, and your eligibility for coverage for January 2015 should not have been terminated at the end of 2014.

Since the Marketplace improperly denied your eligibility to purchase a QHP at full cost through the Marketplace, the second December 22, 2014 eligibility determination notice is MODIFIED to approve you and your family's eligibility to purchase a QHP through the Marketplace effective January 1, 2015.

The second issue is whether the Marketplace properly determined that your eligibility to purchase a QHP at full cost for your family was effective no earlier than February 1, 2015.

Between January 7, 2015 and January 8, 2015, you updated the information in your Marketplace account. This resulted in a January 9, 2015 eligibility determination notice that stated you and your family were eligible to purchase a qualified health plan at full cost through the Marketplace effective February 1, 2015.

When an individual changes information in their application before the 15<sup>th</sup> of any month, the Marketplace must make the resulting redetermination effective the first day of the following month. Therefore, the Marketplace's January 9, 2015 eligibility determination is AFFIRMED.

However, as noted above, your modification to your account in January 2015 was necessitated by Marketplace error. You also credibly testified and provided evidence that you received an invoice directly from your QHP for January 2015 coverage and paid your premiums for that month.

Therefore, since the Marketplace improperly failed to consider your previously submitted evidence regarding your citizenship status, improperly caused your other family members to lose coverage when no further information was needed to continue that coverage, and improperly failed to provide you electronic communications alerting you that the renewal notices were posted to your account, and because you credibly testified that you paid your January 2015 premium, your case is RETURNED to the Marketplace to reinstate your family's health insurance coverage in your QHP effective January 1, 2015.

Moreover, if you so choose, you may request information regarding your eligibility for financial assistance, since you were obligated to change your application in order to effectuate your family's coverage.

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## **Decision**

The December 22, 2014 eligibility determinations are MODIFIED to reflect that you and all of your family members continued to be eligible to purchase a qualified health plan (QHP) at full cost through the Marketplace effective January 1, 2015.

Your case is RETURNED to the Marketplace to reinstate your family's health insurance coverage in your QHP effective January 1, 2015.

**Effective Date of this Decision:** June 8, 2015

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

Your family's coverage in Platinum Select is 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):**

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- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The December 22, 2014 eligibility determinations are MODIFIED to reflect that you and all of your family members continued to be eligible to purchase a qualified health plan (QHP) at full cost through the Marketplace effective January 1, 2015.

Your case is RETURNED to the Marketplace to reinstate your family's health insurance coverage in your QHP 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]