



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

## Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001949

[REDACTED]

Dear [REDACTED],

On April 15, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 3, 2014 eligibility determination and November 3, 2014 disenrollment notice.

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 Code of Federal Regulation (CFR) 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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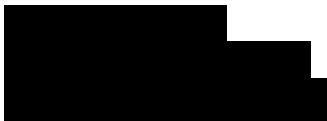


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## Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001949



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were not eligible to enroll in a qualified health plan at full cost or to receive financial assistance through the Marketplace, and terminate your enrollment in coverage effective November 30, 2014?

## Procedural History

The Marketplace received your initial application for health insurance on February 18, 2014 and prepared a preliminary eligibility determination that stated you were not eligible to receive financial assistance. No written notice of eligibility determination regarding that application is in your account.

You were enrolled in health insurance coverage with Fidelis Care Bronze through the Marketplace effective April 1, 2014.

On November 3, 2014, the Marketplace issued a notice of eligibility redetermination. The notice stated that you were not eligible for Medicaid, or tax credits or cost sharing reductions to help pay for the cost of insurance. You were also not eligible to enroll in a Qualified Health Plan (QHP) at full cost through the Marketplace. The notice further stated that you had not provided information on your citizenship status, which the Marketplace must obtain in order to confirm your eligibility.

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Also on November 3, 2014, the Marketplace issued a disenrollment notice stating that your insurance with Fidelis Care Bronze would be terminated effective November 30, 2014, because you are no longer eligible to enroll in health insurance plan through NY State of Health.

On March 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it discontinued your eligibility to enroll in a qualified health plan.

On April 15, 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 documentation supporting your position.

On April 24 and 25, 2015, copies of your permanent resident card were uploaded to your Marketplace account, and marked as having been sent in by fax. No date was indicated on the copies as to when these documents were actually received by the Marketplace. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

The record was closed on April 25, 2015.

## **Findings of Fact**

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

- 1) You were enrolled in Fidelis Care Bronze up until November 20, 2014, when you were disenrolled for failing to provide citizenship documentation.
- 2) You testified that you faxed in a copy of your permanent resident card prior to November 2014.
- 3) A review of the Marketplace system's files show that a copy of your permanent resident card was faxed to the Marketplace. Although there is insufficient evidence to show when your proof of citizenship was received, the record indicates that the document was scanned on November 20, 2014, and again on March 5, 2015. These documents were not associated with your Marketplace account as of the April 15, 2015 hearing.
- 4) The record does not reflect that you were issued notice directing you to provide proof of citizenship prior to the November 3, 2014 notice of eligibility redetermination.

- 5) You testified that you did not receive the November 3, 2014 notice of eligibility redetermination or the disenrollment notice terminating your insurance coverage. You further testified that you were aware your coverage was terminated after your insurance company returned your premium payments at the end of January 2015.

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**

The only issue is whether the Marketplace properly determined that you were no longer eligible to enroll in a qualified health plan at full cost, or receive financial assistance through the Marketplace because you failed to provide proof of your citizenship.

A person seeking enrollment in a qualified health plan through the Marketplace must be citizen or national of the United States, or a noncitizen who is lawfully

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present in the United States . Federal regulations require the Marketplace to obtain and 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 3, 2014 notice of eligibility redetermination and disenrollment notice were issued, evidence of your citizenship 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 citizenship or immigration status. However, you testified and the record also reflects that you faxed a copy of your permanent resident card to the Marketplace. The record reflects that the document was scanned in on November 20, 2014 and March 5, 2015, but was not available in your Marketplace account as of the April 15, 2015 hearing.

Since the record reflects that you were not issued notice of an inconsistency in your application for health insurance, that you had previously provided satisfactory evidence to resolve any alleged inconsistency, and that this evidence was not timely made available in your Marketplace account, the November 3, 2014 notice of eligibility redetermination is **RESCINDED**.

The Marketplace's open enrollment period ended on February 28, 2015; therefore, you are granted a special enrollment period for 60 days as of the date of this decision to enroll in a qualified health plan, retroactively to the date of your disenrollment, if you choose.

## **Decision**

The November 3, 2014 notice of eligibility redetermination is **RESCINDED**.

You are granted a special enrollment period for 60 days as of the date of this decision to enroll in a qualified health plan, retroactively to the date of your disenrollment, if you choose.

**Effective Date of this Decision:** August 21, 2015

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

You are granted a special enrollment period for 60 days as of the date of this decision to enroll in a qualified health plan, retroactively to the date of your disenrollment, if you choose.

## **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 calling the Customer Service Center at 1-855-355-5777
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NY State of Health Appeals  
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## **Summary**

The November 3, 2014 notice of eligibility redetermination is RESCINDED.

You are granted a special enrollment period for 60 days as of the date of this decision to enroll in a qualified health plan, retroactively to the date of your disenrollment, if you choose.

## **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

