



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002771

[REDACTED]

Dear [REDACTED],

On October 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015 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 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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Issue

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

Did the Marketplace properly determine that your spouse was no longer eligible to enroll in a qualified health plan, effective May 31, 2015?

Procedural History

On December 13, 2014, the Marketplace issued a notice of eligibility determination stating that your spouse was conditionally eligible to receive advance premium tax credits and cost-sharing reductions, effective January 1, 2015. The notice further requested that you provide documentation confirming her citizenship status before March 14, 2015.

On December 13, 2014, the Marketplace issued a notice confirming enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep25 for you and your spouse.

On March 19, 2015, the Marketplace sent you a notice stating that the documentation that you submitted was insufficient to resolve the inconsistency regarding your spouse's citizenship status. You were requested to provide additional proof of her citizenship.

On May 3, 2015, the Marketplace issued a notice of eligibility redetermination stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because you had not confirmed her citizenship status. Her eligibility for coverage ended effective May 31, 2015.

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On May 4, 2015, the Marketplace issued a notice that stated her enrollment in her qualified health plan was terminated effective May 31, 2015.

On May 6, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 determination insofar as your spouse was not eligible to enroll in a qualified health plan.

On June 25, 2015, the Marketplace received a copy of your spouse's green card.

On July 2, 2015, you were scheduled for a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, your case was dismissed for failure to appear.

On July 15, 2015, the Marketplace received your written request to vacate the dismissal and a copy of your spouse's green card. The request was subsequently granted.

On October 2, 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.

Findings of Fact

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

- 1) You testified that you received the Marketplace's notices requesting documentation confirming your spouse's citizenship.
- 2) You testified that you mailed in a copy of your spouse's green card on prior to the March 14, 2015 deadline.
- 3) There is no evidence in the record that the Marketplace received your spouse's citizenship documentation before March 14, 2015.
- 4) You mailed a copy of your spouse's green card to the Marketplace, which was received on June 25, 2015. A copy of your spouse's green card was also faxed to the Marketplace and received on July 15, 2015.
- 5) You testified that your spouse is an immigrant non-citizen, and she has resided in the United States since she was 7 years old. You further testified that her only proof of citizenship is her green card, which she obtained as a child, indicating her maiden name.
- 6) You are seeking reinstatement of your spouse's health insurance.

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

Applicable Law and Regulations

Citizenship and 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 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)).

If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period. (45 CFR § 155.315(c)(3)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your spouse was no longer eligible to enroll in health insurance through the Marketplace effective May 31, 2015.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that their citizenship status is satisfactory.

If the Marketplace cannot verify an individual's citizenship status, it must provide the individual a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on December 13, 2014, you were advised that your spouse's eligibility was only conditional, and that you needed to confirm her citizenship status before March 13, 2015.

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The record reflects that the Marketplace did not receive the requested citizenship documentation before the deadline.

If the Marketplace remains unable to verify the inconsistency after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship documentation was not received within the 90 day period, the Marketplace was required to redetermine your spouse's eligibility without verification of her citizenship status. As a result, the Marketplace properly determined that your spouse could not enroll in a qualified health plan through NY State of Health effective May 31, 2015 because you did not provide the information requested by the Marketplace.

Therefore, the Marketplace's May 3, 2015 eligibility determination is correct and is AFFIRMED.

However on June 25, 2015 and July 15, 2015, prior to the rescheduled hearing, you provided a copies of your spouse's green card to the Marketplace. Therefore, your case is RETURNED to the Marketplace to verify your spouse's documentation and redetermine her eligibility for health insurance.

Decision

The May 3, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your spouse's documentation and redetermine her eligibility for health insurance.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

Your spouse is not eligible to enroll in a qualified health plan through the Marketplace at this time.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted for your spouse, and redetermine her eligibility for health insurance, if necessary.

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

Summary

The May 3, 2015 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to verify your spouse's documentation and redetermine her eligibility for health insurance.

Your spouse is not eligible to enroll in a qualified health plan through the Marketplace at this time.

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).

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted for your spouse, and redetermine her eligibility for health insurance, if necessary.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

