



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

Notice of Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002792/APM00000000017

[REDACTED]

Dear [REDACTED],

On July 13, 2015, your spouse 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 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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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 spouse were no longer eligible to enroll in a health insurance plan through NY State of Health, effective May 31, 2015?

Procedural History

On November 28, 2014, the Marketplace issued notice of eligibility determination stating that you and your spouse were conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective January 1, 2015. You were directed to provide documentation confirming your citizenship status before February 25, 2015, or you might be found ineligible for health insurance or for be eligible for less help with your health insurance.

You and your spouse were subsequently enrolled in a health insurance plan.

On April 9, 2015, the Marketplace received certificates of naturalization for you and your spouse.

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

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On May 7, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination.

On July 6, 2015, you had a telephone hearing with a Hearing Officer from the Appeals Unit of NY State of Health. At that time, your spouse appeared on your behalf. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) According to the November 28, 2014 notice of eligibility determination, you and your spouse were conditionally eligible for advance premium tax credits and cost sharing reductions but you were requested to submit documentation to confirm your citizenship status. You testified that you received notice of the Marketplace's request for you and your spouse's proof of citizenship.
- 2) You testified that you were unable to provide the requested citizenship documentation before February 25, 2015 because you were working and went back to school at that time. You further testified that you informed the Marketplace of your situation and you were granted a deadline extension.
- 3) The Marketplace's system reflects that your deadline to provide the requested documentation was extended to April 9, 2015.
- 4) The record reflects that you and your spouse's certificates of naturalization were received by the Marketplace on April 9, 2015.
- 5) According to the Marketplace's system, you and your spouse's health insurance plan with Healthfirst Silver Leaf Premier NS INN Family Dental Dep25 Family Vision was terminated, effective May 31, 2015.
- 6) You and your spouse are seeking reinstatement of your health insurance coverage.
- 7) As of the scheduled hearing, the Marketplace's system reflects that you and your spouse's due date to provide citizenship documentation is August 5, 2015.

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)).

If the Exchange remains unable to verify the attestation after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)(i)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you and your spouse were 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 November 28, 2014, you were advised that your eligibility was only conditional, and that you and your spouse needed to confirm your citizenship status before February 25, 2015. Since this notice was

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considered received on December 3, 2014, the February 25, 2015 deadline to submit the requested documentation was 84 days from the date you were made aware of the inconsistency.

However, the record reflects, and you credibly testified, that your due date to submit the requested documentation was extended to April 9, 2015, which was 127 days from the date you were made aware of the inconsistency.

The record reflects that the Marketplace received the requested citizenship documentation on April 9, 2015, which was within the extended deadline period and prior to the May 3, 2015 eligibility determination that found that you and your spouse were no longer eligible to enroll in a qualified health plan for failure to provide proof of your citizenship.

Since satisfactory documentation of citizenship status for you and your spouse was received within the extended deadline period, the May 3, 2015 notice of eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace to facilitate enrollment with Healthfirst Silver Leaf Premier NS INN Family Dental Dep25 Family Vision for you and your spouse, effective as early as June 1, 2015.

Decision

The May 3, 2015 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace to facilitate enrollment with Healthfirst Silver Leaf Premier NS INN Family Dental Dep25 Family Vision for you and your spouse, effective as early as June 1, 2015.

Effective Date of this Decision: November 18, 2015

How this Decision Affects Your Eligibility

You and your spouse's enrollment with Healthfirst Silver Leaf Premier NS INN Family Dental Dep25 Family Vision will be reinstated, effective as early as June 1, 2015. The Marketplace will work with you to reenroll you and your spouse effective on an appropriate date.

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 is **RESCINDED**.

Your case is **REMANDED** to the Marketplace to facilitate enrollment with Healthfirst Silver Leaf Premier NS INN Family Dental Dep25 Family Vision for you and your spouse, effective as early as June 1, 2015.

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You and your spouse's enrollment with Healthfirst Silver Leaf Premier NS INN Family Dental Dep25 Family Vision will be reinstated, effective as early as June 1, 2015. The Marketplace will work with you to reenroll you and your spouse effective on an appropriate date.

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]