



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

## Notice of Decision

Decision Date: June 24, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002793/APM00000000015

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 8, 2015, you appeared by telephone at an expedited hearing on your appeal of NY State of Health Marketplace's May 3, 2015 and May 8, 2015 eligibility determinations and May 4, 2015 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 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).

This page intentionally left blank.



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

## Decision

Decision Date: June 24, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002793/APM00000000015

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly terminate your enrollment in coverage through the Marketplace, effective May 30, 2015?

Did the Marketplace properly terminate your wife's enrollment in coverage through the Marketplace, effective May 30, 2015?

Did the Marketplace properly refuse to allow your wife to reenroll in coverage, effective June 1, 2015?

Did the Marketplace properly refuse to allow you to reenroll in coverage, effective June 1, 2015?

## Procedural History

On December 19, 2014, you applied for health insurance through the Marketplace for yourself and your wife.

On December 20, 2014, the Marketplace issued an eligibility determination notice that stated your wife was eligible to receive advance premium tax credits and cost-sharing reductions, effective January 1, 2015, without conditions. The notice also stated that you were conditionally eligible to receive advance premium tax credits and cost-sharing reductions, effective January 1, 2015; you individually were required to confirm your citizenship status before March 21, 2015.

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).

You and your wife subsequently enrolled in a health insurance plan.

On May 3, 2015, the Marketplace issued a notice of eligibility redetermination, stating that you, individually, were no longer eligible to receive tax credits or cost-sharing reductions to help pay for the cost of insurance as had previously been determined, nor were you eligible to enroll in a qualified health plan at full cost through NY State of Health, because you had not confirmed your citizenship status. Your eligibility for coverage would end May 31, 2015. There was no mention of your wife in this notice.

In a second notice of redetermination issued on May 3, 2015, the Marketplace again stated that your wife was eligible to receive advance premium tax credits and cost-sharing reductions, without conditions. Her eligibility was effective June 1, 2015.

On May 4, 2015, the Marketplace issued a disenrollment notice that stated both you and your wife were disenrolled from coverage effective May 31, 2015, because you were no longer eligible to enroll in coverage through the Marketplace and your wife was no longer eligible to remain in her current plan.

On May 7, 2015, an appeal of your disenrollment from your health plan was filed on your behalf.

On May 8, 2015, the Marketplace issued a notice of eligibility redetermination that stated both you and your wife were once again eligible to receive advance premium tax credits and cost-sharing reductions, without conditions. The notice also stated that your next step was to pick a health plan, that you could get more information from the "Health Plan Enrollment" section of this notice, and that you would receive written confirmation once you had selected a plan.

On June 8, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing. The record is now closed.

## **Findings of Fact**

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

- 1) In a notice sent to you on December 20, 2014, you were advised that although you were conditionally eligible to enroll in insurance through the Marketplace and receive advance premium tax credits (APTC), you needed to confirm your citizenship status by March 21, 2015.
- 2) On May 3, 2015, a notice was sent to you stating that you, individually, were no longer eligible to enroll in health insurance through the

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).

Marketplace, even at full cost, and that you were being disenrolled from coverage effective May 31, 2015.

- 3) Also on May 3, 2015, a separate notice was issued stating that your wife was no longer eligible to be in your current plan; there was no finding that she was not eligible to enroll in any plan through the Marketplace.
- 4) On May 4, 2015, the Marketplace issued a notice stating that both you and your wife would be disenrolled from your plan effective May 31, 2015.
- 5) An appeal was filed on your behalf on May 7, 2015, objecting to the disenrollment from coverage, and the citizenship status of both yourself and your wife was confirmed that same day (see Appellant's Exhibit #1).
- 6) On May 7, 2015, your citizenship status was updated, and the Marketplace issued a notice on May 8, 2015 confirming that you and your wife were both once again eligible to enroll in a plan through the Marketplace and to receive APTC. However, you were not allowed to re-enroll in a health insurance plan and your coverage was terminated May 31, 2015 (see Appellant's Exhibit #3).
- 7) The Marketplace determined that you and your wife would not be eligible to reenroll in any plan because you were not entitled to a special enrollment period, but it failed to send you any notice to that effect (see Appellant's Exhibit #2).
- 8) You requested Aid to Continue during the pendency of your appeal (see Appellant's Exhibit #2). However, there is no documentation in your account that indicates any action was taken in response to this request.
- 9) Your wife and is in need of ongoing medical care.

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

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).

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)).

### Special Enrollment Period

The Marketplace must provide an annual open enrollment period, during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)). The open enrollment period for 2015 began November 15, 2015 and ended February 15, 2015 (45 CFR § 155.410(e)(1)).

After each open enrollment period ends, the Marketplace provides special enrollment periods (SEP) to qualified individuals. During an SEP, a qualified individual may enroll in a QHP and an enrollee may change to another plan (45 CFR § 155.420(d)).

This is permitted when any one of multiple events occurs, including a qualified individual or his or her dependent loses certain health insurance coverage (45 CFR § 155.420(d)).

However, a loss of coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128” (45 CFR § 155.420(e)).

If one person in the household is eligible for an SEP, everyone in the household that is eligible for or enrolled in a QHP through NY State of Health gets an SEP (see [http://info.nystateofhealth.ny.gov/sites/default/files/FAQs%20on%20Special%20Enrollment%20Periods,%204-14-14\\_0.pdf](http://info.nystateofhealth.ny.gov/sites/default/files/FAQs%20on%20Special%20Enrollment%20Periods,%204-14-14_0.pdf), retrieved June 17, 2015).

If an enrollee selects a QHP plan on or before the 15th day of the month, the Marketplace must ensure a coverage effective date of the first day of the following month (45 CFR § 155.420(b)(1)(i)).

## Legal Analysis

The first issue is whether the Marketplace properly disenrolled you, individually, from your qualified health plan (QHP), effective May 30, 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 citizenship status is satisfactory.

In the initial eligibility determination issued on December 20, 2014, you, individually, were advised that your eligibility was only conditional, and that you needed to confirm your individual citizenship status by March 21, 2015.

You failed to do so. Therefore, the Marketplace was required to rescind the conditional approval of your eligibility to enroll through the Marketplace. Moreover, because the Marketplace considers your failure to provide proof of citizenship as a voluntary action causing the termination of your coverage, you individually would not be entitled to a special enrolment period in which to enroll in new coverage, barring other circumstances.

The second issue is whether your wife's coverage was properly terminated.

Your wife was found eligible to enroll in a health insurance plan through the Marketplace and that eligibility was not conditional. There was no notice stating that your wife's coverage would be affected by your failure to produce citizenship documentation. Therefore, the termination of her coverage was improper.

The third issue is whether, having terminated your wife's coverage, the Marketplace properly refused to provide your wife with a special enrollment period in which to sign up for new coverage, once your coverage had been terminated.

When a dependent loses coverage considered to be minimum essential coverage, that individual is entitled to a special enrollment period in which to reenroll, pursuant to 45 CFR § 155.420(d)(1)(i). After your coverage was terminated, your wife continued to be eligible. Her loss of coverage is not considered to be voluntary on her part, because her prior eligibility determination had not been a condition and at no time was any further documentation requested from her.

Therefore, when your coverage terminated, your wife should have been granted a special enrollment period in which to sign up for new coverage.

The fourth issue relates to your eligibility for a special enrolment period. Once a family member is found to be eligible for a special enrollment period, all members of the family will be granted one as well.

Therefore, once your wife was found eligible to a special enrollment period, you would have been granted one as well.

Finally, you and your wife were found to be eligible to enroll in health insurance through the Marketplace. Had you been allowed to reenroll on May 7, 2015 as you attempted, coverage for you and your wife would have resumed on June 1, 2015, pursuant to 45 CFR § 155.420(b)(1)(i).

Therefore, the May 8, 2015 eligibility determination is MODIFIED to reflect that both you and your wife were eligible for a special enrollment period as of May 7, 2015.

The matter is returned to the Marketplace for it to ensure that both you and your wife are reenrolled in the plan of your choice effective June 1, 2015, without any interruption on coverage. Such changes are to be made on an expedited basis.

## **Decision**

The May 8, 2015 eligibility determination is MODIFIED to reflect that both you and your wife were eligible for a special enrollment period as of May 7, 2015.

**Effective Date of this Decision:** June 24, 2015

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

You and your wife are eligible to reenroll in a qualified health plan to ensure coverage, without any gap, effective June 1, 2015. The matter is restored to the Marketplace to ensure the reinstatement of coverage, without any gaps in coverage, for both you and your wife.

## **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

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).



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 8, 2015 eligibility determination is MODIFIED to reflect that both you and your wife were eligible for a special enrollment period as of May 7, 2015.

You were eligible to reenroll in a qualified health plan to ensure coverage, without any gap in coverage, effective June 1, 2015. The matter is restored to the Marketplace to ensure the reinstatement of coverage, without any gaps in coverage, for both you and your wife.

### **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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).

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

[REDACTED]  
[REDACTED]  
[REDACTED]