



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

Notice of Decision

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002827

[REDACTED]

Dear [REDACTED]

On July 8, 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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Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002827

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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 were no longer eligible to enroll in a qualified health plan, effective May 31, 2015?

Procedural History

On January 3, 2015, the Marketplace issued an eligibility determination notice stating that you were conditionally eligible to receive advance premium tax credits, effective January 1, 2015. The notice further advised you to provide proof of your incarceration status before March 18, 2015, or you might be found ineligible for health insurance or for less financial help with your health insurance.

On February 10, 2015, the Marketplace issued a notice confirming your enrollment in a platinum-level qualified health plan (QHP).

On May 3, 2015, the Marketplace issued an eligibility redetermination notice stating that you were no longer eligible to enroll in health insurance through the Marketplace because you had not provided proof of your incarceration status. Your eligibility for coverage would end effective May 31, 2015.

On May 4, 2015, the Marketplace issued a notice that stated your enrollment in your platinum-level QHP was terminated effective May 31, 2015.

On May 8, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 determination insofar as you were found not eligible to enroll in a QHP.

On July 8, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence, to corroborate your testimony, a copy of an earnings statement issued to you during May 2015, indicating your physical address. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On July 9, 2015, you provided to the Appeals Unit via facsimile a copy of your earnings statement issued to you by your employer on May 8, 2015.

Accordingly, the record was closed on July 9, 2015.

Findings of Fact

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

- 1) You testified that you were not incarcerated in 2015, and have never been incarcerated.
- 2) You testified that you did not receive any notice from the Marketplace telling you that you needed to submit documentation in order to prove your incarceration status.
- 3) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 4) There is no evidence in the record that the Marketplace received your documentation before March 18, 2015.
- 5) You submitted a copy of your May 2015 earnings statement to the Appeals Unit via facsimile on July 9, 2015.
- 6) You are seeking reinstatement of your health insurance coverage, effective June 1, 2015.

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

Applicable Law and Regulations

Eligibility for Enrollment in a Qualified Health Plan

Generally, an applicant is eligible for enrollment in a qualified health plan (QHP) through the Marketplace if he: (1) is a citizen or national of the United States; (2) is not incarcerated; and (3) is a resident of the state (45 CFR § 155.305(a)(1)-(3)).

The Marketplace must verify an applicant's attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting the applicant's attestation when electronic data sources are unavailable (45 CFR § 155.315(e)). However, if an applicant's attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, the Marketplace must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(e)(3); 45 CFR § 155.315(f)(2)(i)-(ii)).

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)).

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)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were no longer eligible to enroll in a qualified health plan (QHP) through the Marketplace, effective May 31, 2015.

An applicant is eligible to enroll in a QHP if he is a citizen or national of the United States, is not incarcerated, and is a resident of New York State. There being no contention regarding your citizenship or residency statuses, they are not addressed here.

If the Marketplace cannot verify information required to determine the applicant's eligibility, the Marketplace must provide the applicant a period of 90 days to resolve the inconsistency.

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In the eligibility determination issued on January 3, 2015, you were advised that your eligibility was only conditional, and that you needed to provide proof of your incarceration status before March 18, 2015.

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

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the January 3, 2015 eligibility determination notice asking you to provide proof of incarceration to the Marketplace.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an email or other electronic communication alerting you that a notice has been posted to your account.

There is no evidence in your account that would show that the electronic communications were sent to you as required.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the May 3, 2015 eligibility determination is **RESCINDED**.

After the hearing, you provided a copy of your earnings statement issued to you on May 8, 2015 the Appeals Unit.

Therefore, your case is **RETURNED** to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

Decision

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

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

Effective Date of this Decision: November 16, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace to verify the documentation you submitted and redetermine your 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

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Summary

The May 3, 2015 eligibility determination notice is RESCINDED.

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

Your case is being sent back to the Marketplace to verify the documentation you submitted and redetermine your 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:

