



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: AP000000002836

[REDACTED]

Dear [REDACTED],

On July 23, 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 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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Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002836

[REDACTED]

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 December 14, 2014, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to purchase a qualified health plan at full cost, effective January 1, 2015. The notice further requested that you provide proof of your incarceration status before March 14, 2015, or you might be found ineligible for health insurance or for less help with your health insurance.

Also on December 14, 2014, the Marketplace issued a notice confirming your enrollment in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep 25.

On February 23, 2015, the Marketplace received a copy of your January 2015 utility bill. This document was available for review in your Marketplace account on February 27, 2015.

On May 3, 2015, the Marketplace issued a notice of eligibility redetermination 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 ended effective May 31, 2015.

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

On May 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 determination insofar as you were improperly disenrolled for failure to provide proof of your incarceration status.

On July 23, 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 have never been incarcerated.
- 2) The record reflects that you have had two Marketplace accounts: [REDACTED] and [REDACTED]. The record further reflects that account number [REDACTED] was marked inactive on May 20, 2015 (NY State of Health Exhibit 1, July 23, 2015).
- 3) You testified that you received the Marketplace's notice requesting documentation confirming your incarceration status.
- 4) According to the December 12, 2014 notice of eligibility determination, you could provide the following documentation as proof of your incarceration status: "Release Paperwork, Current Paystub, Letter From An Employer, Proof Of Address, Detailed Statement From A Parole Officer."
- 5) You testified that you spoke to the Marketplace several times regarding the type of documentation you must submit as proof of your incarceration status and were given inconsistent information. You further testified that you were told that a current utility bill would be sufficient documentation.
- 6) The Marketplace's records reflects that the Marketplace received a copy of your January 2015 utility bill on February 23, 2015, which indicated your current residential address as: [REDACTED]. This documentation was invalidated as insufficient proof of incarceration status in account number [REDACTED] on March 3, 2015 and again on April 23, 2015 (NY State of Health Exhibit 1, July 23, 2015). There is no notice in your file that would show this information was communicated to you.

- 7) The Marketplace's records indicate that on March 4, 2015, your documentation was invalidated with the comment, "Invalid proof of not incarcerated. No results searching with Vine Link. In order to verify we need either release paperwork, current pay stub, letter from employer, detailed letter from parole officer, or if never incarcerated proof of address with signed letter claiming never incarcerated is acceptable. Letter sent." No such letter is noted in your account as having been sent to you.
- 8) You uploaded copies of your passport, current invoices for services rendered, current lease, current deposit account, and letter confirming your current and continuous employment with [REDACTED] to Account Number [REDACTED] on May 22, 2015. The record further reflects that these documents were uploaded to Account Number [REDACTED] on May 11, 2015. These documents were validated on May 20, 2015.
- 9) The record reflects that you were re-enrolled in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep 25, effective June 1, 2015. The record further reflects that there were no gaps in your coverage.
- 10) You are requesting that your insurance deductible will not be reset. You are further requesting that your current and future applications no longer reflect that you are incarcerated.
- 11) The record reflects that a request was made to your health insurance plan on, or around, June 8, 2015, requesting that your deductible is not reset (NY State of Health Exhibit 1, July 23, 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

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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)).

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 she 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.

In the eligibility determination issued on December 14, 2014, you were advised that your eligibility was only conditional, and that you needed to provide proof of your incarceration status before March 14, 2015. The notice specifically identified "Proof Of Address" as appropriate to show your incarceration status. Unlike the notation made in the Marketplace's records, there is no indication that you were ever told that you would also need to provide a signed letter claiming never incarcerated is acceptable.

You credibly testified that you spoke to a Marketplace representative who informed you that you could submit a current utility bill as sufficient proof of your incarceration status.

The record reflects that the Marketplace received a copy of your January 2015 utility bill on February 24, 2015, which indicated your current residential address, but invalidated that document as insufficient proof on March 4, 2015.

No further communication is documented in your account until May 3, 2015, when you were told your eligibility would end.

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Since the Marketplace notified you that documentation indicating proof of address was sufficient to confirm your incarceration status, and you provided a current utility bill on February 24, 2015 indicating your residential address, without ever having informed you of the need to submit an additional letter to correct the deficiency in your application, the Marketplace improperly invalidated this document and improperly disenrolled you from your plan.

Therefore, the Marketplace's May 3, 2015 notice of eligibility determination was issued based on incorrect information and is **RESCINDED**.

Since the May 4, 2015 disenrollment notice was issued in reliance upon the validity of the May 3, 2015 notice of eligibility determination, it is also **RESCINDED**.

At the hearing, you requested that your current and future applications no longer reflect that you are incarcerated.

The NY State of Health electronically checks the federal Prisoner Update Processing System (PUPS) and the NYS Department of Correctional Community Services (DOCCS) to identify incarcerated individuals applying for coverage. However, this issue is also not one that the NY State of Health Appeals Unit is authorized to address or to correct, and therefore it cannot be reviewed here.

You also acknowledged that you have been re-enrolled in the same health plan you had prior to your May 21, 2015 disenrollment, and requested that your deductible not be reset.

Your case will be returned to the Marketplace to facilitate the correction of your deductible to reflect that you should not have been disenrolled and that your enrollment continued without interruption, and to assist you in contacting the relevant parties to correct the incarceration information.

Decision

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

The May 4, 2015 disenrollment notice is **RESCINDED**.

The NY State of Health Appeals Unit is not authorized to address the issue regarding the electronic checks of your incarceration status; therefore, it cannot not addressed here.

Effective Date of this Decision: November 18, 2015

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How this Decision Affects Your Eligibility

You remain eligible to enroll in a qualified health plan through the Marketplace.

Your case will be returned to the Marketplace to facilitate the correction of your deductible to reflect that you should not have been disenrolled and that your enrollment should have continued without interruption, and to assist you in contacting the relevant parties to correct the incarceration information.

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:
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- By fax: 1-855-900-5557

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Summary

The May 3, 2015 eligibility determination notice is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

You remain eligible to enroll in a qualified health plan through the Marketplace.

The NY State of Health Appeals Unit is not authorized to address the issue regarding the electronic checks of your incarceration status; therefore, it cannot not addressed here.

Your case will be returned to the Marketplace to facilitate the correction of your deductible to reflect that you should not have been disenrolled and that your enrollment continued without interruption, and to assist you in contacting the relevant parties to correct the incarceration information.

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:

