



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: AP000000002900

[REDACTED]

Dear [REDACTED],

On July 10, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 4, 2015 eligibility determination 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).

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## Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002900



## Issues

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

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

Did the Marketplace properly disenroll both you and your spouse from your health plan coverage, effective May 31, 2015?

## Procedural History

On December 4, 2014, the Marketplace issued an eligibility determination notice stating, in relevant part, that you and your spouse were conditionally eligible to receive advance premium tax credits (APTC) and cost-sharing reductions (CSR), effective January 1, 2015. The notice also directed you to provide documentation confirming your citizenship status before February 20, 2015, and that you and your spouse provide documentation confirming your income before February 20, 2015. If you did not, you might be found ineligible for health insurance or financial assistance.

On December 16, 2014, the Marketplace issued a notice confirming that you and your spouse were enrolled in a platinum-level qualified health plan (QHP). This notice also requested that you provide documentation confirming your citizenship status before February 20, 2015, and that you and your spouse provide documentation confirming your income before February 20, 2015.

On March 14, 2015, the Marketplace issued an eligibility redetermination notice stating that you and your spouse were conditionally eligible to receive APTC and CSR, effective March 1, 2015. This notice also requested that you provide documentation confirming your citizenship status before April 22, 2015, and that you and your spouse provide documentation confirming your income before April 22, 2015.

On May 4, 2015, the Marketplace issued an eligibility redetermination notice stating that you, [REDACTED] 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.

On that same day, the Marketplace issued a notice that stated you and your spouse's enrollment in your platinum-level QHP was terminated effective May 31, 2015.

Also on May 4, 2015, the Marketplace issued an eligibility redetermination notice stating, in relevant part, that your spouse was conditionally eligible to receive APTC and CSR, effective June 1, 2015. This notice also requested that you provide documentation confirming your spouse's income before April 22, 2015.

On May 13, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 4, 2015 eligibility determination insofar as you were not eligible to enroll in a QHP, and appealed the May 4, 2015 disenrollment notice insofar as both you and your spouse were disenrolled effective May 31, 2015.

On July 10, 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 did not receive any notice from the Marketplace telling you that you needed to submit documentation in order to confirm your citizenship status.
- 2) You testified that you received a disenrollment notice confirming that coverage for you and your spouse would be terminated effective May 31, 2015.
- 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 citizenship documentation before April 22, 2015.
- 5) You provided copies of U.S. Passports for you and your spouse to the Marketplace on May 13, 2015.
- 6) You provided a copy of your Certificate of Naturalization to the Marketplace on June 9, 2015.
- 7) You are seeking reinstatement of your health insurance coverage.

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)).

### 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)).

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## 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 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 March 14, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before April 22, 2015.

The record reflects that the Marketplace did not receive the requested citizenship 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 any of the eligibility determinations, including the determination issued on March 15, 2015, notice asking you to provide citizenship documentation to the Marketplace. There is no evidence to show that the Marketplace sent the electronic notices.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the May 4, 2015 eligibility determination is RESCINDED.

The credible evidence of record reflects that you provided copies of you and your spouse's U.S. Passports on May 13, 2015, and later provided a copy of your Certificate of Naturalization on June 9, 2015. Since you and your spouse's eligibility already been redetermined as of June 12, 2015, with both you and your spouse being found fully eligible to enroll in a QHP, receive an advance premium tax credit and cost-sharing reductions, there is no need to return your case to the Marketplace for a further redetermination.

The second issue under review is whether the Marketplace properly disenrolled you and your spouse from your plan coverage effective May 31, 2015.

As a result of the May 4, 2015 eligibility determination having been rescinded by this Decision, the May 4, 2015 notice of disenrollment must also be RESCINDED since it is no longer supported by the record.

## **Decision**

The May 4, 2015 eligibility determination notice is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

**Effective Date of this Decision:** November 18, 2015

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

You and your spouse's coverage under the platinum-level qualified health plan continues in effect.

## **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):**

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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The May 4, 2015 eligibility determination notice is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

You and your spouse's coverage under the platinum-level qualified health plan continues in effect.

## **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:**

