



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: AP000000002905

[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 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

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002905



## 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 18, 2014, the Marketplace issued an eligibility determination notice stating that you were conditionally eligible to receive an advance premium tax credits (APTC) and cost-sharing reductions (CSR), effective January 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before March 18, 2015.

On January 6, 2015, the Marketplace issued a notice confirming your enrollment in silver-level qualified health plan (QHP). This notice also requested that you provide documentation confirming your citizenship status before March 18, 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 confirmed your citizenship status. Your eligibility for coverage ended effective May 31, 2015.

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

On May 13, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 eligibility determination insofar as you were not eligible to enroll in a QHP.

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 remained open for the sole purpose of providing you an opportunity to submit as additional evidence a copy of your certificate of naturalization. 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 17, 2015, you provided the above-referenced document to your Marketplace online account.

Accordingly, the record was closed on July 17, 2015.

## **Findings of Fact**

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

- 1) You testified that you received the Marketplace's December 18, 2014 and January 6, 2015 notices requesting documentation confirming your citizenship.
- 2) You testified that you provided you certificate of naturalization to the navigator or certified application counselor who assisted you with your application, but conceded it was possible they had not scanned or otherwise provided the document to the Marketplace.
- 3) You testified that you attempted to provide a copy of your certificate of naturalization to the Marketplace via facsimile, but conceded that you did not received a report that the facsimile had been successfully sent to the Marketplace.
- 4) There is no evidence in the record that the Marketplace received your citizenship documentation before March 18, 2015.
- 5) You submitted a copy of your certificate of naturalization to the Marketplace on July 17, 2015.
- 6) You are seeking reinstatement of your health insurance coverage as of June 1, 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 five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five day period. (45 CFR § 155.315(c)(3)).

## **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 five days after the date on the notice.

In the eligibility determination issued on December 18, 2014 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 18, 2015.

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

If the Marketplace remains unable to verify the inconsistency after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship documentation was not received within the 90 day period, the Marketplace was required to redetermine your eligibility without verification of your citizenship status. As a result, the Marketplace properly determined that you could not enroll in a qualified health plan through NY State of Health effective May 31, 2015 because you did not provide the information requested by the Marketplace.

Therefore, the Marketplace's May 3, 2015 eligibility determination is correct and is AFFIRMED.

However on July 17, 2015, at the request of the Hearing Officer, you uploaded a copy of your certificate of naturalization to your Marketplaces account. Therefore, your case is RETURNED to the Marketplace to verify your documentation, redetermine your eligibility for health insurance, and determine whether you qualify to enroll in a qualified health plan outside of the open enrollment period.

## **Decision**

The May 3, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance and determine whether you qualify to enroll in a qualified health plan outside of the open enrollment period.

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

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

You are not eligible to enroll in a qualified health plan through the Marketplace at this time.

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).

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary, and determine whether you qualify to enroll in a qualified health plan outside of the open enrollment period.

### **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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## **Summary**

The May 3, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance and determine whether you qualify to enroll in a qualified health plan outside of the open enrollment period.

You are not eligible to enroll in a qualified health plan through the Marketplace at this time.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary, and determine whether you qualify to enroll in a qualified health plan outside of the open enrollment period.

## **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:**

