



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

Notice of Decision

Decision Date: October 19, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002928

[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 9, 2015 eligibility determination and May 9, 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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NY State of Health Number: [REDACTED]
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[REDACTED]

Issues

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

Did the Marketplace properly determine that you, [REDACTED], 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 coverage effective May 31, 2015?

Procedural History

On February 3, 2015, the Marketplace issued an eligibility determination notice stating, in relevant part, that you were conditionally eligible, and that your spouse was fully eligible, to enroll in a qualified health plan (QHP) and to receive advance premium tax credits (APTC) effective March 1, 2015. The notice further requested that you, [REDACTED], needed to provide documentation confirming your citizenship status before May 5, 2015, or you might be found ineligible for health insurance.

On that same date, the Marketplace issued an enrollment notice confirming you and your spouse were enrolled in a platinum-level QHP and a stand-alone dental plan, with coverage taking effect as early as February 1, 2015, provided your first month's premium was received. This notice also requested that you provide documentation confirming your citizenship status before May 5, 2015.

On February 4, 2015, the Marketplace received two copies of your NYS Driver's License.

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On February 7, 2015, the Marketplace issued a notice stating that the documentation submitted to your account had been received, but that it was insufficient to resolve the inconsistency. It requested that you provide additional documentation to show your citizenship status.

On February 19, 2015, the Marketplace issued an enrollment notice confirming that you and your spouse had been enrolled, as of February 2, 2015, in a new platinum-level QHP, as well as remaining enrolled in the same stand-alone dental plan. Again, this notice requested that you provide documentation confirming your citizenship status before May 5, 2015.

On May 9, 2015, the Marketplace issued a notice of 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.

Also on May 9, 2015, the Marketplace issued a disenrollment notice confirming that you and your spouse's coverage under the platinum-level QHP and stand-alone dental plan would be terminated effective May 31, 2015.

However, also on May 9, 2015, the Marketplace issued a separate eligibility redetermination notice stating, in relevant part, that your spouse was eligible to enroll in a QHP and eligible to receive an APTC, but she would have to pick a health plan. This eligibility determination was effective as of June 1, 2015.

On May 14, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 9, 2015 eligibility determination insofar as you, [REDACTED] were found ineligible to enroll in a qualified health plan, and the May 9, 2015 disenrollment notice insofar as you and your spouse were disenrolled from your platinum-level QHP and stand-alone dental plan as of May 31, 2015.

On June 10, 2015, the Marketplace issued an eligibility determination stating that you, [REDACTED] were eligible to enroll in a QHP and to receive APTC, in response to your request for your prior eligibility to continue pending the outcome of your appeal.

Also on June 10, 2015, the Marketplace issued an enrollment notice stating that you and your wife had been re-enrolled in a QHP; coverage would start as early as July 1, 2015 if you paid your first month's premium.

On July 8, 2015, a copy of your U.S. Passport was uploaded to your account.

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.

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Findings of Fact

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

- 1) You testified that you did not recall receiving notices from the Marketplace telling you that you needed to submit documentation in order to confirm your citizenship status before May 5, 2015.
- 2) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 3) You testified that you reviewed the notices in your Marketplace account and realized that the Marketplace was requesting you to provide citizenship documentation.
- 4) You provided a copy of your standard NYS Driver's License to the Marketplace on February 4, 2015.
- 5) You testified that you do not recall receiving or reviewing the February 7, 2015 notice stating that the documentation you provided was insufficient to confirm your citizenship status, and requesting you to provide more documentation.
- 6) You testified that you did not realize that an Enhanced NYS Driver's License would be accepted as sufficient proof to confirm your citizenship status, but that a standard NYS Driver's License would not.
- 7) You testified that you were out of the country between mid-January and the beginning of February 2015, so you were not really aware of what e-mails and/or notices you were receiving.
- 8) You testified that your spouse handles the majority of the mail in your household.
- 9) There is no evidence in the record that the Marketplace received acceptable documentation to confirm your citizenship before May 5, 2015.
- 10) You submitted a copy of your U.S. Passport to the Marketplace on July 8, 2015.
- 11) You are seeking reinstatement of you and your spouse's health insurance coverage.

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

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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)).

Legal Analysis

The first 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.

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 February 2, 2015 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before May 5, 2015. This notice stated that acceptable forms of proof of citizenship included a copy of an Enhanced NYS Driver's License or a U.S. Passport.

The record reflects that you elected to receive your notices from the Marketplace via electronic mail. You testified that you do not recall receiving any e-mails or written notifications requesting documentation to confirm your citizenship status by May 5, 2015. However, you also testified that you independently checked your Marketplace account and learned that you were requested to provide documentation to confirm your citizenship status before May 5, 2015.

Accordingly, we find there is sufficient evidence that you were provided proper notice of the request for citizenship documentation.

Indeed, you provided a copy of your standard NYS Driver's License to the Marketplace on February 4, 2015. On February 7, 2015, the Marketplace sent a notice stating that the documentation you provided was insufficient to confirm your citizenship status and requesting you to provide more documentation, which could include either an Enhanced NYS Driver's License or a U.S. Passport.

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

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 remain enrolled in a qualified health plan through NY State of Health effective May 31, 2015 because you had not provided the information requested by the Marketplace.

Therefore, the Marketplace's May 9, 2015 eligibility determination regarding you, Avi's, eligibility is correct and is AFFIRMED.

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

As a result of the May 9, 2015 eligibility determination, affirmed by this Decision, you were found no longer eligible to enroll in a qualified health plan through the Marketplace, effective May 31, 2015. Accordingly, you were properly disenrolled from your coverage under the platinum level QHP effective May 31, 2015.

While the Marketplace properly disenrolled you from your coverage effective May 31, 2015, the record does not reflect that your spouse's eligibility for coverage through the Marketplace was ever conditional, and her disenrollment should not have hinged on whether you provided documentation to the Marketplace by the May 5, 2015 deadline.

Therefore, the May 9, 2015 disenrollment notice is MODIFIED solely to reflect that your spouse's coverage should continue uninterrupted under the same QHP and stand-alone dental plan in which she was previously enrolled, if the relevant premiums for her coverage for that period are paid.

Finally, the record reflects that you provided a copy of your U.S. Passport to the Marketplace on July 8, 2015. Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

Decision

The May 9, 2015 eligibility determination notice is AFFIRMED.

The May 9, 2015 disenrollment notice is MODIFIED solely to reflect that your spouse's coverage should continue uninterrupted under the same qualified health plan and stand-alone dental plan in which she was previously enrolled, if the relevant premiums for her coverage for that period are paid.

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

Effective Date of this Decision: October 19, 2015

How this Decision Affects Your Eligibility

Your coverage under the platinum-level qualified health plan and stand-alone dental plan ended May 31, 2015.

Your spouse's coverage under the platinum-level qualified health plan and stand-alone dental plan may continue in effect, without interruption, pending the receipt of the necessary premium amounts.

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.

If You Disagree with this Decision (Appeal Rights)

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 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

Summary

The May 9, 2015 eligibility determination notice is **AFFIRMED**.

The May 9, 2015 disenrollment notice is **MODIFIED** solely to reflect that your spouse's coverage should continue uninterrupted under the same qualified health plan and stand-alone dental plan in which she was previously enrolled, if the relevant premiums for her coverage for that period are paid.

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

Your [REDACTED] coverage under the platinum-level qualified health plan and stand-alone dental plan ended May 31, 2015.

Your spouse's coverage under the platinum-level qualified health plan and stand-alone dental plan may continue in effect, without interruption, pending the receipt of the necessary premium amounts.

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.

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:

