



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

Notice of Decision

Decision Date: June 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003104

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s denial of your request for a Special Enrollment Period.

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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[REDACTED]
[REDACTED]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly find that your wife was not eligible for a special enrollment period to reenroll in a qualified health plan, after her coverage was terminated effective May 31, 2015?

Procedural History

On January 25, 2015, the Marketplace issued a notice that stated you were eligible to enroll in a health plan and that your wife was conditionally eligible to enroll in a health plan through the Marketplace. You were also eligible to receive, together, up to \$340.00 per month in advance premium tax credit (APTC). You were requested to submit documentation regarding your wife's citizenship status and her Social Security number by April 26, 2015. You and your wife were then enrolled in a plan.

On April 28, 2015, the Marketplace issued a notice that stated you had submitted some documentation, but that it appeared to be insufficient to resolve the request for further information. You were asked to produce proof of immigration status for your wife. No deadline was given.

On May 2, 2015, the Marketplace issued a notice that stated your household's eligibility had been redetermined and that your wife was no longer eligible to enroll in a health insurance plan through the Marketplace, effective May 31, 2015. This was because you had not provided the necessary information

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regarding her immigration status and Social Security number. You were subsequently notified that her enrollment would end effective May 31, 2015.

On May 26, 2015, the Marketplace reran your eligibility and found both you and your wife eligible for up to \$340.00 per month in APTC.

Also on May 26, 2015, the Marketplace determined that your wife was not eligible for a special enrollment period in which to reenroll in her health insurance plan (Appellant's Exhibit #1).

On May 27, 2015, the Marketplace issued a notice of eligibility determination stating that your wife was again conditionally eligible to receive advance premium tax credits, effective July 1, 2015; however, you were also directed to send in documentation regarding her immigration status and Social Security number by August 24, 2015.

On May 29, 2015, the Marketplace issued a notice that the documentation submitted was insufficient; the Marketplace still needed proof of your wife's Social Security number. There was no mention of her immigration status.

On May 26, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination.

On June 26, 2015, you had an expedited 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 supports the following findings of fact:

- 1) You testified that you had not received any emails or notices by regular mail notifying you that there were notices in your Marketplace account, telling you that additional documentation was needed to keep your wife enrolled in coverage.
- 2) You testified that your wife had lost her initial arrival-departure document (I-94) form, and that you had requested a replacement on November 26, 2014. The Department of Homeland Security U.S. Citizenship and Immigration Services did not provide you with a replacement until June 15, 2015 (Appellant's Exhibit #2).
- 3) You further testified that you were not allowed to apply for a Social Security number for your wife until you could show a copy of her I-94 form.

Since you now have this form, you will be seeing your lawyer and applying for a Social Security number for your wife within the week.

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

Applicable Law and Regulations

Special Enrollment Period

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)). The open enrollment period for the 2015 calendar year began November 15, 2014 and ended on February 15, 2015 (45 CFR § 155.410(e)(1)).

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another QHP. A special enrollment period may be permitted when the qualified individual or his or her dependent loses health insurance considered to be minimum essential coverage, but not if the individual voluntarily ends this coverage (45 CFR § 155.420(d)).

The Marketplace considers that a loss of coverage caused by a failure to submit necessary and requested documentation is a voluntary termination of coverage, and therefore not a basis for eligibility for a special enrollment period.

Legal Analysis

The issue is whether the Marketplace properly determined that your wife was not entitled to a special enrollment period when her coverage was terminated effective May 31, 2015.

If an individual loses coverage because he or she voluntarily terminated that coverage, there would be no basis for providing a special enrollment period. Additionally, the Marketplace considers a failure to provide requested documents to support a person's eligibility a voluntary action.

However, in the current case, you testified that you had requested a replacement I-94 form for your wife in November 2014. This is confirmed by the documentation you submitted. You and your wife did not receive a response to this request until after June 15, 2015. Without the replacement I-94 form you requested, you were unable to obtain a Social Security number for your wife. Therefore, because you did what you could to provide the requested

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documentation, your failure to provide your wife's Social Security number or her I-94 form cannot be considered voluntary.

You were therefore entitled to a special enrollment period for your wife to reenroll in a health plan once her eligibility was reestablished.

The May 26, 2015 denial of a special enrollment period is RESCINDED and the matter is returned to the Marketplace to allow your wife the opportunity to reenroll.

Decision

The May 26, 2015 denial of a special enrollment period is RESCINDED

Effective Date of this Decision: June 30, 2015

How this Decision Affects Your Eligibility

This decision does not automatically reenroll your wife in coverage; the matter is returned to the Marketplace so that your wife may reenroll without interruption in her coverage.

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

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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 26, 2015 denial of a special enrollment period is RESCINDED.

This decision does not automatically reenroll your wife in coverage; the matter is returned to the Marketplace so that your wife may reenroll without interruption in her coverage.

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:

[REDACTED]
[REDACTED]
[REDACTED]