



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

Notice of Decision

Decision Date: October 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003141

[REDACTED]

Dear [REDACTED]

On August 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015, eligibility determination and May 4, 2015, disenrollment notices.

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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Issue

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 receive financial assistance or enroll in a qualified health plan, effective May 31, 2015?

Did the Marketplace properly disenroll you from Oscar Silver ST INN Dep25 effective May 31, 2015?

Procedural History

On December 13, 2014, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$317.00 monthly of advance premium tax credits (APTC) and cost sharing reductions (CSR), effective January 1, 2015. The notice further requested that you provide proof of your incarceration status before March 14, 2015.

On December 14, 2014, the Marketplace issued a notice confirming your enrollment in Oscar Silver ST INN Dep25 and coverage could start as early as January 1, 2015.

On March 12, 2015, you uploaded your New York State Drive License to your Marketplace Account.

On March 13, 2015, the Marketplace issued a notice that you have submitted documentation regarding your incarceration status, but the documentation is insufficient to resolve the request.

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).

On May 3, 2015, the Marketplace issued a notice of eligibility determination stating that you were no longer eligible for financial assistance or 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.

On May 4, 2015, the Marketplace issued a notice that stated your enrollment in Oscar Silver ST INN Dep25 was terminated effective May 31, 2015.

On May 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015, and May 4, 2015, notices insofar as being disenrolled from your health plan through the Marketplace.

On August 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit with the assistance of your authorized representative, [REDACTED]. 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 are applying for health insurance for yourself.
- 2) On December 13, 2014, the Marketplace determined you conditionally eligible to receive up to \$317.00 monthly of advance premium tax credits and cost sharing reductions, effective January 1, 2015. The notice further requested that you provide proof of your incarceration status before March 14, 2015.
- 3) You were enrolled in Oscar Silver ST INN Dep25 effective January 1, 2015.
- 4) You uploaded your New York State Drive License to your Marketplace Account on March 12, 2015.
- 5) You testified that you have never been incarcerated.
- 6) The Marketplace determined you no longer eligible for financial assistance or 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.

- 7) Your Oscar Silver ST INN Dep25 health plan was terminated effective May 31, 2015.
- 8) You uploaded a Sprint utility bill to your Marketplace Account on May 6, 2015. The statement is for the bill period of March 15, 2015, through April 14, 2015.
- 9) You are seeking reinstatement of your health insurance coverage.
- 10) You testified that you currently do not have any outstanding medical bills.

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 or she: (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 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), (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)).

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 he or she is a citizen or national of the United States, is not incarcerated, and is a resident of New York State.

If the Marketplace cannot verify the 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 13, 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 record reflects that the December 13, 2014, eligibility determination stated that "proof of address" was sufficient documentation as proof of not being incarcerated.

On March 12, 2015, you uploaded a copy of your non-expired New York State Driver License. Therefore, this was sufficient proof that you were not incarcerated.

Since the requested documentation was received within the 90-day period provided, the Marketplace improperly determined that you were no longer eligible to enroll in health insurance through the Marketplace because you did provide the information requested by the Marketplace.

Therefore, the Marketplace's May 3, 2015, eligibility determination and May 4, 2015, disenrollment notices are RESCINDED.

Decision

The May 3, 2015, eligibility determination and May 4, 2015 disenrollment notices are RESCINDED.

Effective Date of this Decision: October 22, 2015

How this Decision Affects Your Eligibility

The May 3, 2015, eligibility determination and May 4, 2015, disenrollment notices are cancelled.

Your enrollment in Oscar Silver ST INN Dep25 is effective January 1, 2015.

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.

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).

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 3, 2015, eligibility determination and May 4, 2015 disenrollment notices are **RESCINDED**.

The May 3, 2015, eligibility determination and May 4, 2015, disenrollment notices are cancelled.

Your enrollment in Oscar Silver ST INN Dep25 is effective January 1, 2015.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]