



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: AP000000003143

[REDACTED]

Dear [REDACTED]

On July 15, 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 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: October 22, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003143

[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 December 12, 2014, the Marketplace issued an eligibility determination notice stating that you, [REDACTED] were conditionally eligible, and your spouse was fully eligible, to enroll in a qualified health plan (QHP), to receive advance premium tax credits (APTC), and to receive cost-sharing reductions (CSR), effective January 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before March 13, 2015.

Also on December 12, 2014, the Marketplace issued an enrollment notice confirming enrollment for you and your spouse in a silver-level QHP. This notice also requested that you provide documentation confirming your citizenship status before March 13, 2015.

On May 3, 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 provided proof of your citizenship status. Your eligibility for coverage ended effective May 31, 2015.

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Also on May 3, 2015, the Marketplace issued an additional eligibility redetermination notice stating that your spouse was eligible to enroll in a QHP, eligible to receive APTC, and eligible for CSR, effective June 1, 2015.

On May 4, 2015 the Marketplace issued a notice that stated you and your spouse's enrollment in your silver-level QHP 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 determination insofar as you were not eligible to enroll in a QHP, and requested a reinstatement of enrollment for you and your spouse in your health insurance plan through the Marketplace.

On July 15, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At your request, a Spanish-language interpreter (ID # [REDACTED]) also attended the hearing. 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) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 3) There is no evidence in the record that the Marketplace received your citizenship documentation before March 13, 2015.
- 4) You testified that first learned of you and your spouse's disenrollment upon contacting your insurance carrier as to why you had not been receiving billing statements.
- 5) Both you and your spouse had been disenrolled from your coverage effective May 31, 2015.
- 6) You are seeking reinstatement of health insurance coverage for you and your spouse.
- 7) To date, no evidence has been uploaded to your Marketplace account to confirm your citizenship status.

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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 (QHP) 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 QHP, 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.

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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 December 12, 2014, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 13, 2015.

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

However, the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You testified that you did not receive either the December 12, 2014 eligibility determination notice or December 12, 2014 enrollment notice requested you to provide citizenship documentation to the Marketplace.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the May 3, 2015 eligibility determination is **RESCINDED**.

Furthermore, since the May 4, 2015 disenrollment notice was issued based on the May 3, 2015 eligibility redetermination notice, and your spouse's coverage was also erroneously terminated as of May 31, 2015, it is also **RESCINDED**

While there is no record that you provided any documentation to confirm your citizenship status, your case is **RETURNED** to the Marketplace to verify your citizenship status and to redetermine your eligibility for health insurance.

## **Decision**

The May 3, 2015 eligibility determination is **RESCINDED**.

The May 4, 2015 disenrollment notice is **RESCINDED**.

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

**Effective Date of this Decision:** October 22, 2015

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

You and your spouse's insurance coverage under your silver-level qualified health plan is reinstated as of June 1, 2015, provided the necessary premiums are received.

Your case is being sent back to the Marketplace to verify the citizenship documentation available in your account to redetermine your eligibility for health insurance, if necessary.

## **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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P.O. Box 11729  
Albany, NY 12211

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- By fax: 1-855-900-5557

## **Summary**

The May 3, 2015 eligibility determination is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

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

You and your spouse's insurance coverage under your silver-level qualified health plan is reinstated as of June 1, 2015, provided the necessary premiums are received.

Your case is being sent back to the Marketplace to verify the citizenship documentation available in your account to 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:**



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