



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

## Notice of Decision

Decision Date: November 24, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003265

[REDACTED]

Dear [REDACTED]

On August 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015 and June 3, 2015 eligibility determinations.

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).

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## Decision

Decision Date: November 24, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003265

[REDACTED]

## Issues

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 enroll in a qualified health plan through the Marketplace, effective May 31, 2015?

Did the Marketplace properly determine that you were not eligible for a special enrollment period, effective July 1, 2015?

## Procedural History

On January 15, 2015, the Marketplace issued an eligibility determination notice stating that you were conditionally eligible to receive advance premium tax credits (APTC) and cost-sharing reductions (CSR), effective February 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before April 16, 2015; if you failed to submit the documentation your eligibility to remain enrolled in health insurance through the Marketplace or to receive financial assistance might end.

On January 15, 2015, the Marketplace issued a notice confirming your enrollment in a qualified health plan (QHP). This notice also requested that you provide documentation confirming your citizenship status before April 16, 2015.

On May 3, 2015, the Marketplace issued an eligibility redetermination notice 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 qualified health plan was terminated effective May 31, 2015.

On June 2, 2015, the Marketplace received a revised application.

On June 3, 2015, the Marketplace issued an eligibility redetermination notice stating that you were conditionally eligible to receive advance premium tax credits (APTC) and cost-sharing reductions (CSR), effective July 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before August 31, 2015; if you failed to submit the documentation your eligibility to remain enrolled in health insurance through the Marketplace or to receive financial assistance might end. The notice finally stated that you did not qualify to select a health plan outside of the open enrollment period for 2015. You appealed this determination insofar as you were found to be ineligible to enroll in a qualified health plan outside of the open enrollment period, and you also appealed the May 3, 2015 determination insofar as you were disenrolled from your QHP for failing to provide documentation confirming your citizenship.

On August 24, 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.

## **Findings of Fact**

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

- 1) You testified, and the December 14, 2013 notice issued by the Marketplace confirms, that you elected to receive all notices from the Marketplace electronically.
- 2) You testified that the e-mail address you provided in your application, [REDACTED] was accurately entered and remains one of your active e-mail accounts.
- 3) You testified that the mailing address you provided in your application, [REDACTED], was accurately entered and remains your current mailing address.
- 4) There is no indication that any e-mail or U.S. mail issued by the Marketplace regarding the May 3, 2015 eligibility determination, which

requested that you provide citizenship documentation no later than April 16, 2015, was returned to the Marketplace as undeliverable.

- 5) Your application indicates that you identified yourself as a U.S. Citizen.
- 6) You testified that you became a naturalized citizen in 2000.
- 7) You testified that you don't specifically recall receiving any e-mails from the Marketplace, but that they may have in fact been delivered to your e-mail account.
- 8) You testified that you provided a copy of your U.S. passport during your application process.
- 9) There is no evidence in the record that the Marketplace received your citizenship documentation before April 16, 2015, and the record does not contain a copy of your U.S. passport.
- 10) You are seeking reinstatement of your health insurance coverage as of June 1, 2015, or in the alternative, the option to reenroll in your health plan for the remainder of the 2015 plan year.

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 expecting 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, from the date the notice of inconsistency is received by the applicant, to provide satisfactory documentary evidence. Notice is considered to have been received five days after the date on the notice, unless

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the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)).

### Enrollment Periods

The Marketplace must provide 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)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)); however, the open enrollment period was further extended to February 28, 2015 for individuals who took steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-in-line%E2%80%99-provision-ahead-february-15-open>).

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 their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
  - (a) Health insurance considered to be minimum essential coverage;
  - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
  - (c) Pregnancy-related coverage; or
  - (d) Medically needy coverage.
- (2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or
- (3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or

- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or
- (5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or has a change in eligibility for cost-sharing reductions; or
- (7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or
- (8) The qualified individual is an Indian, as defined by section 4 of the Indian Health Care Improvement Act, and may enroll in a QHP or change from one QHP to another one time per month; or
- (9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide; or
- (10) A qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

(45 CFR § 155.420(d)).

## **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 July 1, 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 five days after the date on the notice.

In the eligibility determination issued on January 15, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before April 16, 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 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 3, 2015 eligibility determination is correct and is AFFIRMED.

The second issue under review is whether the Marketplace properly denied you a special enrollment period, effective July 1, 2015

The Marketplace provided an open enrollment period from November 15, 2014 until February 15, 2015, which was later extended to February 28, 2015 for people who could not complete their application by the February 15, 2015 deadline. The record reflects that you submitted a complete application on January 14, 2015. Therefore, you completed your application during the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in the Marketplace. In order to qualify for a special enrollment period, a person must experience a triggering event.

The credible evidence of record indicates that no triggering events have occurred that would qualify you for a special enrollment period.



Therefore, the Marketplace's June 3, 2015 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2015 is AFFIRMED.

## **Decision**

The May 3, 2015 eligibility determination notice is AFFIRMED.

The June 3, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** November 24, 2015

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

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

However, the Marketplace's open enrollment period for 2016 insurance plans runs from November 15, 2015 to February 15, 2016. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

## **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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The May 3, 2015 eligibility determination notice is AFFIRMED.

The June 3, 2015 eligibility determination notice is AFFIRMED.

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

However, the Marketplace's open enrollment period for 2016 insurance plans runs from November 15, 2015 to February 15, 2016. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

## **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:**

