



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003369

[REDACTED]

Dear [REDACTED],

On August 28, 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 Code of 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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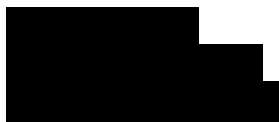


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DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace properly determine that you and your spouse were no longer eligible to be enrolled in a qualified health plan through New York State of Health, effective May 31, 2015?

Did the Marketplace properly disenroll you and your spouse from your bronze-level qualified health plan effective May 31, 2015?

Procedural History

On November 17, 2014, the Marketplace received your updated application for health insurance in 2015.

On November 27, 2014, the Marketplace issued a notice of eligibility redetermination that you and your spouse were conditionally eligible to purchase a qualified health plan at full cost through New York State of health effective January 1, 2015. The notice further requested that you and your spouse provide documentation confirming each of your citizenship statuses before February 17, 2015; and that if you failed to submit the documentation your and your spouse's eligibility to remain enrolled in health insurance through the Marketplace or to receive financial assistance might end.

On December 9, 2014, the Marketplace issued a notice confirming your and your spouse's enrollment in a bronze-level qualified health plan at full cost, with health coverage available as of January 1, 2015 provided you paid your first month's premium.

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On May 3, 2015, the Marketplace issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible to enroll in health insurance through the Marketplace because neither of you had confirmed your citizenship status. Your eligibility ended effective May 31, 2015.

On May 4, 2015, the Marketplace issued a notice that stated your enrollment in your and your spouse's qualified health plan was terminated effective May 31, 2015.

On June 6, 2015, the Marketplace issued a notice of eligibility redetermination that you and your spouse were conditionally eligible to receive advance premium tax credits up to \$483.00 per month and cost sharing reductions, effective July 1, 2015. The notice also informed you and your spouse that you both needed to submit documentation confirming each of your citizenship statuses by September 3, 2015.

That same day, the Marketplace issued a notice confirming your and your spouse's enrollment in a silver-level qualified health plan. The notice stated that your health coverage could start as early as July 1, 2015, provided you paid your first month's premium, and your advance premium tax credit will be applied to your monthly premium effective July 1, 2015.

On June 8, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the May 3, 2015 and June 6, 2015 redeterminations insofar as you and your spouse were no longer eligible to enroll in a qualified health plan and disenrolled from your health plan, effective May 31, 2015, and found conditionally eligible and enrolled in a silver-level qualified health plan as of July 1, 2015.

On August 28, 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) Your Marketplace account indicates that you elected to receive notifications via regular mail.
- 2) According to your November 17, 2014 Marketplace application, you and your spouse provided your Social Security Numbers and listed yourselves as U.S. citizens.
- 3) You testified that you did not receive any notice from the Marketplace telling you that you and your spouse needed to submit documentation in order to confirm your citizenship statuses.

- 4) You testified that had you known you both needed to submit proof of citizenship, you would have provided your passports earlier.
- 5) According to your Marketplace account, the Marketplace was able to verify your and your spouse's citizenship statuses and Social Security Numbers through federal data sources.
- 6) According to your Marketplace account, your and your spouse's United States passports were scanned on June 17, 2015 and verified by the Marketplace on June 22, 2015. Your U.S. passport was issued on August 21, 2009, and your spouse's U.S. passport was issued on August 19, 2009.
- 7) You incurred medical bills in June 2015 of over \$500.00 because you did not know your insurance had been terminated.
- 8) You are seeking reinstatement of your and your spouse's health insurance coverage as of June 1, 2015.

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 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)).

Notices

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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 issue under review is whether the Marketplace properly determined that you and your spouse were no longer eligible to enroll in a qualified health plan 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 November 27, 2014, you and your spouse were advised that both of your eligibilities were only conditional, and that you both needed to confirm your citizenship status before February 17, 2015.

The record reflects that the Marketplace did not receive the requested citizenship documentation before the February 17, 2015 deadline and the Marketplace did not take any action against you and your spouse until May 2, 2015.

You testified that you did not receive any notices from the Marketplace via regular mail and were not aware that you and your spouse needed to submit proof of your citizenships. However, the record indicates that the notices were issued to the address you have listed on your Marketplace account and confirmed at hearing, and there is no indication that any of the notices were returned to the Marketplace as undeliverable. Therefore, the notices are deemed to have been delivered.

Notwithstanding, according to your account, the Marketplace was able to verify your and your spouse's attestation of citizenship through the federal data sources on June 5, 2015, and presumably could have verified your citizenship before then.

In addition, on June 17, 2015, after you became aware of the inconsistency in your account, you provided a copy of your and your spouse's U. S. passports.

Therefore, the May 3, 2015 notice of eligibility determination and May 4, 2015 disenrollment notice are **RESCINDED**. Your case is **RETURNED** to the Marketplace to

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restore your and your spouse's health insurance coverage as of June 1, 2015, and notify your health plan not to reset your maximum out-of-pocket deductible and co-pays.

You will be responsible for paying the monthly premium amount for the month of June 2015.

Decision

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

Your case is RETURNED to the Marketplace to verify your documentation, restore your and your spouse's health insurance coverage as of June 1, 2015, and notify your health plan not to reset your maximum out-of-pocket deductible and co-pays.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace to restore your and your spouse's health insurance coverage as of June 1, 2015.

You will be responsible for paying the monthly premium amount for the month of June 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.

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)).

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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 notice of eligibility determination and May 4, 2015 disenrollment notice are RESCINDED.

Your case is RETURNED to the Marketplace to restore your and your spouse's health insurance coverage as of June 1, 2015, and notify your health plan not to reset your maximum out-of-pocket deductible and co-pays.

You will be responsible for paying the monthly premium amount for the month of June 2015.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

