



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

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003429

[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 and June 12, 2015 eligibility determinations 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

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).

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

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Issues

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

Did the Marketplace properly terminate your enrollment in coverage through the Marketplace, effective May 31, 2015?

Did the Marketplace properly terminate your spouse and children's enrollment in coverage through the Marketplace, effective May 31, 2015?

Did the Marketplace properly deny you a special enrollment period?

Did the Marketplace properly deny your spouse and children special enrollment periods?

Procedural History

On December 9, 2014, you applied for health insurance through the Marketplace for you, your spouse and three children.

On December 10, 2014, the Marketplace issued an eligibility determination notice that stated your spouse and children were eligible to purchase a qualified health plan at full price. 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).

cost through New York State of Health, effective January 1, 2015, without conditions. The notice also stated that you were conditionally eligible to purchase a qualified health plan through New York State of Health, effective January 1, 2015. The notice directed you to submit citizenship status documentation before March 11, 2015, to confirm your eligibility.

On December 13, 2014, the Marketplace issued an enrollment notice confirming that you, your spouse and children were enrolled in EssentialCare Platinum ST INN Dep25 and could start as early as January 1, 2015.

On May 3, 2015, the Marketplace issued a notice of eligibility determination, stating that you, individually, were no longer eligible for financial assistance or eligible to enroll in a qualified health plan at full cost through NY State of Health, because you had not confirmed your citizenship status. Your eligibility for coverage would end May 31, 2015. There was no mention of your spouse or children in this notice.

In a second redetermination notice issued on May 3, 2015, the Marketplace stated that your spouse and children were eligible to purchase a qualified health plan at full cost, without conditions. Their eligibility was effective June 1, 2015.

On May 4, 2015, the Marketplace issued a disenrollment notice that stated you, your spouse and children were disenrolled from coverage effective May 31, 2015, because you were no longer eligible to enroll in coverage through the Marketplace and your spouse and children were no longer eligible to remain in their current plan.

On June 9, 2015, you uploaded your Certificate of Naturalization to your Marketplace Account.

On June 11, 2015, you spoke to the Marketplace Account Review Unit and requested an appeal insofar as you and your family had been disenrolled from your health plan through the Marketplace and were unable to re-enroll in a health through the Marketplace.

On June 12, 2015, the Marketplace issued an eligibility determination notice that stated you, your spouse and children were eligible to purchase a qualified health plan at full cost through New York State of Health, effective July 1, 2015. The notice also found that you, your spouse and children do not qualify to select a health plan outside of the open enrollment period.

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. The record is now closed.

Findings of Fact

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

- 1) In a notice sent to you on December 10, 2014, you were advised that you were conditionally eligible to enroll in insurance through the Marketplace and needed to confirm your citizenship status by March 11, 2015.
- 2) On May 3, 2015, a notice was sent stating that you, individually, were no longer eligible to enroll in health insurance through the Marketplace, even at full cost, and that you were being disenrolled from coverage effective May 31, 2015.
- 3) Also on May 3, 2015, a separate notice was issued stating that your spouse and three children were no longer eligible to be in their current plan. There was no finding that any of them were not eligible to enroll in any plan through the Marketplace.
- 4) On May 4, 2015, the Marketplace issued a notice stating that you, your spouse and three children would be disenrolled from your plan effective May 31, 2015.
- 5) On June 9, 2015, you uploaded your Certificate of Naturalization ([REDACTED]) to your Marketplace Account.
- 6) On June 10, 2015, your citizenship status was updated, and the Marketplace issued a notice on June 12, 2015 confirming that you, your spouse and children were eligible to enroll in a plan through the Marketplace. However, all of you were found not qualified to select a health plan outside of the open enrollment period.

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)).

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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)).

Special Enrollment Period

The Marketplace must provide an annual open enrollment period, 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 2015 began November 15, 2015 and ended February 15, 2016 (45 CFR § 155.410(e)(1)). After each open enrollment period ends, the Marketplace provides special enrollment periods (SEP) to qualified individuals. During an SEP, a qualified individual may enroll in a QHP and an enrollee may change to another plan (45 CFR § 155.420(d)).

This is permitted when any one of multiple events occurs, including a qualified individual or his or her dependent loses certain health insurance coverage (45 CFR § 155.420(d)).

However, a loss of coverage such as that referenced above does not include,

"voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128" (45 CFR § 155.420(e)).

If one person in the household is eligible for an SEP, everyone in the household that is eligible for or enrolled in a QHP through NY State of Health gets an SEP (see http://info.nystateofhealth.ny.gov/sites/default/files/FAQs%20on%20Special%20Enrollment%20Periods,%204-14-14_0.pdf, retrieved June 17, 2015).

If an enrollee selects a QHP plan on or before the 15th day of the month, the Marketplace must ensure a coverage effective date of the first day of the following month (45 CFR § 155.420(b)(1)(i)).

Legal Analysis

The first issue is whether the Marketplace properly disenrolled you, individually, from your qualified health plan (QHP), 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 citizenship status is satisfactory.

In the initial eligibility determination issued on December 10, 2014, you, individually, were advised that your eligibility was only conditional, and that you needed to confirm your individual citizenship status by March 11, 2015.

You failed to do so. Therefore, the Marketplace was required to rescind the conditional approval of your eligibility to enroll through the Marketplace. Moreover, because the Marketplace considers your failure to provide proof of citizenship as a voluntary action causing the termination of your coverage, you, individually, would not be entitled to a special enrollment period in which to enroll in new coverage, barring other circumstances.

The second issue is whether your spouse and three children's coverage was properly terminated.

Your spouse and three children were found eligible to enroll in a health insurance plan through the Marketplace and that eligibility was not conditional. There was no notice stating that your spouse and children's coverage would be affected by your failure to produce citizenship documentation. Therefore, the termination of their coverage was improper.

The third issue is whether, having terminated your spouse and children's coverage, the Marketplace properly refused to provide them with a special enrollment period in which to sign up for new coverage, once your coverage had been terminated.

When a dependent loses coverage considered to be minimum essential coverage, that individual is entitled to a special enrollment period in which to reenroll, pursuant to 45 CFR § 155.420(d)(1)(i). After your coverage was terminated, your spouse and children continued to be eligible. Their loss of coverage is not considered to be voluntary on their part, because their prior eligibility determination had not been conditional and at no time was any further documentation requested from them.

Therefore, when your coverage terminated, your spouse and children should have been granted a special enrollment period in which to sign up for new coverage.

The fourth issue relates to your eligibility for a special enrollment period. Once a family member is found to be eligible for a special enrollment period, all members of the family will be granted one as well.

Therefore, once your spouse and children are found eligible for a special enrollment period, you should have been granted one as well.

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You and your spouse and children were found to be eligible to enroll in health insurance through the Marketplace. Had you been allowed to reenroll on June 12, 2015, coverage for you, your spouse and children would have resumed on July 1, 2015, pursuant to 45 CFR § 155.420(b)(1)(i).

Therefore, the June 12, 2015 eligibility determination is MODIFIED to reflect that you, your spouse and three children were eligible for a special enrollment period.

The matter is RETURNED to the Marketplace to ensure that you and your spouse and three children are reenrolled in the plan of your choice effective July 1, 2015.

Decision

The June 12, 2015 eligibility determination is MODIFIED to reflect that you, your spouse and three children were eligible for a special enrollment period effective July 1, 2015.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

You, your spouse and your three children are eligible to reenroll in a qualified health plan, effective July 1, 2015.

The matter is returned to the Marketplace to ensure the reinstatement of coverage for you, your spouse and your three children.

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

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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 June 12, 2015 eligibility determination is MODIFIED to reflect that you, your spouse and three children were eligible for a special enrollment period effective July 1, 2015.

You, your spouse and three children are eligible to reenroll in a qualified health plan, effective July 1, 2015.

The matter is returned to the Marketplace to ensure the reinstatement of coverage for you, your spouse and your three children.

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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