



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: AP000000003434

[REDACTED]

Dear [REDACTED],

On August 31, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015 eligibility determination.

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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: November 24, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003434



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that your spouse was no longer eligible to enroll in a qualified health plan, effective June 1, 2015?

## Procedural History

On December 14, 2014, the Marketplace issued an eligibility determination notice stating that you and your spouse were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$461.00 per month; and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective January 1, 2015. While you were determined fully eligible, your spouse's eligibility was conditional pending the receipt of documentation to confirm her citizenship status. The notice further requested that you provide documentation confirming your spouse's citizenship status before March 15, 2015, or her eligibility to enroll in coverage or her financial assistance might be affected.

Also on December 14, 2014, the Marketplace issued a notice confirming you and your spouse's enrollment in silver-level QHP and stand-alone dental plan.

On May 3, 2015, the Marketplace issued an eligibility redetermination notice stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because you had not provided the documentation to confirm her citizenship status. Her eligibility for coverage ended effective May 31, 2015.

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On May 4, 2015, the Marketplace issued a notice that stated your spouse's enrollment in the silver-level QHP and stand-alone dental plan was terminated effective May 31, 2015.

On June 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 eligibility redetermination insofar as your spouse was found not eligible to enroll in a QHP through the Marketplace.

On August 31, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony a copy of your spouse's U.S. Passport. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced document, whichever occurred earlier.

That same day, immediately after the hearing concluded, you provided a copy of your spouse's U.S. Passport to the Appeals Unit through via facsimile.

Accordingly, the record was closed on August 31, 2015.

## **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, either electronically or by regular mail, telling you that you needed to submit documentation in order to confirm your spouse's citizenship status.
- 2) You testified that you only learned that your spouse's insurance coverage had been terminated when she saw a doctor in June 2015, and was told that her coverage had lapsed. You testified that you have incurred several bills for medical care and services provided to your spouse since she had been disenrolled on May 31, 2015.
- 3) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 4) You testified that you had provided a copy of your spouse's U.S. Passport to the Marketplace contemporaneous with your initial application submitted in December 2013. You testified that you provided a copy of this document to the Marketplace via facsimile at their request since your spouse's certificate of naturalization had been destroyed and would be difficult and expensive to replace.

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- 5) You testified that you had been instructed by a Marketplace representative to reflect in your application that your spouse was a “U.S. Citizen” rather than a “naturalized citizen” since the Marketplace was having technical issues processing insurance application with that designation at that time in December 2013.
- 6) You testified that you and your spouse have been enrolled in a qualified health plan from January 1, 2014 without incident until she was disenrolled due to the request to provide citizenship documents.
- 7) There is no evidence in the record that the Marketplace received your citizenship documentation before March 15, 2015.
- 8) You provided a copy of your spouse’s U.S. Passport to the Appeals Unit via facsimile on August 31, 2015.
- 9) You are seeking reinstatement of your spouse’s health insurance coverage, effective 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 five days after the date on the notice, unless the applicant

demonstrates that he or she did not receive the notice within the five 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 issue under review is whether the Marketplace properly determined that your spouse was no longer eligible to enroll in a qualified health plan through the Marketplace, effective June 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.

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 December 14, 2014 you were advised that your spouse's eligibility was only conditional, and that you needed to confirm your citizenship status before March 15, 2015.

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

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You testified that you did not receive the December 14, 2014 eligibility determination notice asking you to provide your spouse's citizenship documentation to the Marketplace. There is no evidence to verify that the proper electronic notices that you opted to receive were in fact sent.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the May 3, 2015 eligibility determination is **RESCINDED**. Since the May 4, 2015 disenrollment notice was issued based on the findings contained within the May 3, 2015 eligibility determination, it is also **RESCINDED**.

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).

Immediately after the hearing, on August 31, 2015, you provided a copy of your spouse's U.S. Passport to the Appeals Unit.

Therefore, your case is REMANDED to the Marketplace to verify your spouse's documentation and redetermine her eligibility for health insurance as of June 1, 2015.

## **Decision**

The May 3, 2015 eligibility determination is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

Your case is REMANDED to the Marketplace to verify your spouse's documentation and redetermine her eligibility for health insurance as of June 1, 2015.

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

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

Your case is being sent back to the Marketplace to verify your spouse's citizenship documentation you submitted and redetermine her eligibility for health as of June 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.

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 eligibility determination is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

Your case is being sent back to the Marketplace to verify your spouse's citizenship documentation you submitted and redetermine her eligibility for health as of June 1, 2015.

## **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:**

