



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

Notice of Decision

Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003440

[REDACTED]

Dear [REDACTED],

On July 24, 2015, your spouse, [REDACTED], appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's failure to provide a timely 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 45 Code of Federal Regulations (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).

This page intentionally left blank.



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

Decision

Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003440

[REDACTED]

Issue

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

Did the Marketplace make a timely eligibility determination on your March 4, 2015 application?

Procedural History

You initially applied for health insurance through the Marketplace for yourself, your spouse and four children on March 4, 2015.

On March 7, 2015, the Marketplace received a Profit & Loss Statement issued by [REDACTED] reflecting your spouse's gross income and expenses during the months of January, February and March 2015 as of March 4, 2015.

On March 8, 2015, the Marketplace issued a notice stating that your family might be eligible for health insurance, but more information was needed to make a determination. It requested that you provide income documentation for your household by March 24, 2015.

On March 10, 2015, March 19, 2015, May 7, 2015 and May 26, 2015, the Marketplace acknowledged the receipt of additional documentation to resolve an inconsistency, but found that the documentation provided was insufficient to resolve the request. None of these notices specified what documentation was received or why it was insufficient. Each of these notice requested further

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).

documentation in line with an attachment “Request for Additional Information – Documentation List” identifying the types of documentation to satisfy this request.

On March 17, 2015, the Marketplace received (1) an additional copy of the March 4, 2015 Profit & Loss Statement issued by ██████████ reflecting your spouse’s gross income and expenses during the months of January, February and March 2015, (2) a Final Commission Statement Summary for December 2014 issued by ██████████ on January 13, 2015, (3) a Final Commission Statement Summary for January 2015 issued by ██████████ on February 11, 2015, (4) a Final Commission Statement Summary for February 2015 issued by ██████████ on March 11, 2015, and (5) a Final Commission Statement Summary for March 2015 issued by ██████████ on March 16, 2015.

On May 4, 2015, the Marketplace received a copy of your 2014 U.S. Individual Income Tax Return.

On May 20, 2015, the Marketplace received a revised application in which you attested to an expected yearly income of \$24,082.20.

On May 21, 2015, the Marketplace issued a notice stating that your family might be eligible for health insurance, but more information was needed to make a determination. It requested that you provide income documentation for your household by June 5, 2015.

Also on May 21, 2015, the Marketplace received an additional copy of the March 4, 2015 Profit & Loss Statement issued by ██████████ reflecting your gross income and expenses during the months of January, February and March 2015.

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

On June 3, 2015, the Marketplace issued a notice stating that your family might be eligible for health insurance, but more information was needed to make a determination. It requested that you provide income documentation for your household by June 18, 2015.

Also on June 3, 2015, the Marketplace acknowledged receipt of additional documentation to resolve the inconsistency, but found that the documentation you provided was insufficient to resolve the request.

On June 11, 2015, you contacted the Marketplace’s Account Review Unit and requested an appeal insofar as the Marketplace failed to issue an eligibility determination so that your family could get health insurance through the Marketplace.

On July 24, 2015, your spouse had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the

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).

hearing and remained open as the Hearing Officer directed your spouse to provide as additional evidence to corroborate your spouse's testimony: (1) a letter reflecting your spouse's termination from [REDACTED] or a Unemployment Insurance Monetary Benefit Determination letter reflecting the same, (2) monthly income statements issued by [REDACTED] and [REDACTED] to your spouse from February to June 2015, and (3) a letter reconciling the two sets of income documents. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by August 8, 2015.

The record was closed on August 8, 2015.

Findings of Fact

- 1) You currently reside in a household that includes yourself, your spouse, and your four children.
- 2) Your spouse testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim your four children on that tax return.
- 3) You applied for health insurance for yourself, your spouse and your four children through NY State of Health on March 4, 2015. You modified your application on May 20, 2015 and June 2, 2015. In each case, the Marketplace issued notices in response to your applications stating that there was insufficient information to issue an eligibility determination. You were requested to provide additional income documentation in order for the Marketplace to make an eligibility determination.
- 4) The record reflects that you provided several income documents for review by the Marketplace in order confirm your family's eligibility during March and May 2015, but was notified via written notification March 10, 2015, March 19, 2015, May 7, 2015 and May 26, 2015 the documentation you provided was insufficient to resolve the request. The Marketplace's notification did not specify why the documentation you provided was not sufficient.
- 5) Your spouse testified that he was employed by [REDACTED] up until September 16, 2014 when his position was eliminated.
- 6) Your spouse testified that he had filed for unemployment benefits around that time, possibly as late as October 23, 2014.
- 7) Your spouse testified that he started a new investment advisor fund called [REDACTED] during December 2014, which is

managed through [REDACTED] as the broker dealer. Your spouse further testified that after gross sales and operating expenses, he receives a commission from [REDACTED]

- 8) On March 17, 2015, you also provided Final Commission Statement Summaries issued by [REDACTED] reflecting that after your total net commissions and business expenses, you owed \$1,955.27 to [REDACTED] during December 2014, and that you were issued checks in the amount of (1) \$17,315.28 during January 2015, (2) \$5,923.59 during February 2015 and (3) \$16,144.88 during March 2015 (as of March 16, 2015).
- 9) On March 4, 2015, March 17, 2015 and May 21, 2015, you provided Profit & Loss Statements issued by [REDACTED] reflecting that after your total net income, after your expenses had been deducted, was (1) \$3,743.97 during January 2015, (2) \$1,468.45 during February 2015 and (4) \$893.50 during March 2015 (as of March 4, 2015).
- 10) On May 4, 2015, you provided a copy of your 2014 U.S. Individual Income Tax Return reflecting that you received \$457,197.00 in wages, salaries, tips, etc. and \$488,007 in total adjusted gross income.
- 11) Your spouse testified that after expenses he anticipates earning approximately \$65,000.00 during 2015.
- 12) Your application states that you live in Kings County, New York.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Timely Determination

The Marketplace must determine an applicant's eligibility promptly and without undue delay. The Marketplace must then provide a timely written notice to an applicant of any eligibility determination made (45 CFR § 155.310(e), (g); 45 CFR § 155.330(e)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

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).

The Marketplace must not proceed with the applicant's eligibility determination, or provide advance payments of the premium tax credit or cost-sharing reductions, unless the applicant provides sufficient information for the Marketplace to make an eligibility determination (45 CFR § 155.310(k)(3)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, the Marketplace must request data that will allow the Marketplace to verify the household's income (45 CFR § 155.320(c)(1)(i)).

If the Marketplace cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)).

Legal Analysis

The sole issue raised on appeal is whether the Marketplace made its eligibility determination in a timely manner.

The Marketplace must determine an applicant's eligibility promptly and without undue delay. The Marketplace must then provide a timely written notice to an applicant of any eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination for enrollment in a qualified health plan (QHP) or insurance affordability programs through the Marketplace.

You submitted your initial application to the Marketplace on March 4, 2015, but it did not contain all of the information that the Marketplace needed to make an eligibility determination.

On March 7, 2015, you provided a Profit & Loss Statement issued by [REDACTED] reflecting your spouse's gross income and expenses during the months of January, February and March 2015 as of March 4, 2015.

On March 8, 2015, the Marketplace issued a notice advising you more information was needed to make a determination and directing you to submit income documentation by March 24, 2015. In particular, the notice stated that for proof of self-employment income (for a period of at least 3 months), the Marketplace would accept record of earnings and expenses.

On March 10, 2015, the Marketplace issued a further notice stating that the documentation you provided was not sufficient for the Marketplace to issue a determination. Again, the notice stated that for proof of self-employment income (for a period of at least 3 months), the Marketplace would accept record of earnings and expenses.

You further revised your application on May 20, 2015 and June 2, 2015, but in each case you were again requested to provide additional documentation to confirm your family's eligibility. Between March 2015 and May 2015, you provided the Marketplace with documentation confirming your gross salary, after commission, received during the months of January, February and March 2015.

The evidence of record reflects that you provided what you believed to be the requested documentation by the March 24, 2015 deadline identified by the Marketplace's March 8, 2015 notice, and that such documentation was reasonably consistent with what the Marketplace had requested in the notices issued on March 8, 2015 and March 10, 2015. If this information was insufficient, the Marketplace was obliged to explain to you why documentation that apparently met the requirements in the notice was, in fact, still insufficient.

Had the Marketplace done so, your application could have been found complete as of March 7, 2015, since your Profit & Loss Statement issued by [REDACTED] reflecting your spouse's gross income and expenses during the months of January, February and March 2015 were provided on March 7, 2015.

Accordingly, we find the Marketplace was not timely in issuing an eligibility determination notice based on the March 4, 2015 application, since by March 7, 2015, the necessary documentation had been provided to the Marketplace to issue an eligibility determination.

Your spouse testified during the hearing that he anticipated receiving, after expenses had been deducted, approximately \$65,000.00 during 2015. The documentation you provided on March 7, 2015 was reasonably consistent with this approximate expected yearly income amount. We also note that as of November 3, 2015 a new application had been submitted to the Marketplace which contained an attestation that your expected yearly income for 2015 would be \$65,000.00. This income was solely comprised of your spouse's anticipated income from [REDACTED]

Therefore, your case is RETURNED to the Marketplace to issue a determination of family's eligibility based on a \$65,000.00 annual household income for a six-person household in Kings County, New York as of March 7, 2015. The Marketplace is also directed to facilitate the backdating of coverage for the household, if necessary.

Decision

We find the Marketplace was not timely in issuing an eligibility determination notice based on the March 4, 2015 application, since by March 7, 2015, the necessary documentation had been provided to issue an eligibility determination.

Effective Date of this Decision: December 16, 2015

How this Decision Affects Your Eligibility

Your case is RETURNED to the Marketplace to issue a determination of family's eligibility based on a \$65,000.00 annual household income for a six-person household in Kings County, New York as of March 7, 2015. The Marketplace is also directed to facilitate the backdating of coverage for the household, if necessary.

Please note this decision has no effect on the Marketplace's eligibility determination November 4, 2015 finding you and your spouse eligible for an advance premium tax credit and cost-sharing reductions, and each of your children eligible for coverage in Child Health Plus at a reduced premium rate of \$9.00 per month.

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 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).

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

We find the Marketplace was not timely in issuing an eligibility determination notice based on the March 4, 2015 application, since by March 7, 2015, the necessary documentation had been provided to issue an eligibility determination.

Your case is RETURNED to the Marketplace to issue a determination of family's eligibility based on a \$65,000.00 annual household income for a six-person household in Kings County, New York as of March 7, 2015. The Marketplace is also directed to facilitate the backdating of coverage for the household, if necessary.

Please note that this decision has no effect on the Marketplace's eligibility determination November 4, 2015 finding you and your spouse eligible for an advance premium tax credit and cost-sharing reductions, and each of your children eligible for coverage in Child Health Plus at a reduced premium rate of \$9.00 per month.

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:

