



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: AP000000003446

[REDACTED]

Dear [REDACTED],

On November 2, 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 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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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, in the May 3, 2015 eligibility determination, that you were no longer eligible to enroll in a qualified health plan through the Marketplace, effective May 31, 2015?

Did the Marketplace properly disenroll you, your spouse, and your two oldest children from coverage under the platinum-level qualified health plan, effective May 31, 2015?

Procedural History

On January 17, 2015, the Marketplace issued an eligibility determination notice stating that you, your spouse, and your two oldest children were eligible to receive an advance premium tax credit (APTC) and cost-sharing reductions (CSR), effective March 1, 2015. The notice further stated that eligibility for you, Amal, was conditional, pending the receipt by April 18, 2015 of documentation to confirm your citizenship status; 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.

Also on January 17, 2015, the Marketplace issued a notice confirming your family's enrollment in platinum-level qualified health plan (QHP), with coverage beginning March 1, 2015, provided your first month's premium was timely received.

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On May 3, 2015, the Marketplace issued a notice of 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.

Also on May 3, 2015, the Marketplace issued an additional eligibility redetermination notice stating that your spouse and your two oldest children were eligible for an APTC and CSR, effective June 1, 2015.

On May 4, 2015, the Marketplace issued a disenrollment notice confirming that coverage under the platinum-level QHP for you, your spouse, and your two oldest children would end effective May 31, 2015.

On June 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed (1) the May 3, 2015 eligibility determination insofar as you were determined to be ineligible to remain enrolled in a qualified health plan and (2) the May 4, 2015 disenrollment notice insofar as coverage under the platinum-level QHP for you, your spouse, and your two oldest children was terminated effective May 31, 2015.

On November 2, 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 for the sole purpose of providing you an opportunity to submit as additional evidence a copy of your certificate of naturalization. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On November 5, 2015, you provided a copy of your certificate of naturalization (Certificate No. [REDACTED]) to the Appeals Unit through via facsimile.

Accordingly, the record was closed on November 5, 2015

Findings of Fact

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

- 1) Your Marketplace account reflects that you elected to receive notifications via electronic mail.
- 2) You confirmed that the e-mail address you provided in your Marketplace account, [REDACTED] is your work e-mail account and is accurate. You testified that you do not check this e-mail address frequently, and conceded it was possible that e-mails were sent by the Marketplace to this e-mail address, but that you did not recall receiving any. You further testified that you rely, to some

extent, on your co-workers forwarding important e-mails to you from this work account.

- 3) You testified that you do not recall receiving any notices telling you that you needed to submit documentation in order to confirm your citizenship status.
- 4) You testified that you offered to provide a copy of your certificate of naturalization to the broker, who assisted you in initially setting up your account, but he requested that you provide only the certificate number on that document.
- 5) There is no evidence in the record that the Marketplace received your citizenship documentation before April 18, 2015.
- 6) You testified that you first realized that your insurance had been terminated when you tried to fill a prescription at the pharmacy and were charged the full cost of the medication.
- 7) You testified that you contacted your insurance carrier and were told that the Marketplace had disenrolled you for not providing the necessary citizenship documents.
- 8) You testified that when you reached out to the Marketplace, you were not told to provide a copy of your certificate of naturalization, but rather just to provide the corresponding certificate number.
- 9) You submitted a copy of your certificate of naturalization to the Appeals Unit via facsimile on November 5, 2015 (Exhibit #1).
- 10) You, your spouse, and your two oldest children were disenrolled from their health plan effective May 31, 2015.
- 11) You are seeking reinstatement of not only your health insurance coverage, but also that of your spouse and two oldest children.

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

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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 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)).

Disenrollment of Coverage

The Marketplace may initiate termination of an enrollee's coverage in a qualified health plan and must permit a qualified health plan issuer to terminate such coverage: (1) When the enrollee is no longer eligible for coverage in a qualified health plan through the Marketplace; or (2) The enrollee's coverage is cancelled due to non-payment of premiums (45 CFR § 155.430(b)(2)(i) and (ii)).

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 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

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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 17, 2015 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before April 18, 2015

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

The record also reflects that you requested to receive all notifications from the Marketplace electronically. You testified that you did not receive the January 17, 2015 eligibility determination notice asking you to provide citizenship documentation to the Marketplace. However, you conceded that you do not regularly check your work e-mail account that you provided to the Marketplace to deliver notifications, and that you rely on co-workers to make you aware of such messages. Accordingly, absent any evidence to the contrary, we find that the notifications, including the January 17, 2015 eligibility determination notice asking you to provide citizenship documentation prior to April 18, 2015, were properly delivered to the e-mail address you provided to the Marketplace.

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 disenrolled your entire family from their coverage effective May 31, 2015.

As a result of the May 3, 2015 eligibility determination, which was affirmed by this Decision, you were properly found no longer eligible to enroll in a qualified health plan through the Marketplace, effective May 31, 2015. Accordingly, you were properly disenrolled from your coverage under the platinum-level QHP effective May 31, 2015.

However, the January 17, 2015 eligibility determination stated that your spouse and two children continued to be eligible to enroll in a QHP without the condition

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of having to provide documentation to confirm their citizenship. Therefore, either they should not have been disenrolled from the plan, or, if they were no longer eligible for that particular, family plan once you were no longer eligible, they should have automatically been reenrolled in the same or a similar plan, or given the opportunity to do so, so that coverage would continue for them without interruption.

Accordingly, the May 4, 2015 disenrollment notice is MODIFIED solely to reflect that both your spouse and your two children are entitled to reenroll in a plan, effective as early as June 1, 2015, pending payment of the appropriate premiums and their selection of an effective date.

We further note on November 5, 2015, you provided a copy of your certificate of naturalization to the Appeals Unit via facsimile.

Therefore, your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance, if necessary.

Decision

The May 3, 2015 eligibility determination is AFFIRMED.

The May 4, 2015 disenrollment notice is MODIFIED solely to reflect that both your spouse and your two children are entitled to reenroll in a plan, effective as early as June 1, 2015, pending payment of the appropriate premiums and their selection of an effective date.

Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

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.

Coverage for your spouse and two oldest children may be reinstated as early as June 1, 2015, once the appropriate premiums have been paid.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary.

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Please note that this Decision has no effect on any other eligibility determinations issued on or after May 3, 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)).

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
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- By fax: 1-855-900-5557

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Summary

The May 3, 2015 eligibility determination is **AFFIRMED**.

The May 4, 2015 disenrollment notice is **MODIFIED** solely to reflect that both your spouse and your two children are entitled to reenroll in a plan, effective as early as June 1, 2015, pending payment of the appropriate premiums and their selection of an effective date.

Your case is **RETURNED** to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

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

Coverage for your spouse and two oldest children may be reinstated as early as June 1, 2015, once the appropriate premiums have been paid.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary.

Please note that this Decision has no effect on any other eligibility determinations issued on or after May 3, 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:

