



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

Notice of Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003541

[REDACTED]

Dear [REDACTED],

On September 8, 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 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).

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NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly determine that you were no longer eligible to enroll in a qualified health plan, effective May 31, 2015?

Procedural History

On January 21, 2015, the Marketplace issued an eligibility determination notice stating that you were conditionally eligible to enroll in a qualified health plan (QHP) and receive an advance premium tax credit (APTC) of up to \$83.00 per month. This notice also stated that you were not eligible for either cost-sharing reductions (CSR) or Medicaid. This eligibility determination was effective March 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before April 22, 2015.

On February 13, 2015, the Marketplace issued a notice confirming your enrollment in a bronze-level QHP.

On May 3, 2015, the Marketplace issued an 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.

On May 4, 2015, the Marketplace issued a notice that stated your enrollment in your bronze-level QHP was terminated effective May 31, 2015.

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On June 18, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 eligibility determination insofar as you were found not eligible to enroll in a QHP.

On September 8, 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 U.S. Passport or 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 September 9, 2015, you provided both a copy of your U.S. Passport and a copy of your Certificate of Naturalization to the Appeals Unit via facsimile.

Accordingly, the record was closed on September 9, 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 telling you that you needed to submit documentation in order to confirm your citizenship status.
- 2) You testified that you were puzzled as to why the Marketplace was requesting to receive proof of your citizenship status since this was not previously challenged when you enrolled in your qualified health plan during the 2014 plan year.
- 3) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 4) There is no evidence in the record that the Marketplace received your citizenship documentation before April 22, 2015.
- 5) You testified that you were born in Great Britain and became a U.S. Citizen through naturalization.
- 6) You submitted a copies of your U.S. Passport and Certificate of Naturalization to the Appeals Unit on September 9, 2015 via facsimile.

- 7) You testified that you are seeking reinstatement of your health insurance coverage.

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)).

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 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 inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on January 21, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before April 22, 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 credibly testified that you did not receive the January 21, 2015 eligibility determination notice asking you to provide citizenship documentation to the Marketplace by April 22, 2015.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the May 3, 2015 eligibility determination is RESCINDED. Also, since your disenrollment from your bronze-level QHP effective May 31, 2015 was based on the May 3, 2015 eligibility determination, the May 4, 2015 disenrollment notice is also RESCINDED.

At the direction of the Hearing Officer, on September 9, 2015, you provided copies of your U.S. Passport and Certificate of Naturalization to the Appeals Unit.

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

Decision

The May 3, 2015 eligibility determination notice is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

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

Effective Date of this Decision: November 18, 2015

How this Decision Affects Your Eligibility

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.

You remain covered under your bronze-level QHP, pending the verification of the citizenship documentation submitted on September 9, 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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The May 3, 2015 eligibility determination notice is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

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

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.

You remain covered under your bronze-level QHP, pending the verification of the citizenship documentation submitted on September 9, 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:

