



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

## Notice of Decision

Decision Date: October 22, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003680

[REDACTED]

Dear [REDACTED],

On September 15, 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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## Decision

Decision Date: October 22, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003680



## 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?

Was your continued enrollment in your qualified health plan during the pendency of the appeals process properly terminated because of non-payment of premiums?

## Procedural History

On December 9, 2014, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to purchase a qualified health plan at full cost, effective January 1, 2015. The notice further directed you to provide documentation confirming your citizenship status before March 10, 2015, or you might lose your financial assistance or your eligibility for health insurance through the Marketplace.

Also on December 9, 2014 the Marketplace issued a notice confirming your enrollment in a qualified health plan.

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

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On May 4, 2015, the Marketplace issued a notice that stated your enrollment in your qualified health plan was terminated effective May 31, 2015.

On June 26, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 determination as it related to your eligibility to remain enrolled in your qualified health plan.

On July 14, 2015, your account was updated to include your Naturalization Certificate Number.

On July 15, 2015, the Marketplace issued a notice of eligibility redetermination stating that you qualify to purchase a qualified health plan at full cost, but did not qualify to select a health plan outside of the open enrollment period.

On July 16, 2015, the Marketplace issued a notice of eligibility redetermination stating that you qualify to purchase a qualified health plan at full cost. In this notice, you were given a special enrollment period in which to select a health plan outside of the open enrollment period, which you did.

On September 15, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, your spouse, [REDACTED] [REDACTED] also appeared on your behalf. The record was developed during the hearing and left open for 15 days to provide you an opportunity to submit supporting evidence.

The Marketplace's Appeals Unit did not receive your supporting evidence, and the record was closed on September 30, 2015.

## **Findings of Fact**

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

- 1) You testified that you were aware that the Marketplace requested proof of your citizenship at of the end of 2013. You further testified that you attempted to submit documentation to the Marketplace to confirm your citizenship status at that time.
- 2) You testified that, at the end of 2014, you were informed that you must renew your 2015 coverage.
- 3) You testified that you may have received the December 9, 2014 notice from the Marketplace, which informed you that you must submit documentation in order to confirm your citizenship status, but did not read it since it may have been sent to your Junk Mail folder.

- 4) Your Marketplace account indicates that you elected to receive notifications via electronic mail. You confirmed that the e-mail address associated with your account is correct.
- 5) There is no evidence in the record that the Marketplace received your citizenship documentation or information before March 10, 2015.
- 6) You testified that you did not see the May 4, 2015 notice of disenrollment. You further testified that you were not aware that your coverage was terminated until you went to the pharmacy in June 2015.
- 7) The record reflects that you supplied the Marketplace with your Naturalization Certificate Number on July 14, 2015.
- 8) The record reflects that you requested that your coverage continue during the pendency of your appeal, which is called "Aid to Continue." You made this request when you submitted your appeal request. The record further reflects that your Aid to Continue request was granted on July 15, 2015, and your qualified health plan coverage was backdated to be effective June 1, 2015. You testified that you were not aware that your coverage was reinstated until around July 18, 2015. You further testified that you did not use this coverage for the months of June or July 2015 since you were not aware that your coverage had been reinstated until mid-July 2015; however, your qualified health plan has informed you that you are responsible for the premium payments for these months. You testified that your coverage has again been terminated by the qualified health plan for non-payment of premiums. There is no evidence in your account with the Marketplace that your qualified health plan coverage has been terminated.
- 9) 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)).

### Appealable Issues

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

## **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 December 9, 2014, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 10, 2015.

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

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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 enroll in a qualified health plan through NY State of Health effective May 31, 2015 because you did not provide the information requested by the Marketplace.

Therefore, the Marketplace's May 3, 2015 eligibility determination is correct and is **AFFIRMED**.

However, at the hearing, you testified that you wanted to discuss the subsequent termination of your enrollment in your qualified health plan due to non-payment of premiums as it related to your "Aid to Continue" request.

The record reflects that your Aid to Continue request was approved on July 15, 2015, and your qualified health plan coverage was backdated to be effective June 1, 2015. You testified that you were not aware that your coverage had been reinstated until approximately July 18, 2015, and further testified that your qualified health plan insurer requested premium payments for the months of June and July 2015. You testified that you did not use the coverage for the months requested. You further testified that your qualified health plan has since terminated your coverage due to non-payment of these premiums.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the New York State of Health Appeals Unit.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums.

## **Decision**

Your appeal of the May 3, 2015 notice of eligibility determination is **AFFIRMED**.

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 Appeals Unit does not have the authority to address your qualified health plan termination due to non-payment of premiums.

**Effective Date of this Decision:** October 22, 2015

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

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

### **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:

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P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

Your appeal of the May 3, 2015 notice of eligibility determination is **AFFIRMED**.

The Appeals Unit does not have the authority to address your qualified health plan termination due to non-payment of premiums.

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

## **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:**

