



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

## Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003736

[REDACTED]

Dear [REDACTED],

On September 21, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015 eligibility redetermination and May 4, 2015 disenrollment notice. You are also appealing the June 1, 2015 start date of your coverage under aid to continue that was granted during the appeal process.

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 Code of Federal Regulation (CFR) 45 CFR § 155.545(b).

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## Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003736

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine on May 3, 2015 that you were not eligible for financial assistance or to enroll in a qualified health plan at full cost through the Marketplace, effective May 31, 2015?

Did the Marketplace properly disenroll you from your qualified health plan, effective May 31, 2015?

Did the Marketplace properly determine that you were granted aid to continue during the appeal process, effective June 1, 2015?

## Procedural History

On January 21, 2015, the Marketplace issued a notice of eligibility determination that you were conditionally eligible to purchase a qualified health plan at full cost through New York State of Health, effective March 1, 2015. The notice informed you that your eligibility was conditioned upon you providing documentary proof of your citizenship status by April 22, 2015.

That same day, the Marketplace issued an enrollment notice confirming your enrollment in a silver-level qualified health plan and your monthly premium responsibility.

As of April 22, 2015, the Marketplace had not received proof of your citizenship status.

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On May 3, 2015, the Marketplace issued a notice of eligibility redetermination that you were not eligible for financial assistance through any programs in the Marketplace and could not enroll in a qualified health plan at full cost through NY State of Health, effective May 31, 2015. The reason stated was that you did not provide proof of your citizenship status to confirm your eligibility within the applicable timeframe.

On May 4, 2015, the Marketplace issued a disenrollment notice that your coverage with your silver-level qualified health plan would end effective May 31, 2015.

On May 12 and 13, 2015, the Marketplace issued notices of eligibility redetermination that stated you were eligible to purchase a qualified health plan at full cost through NY State of Health, effective June 1, 2015.

On June 16, 2015, you uploaded a copy of your United States passport (Appellant's Exhibit A).

On June 17, 2015, the Marketplace issued another notice of eligibility redetermination that you were eligible to purchase a qualified health plan at full cost through NY State of Health, effective August 1, 2015.

On July 1, 2015, you spoke with a representative with the Marketplace's Account Review Unit and requested a telephone hearing. According to the Marketplace's July 2, 2015 appeal acknowledgment letter, you were appealing begin disenrolled from your health plan as of May 31, 2015, and not being able to be reinstated after being enrolled for half of the year.

According to your Marketplace account, on July 1, 2015, you also requested that your coverage be continued during the appeal process, which the Marketplace granted. The Marketplace then conducted an override so that your coverage was continued as of June 1, 2015.

On July 16, 2015, the Marketplace issued a notice of eligibility redetermination that you were eligible to purchase a qualified health plan through NY State of Health, effective June 1, 2015.

That same day, the Marketplace issued an enrollment notice confirming your coverage in the silver-level qualified health plan you had selected at full cost of the premium, which plan coverage could start as early as August 1, 2015 provided you paid your first month's premium.

On July 21, 2015 and July 29, 2015, the Marketplace issued notices of eligibility redetermination with the same findings as the July 16, 2015 notice of eligibility redetermination.

On September 21, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) The record reflects that you submitted your updated non-financial application for health insurance on January 20, 2015, which included your Social Security Number and stated you were a United States citizen. You believed this information was sufficient to prove your citizenship as it was sufficient in 2014 when you first qualified to enroll in a health plan through the Marketplace.
- 2) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 3) According to the January 21, 2015 eligibility determination notice, you were found conditionally eligible to purchase a qualified health plan at full cost effective March 1, 2015, but needed to submit proof of your citizenship by April 22, 2015.
- 4) You testified that you were not aware of that notice from the Marketplace telling you that you needed to submit documentation in order to confirm your citizenship status.
- 5) On June 16, 2015, after you had been disenrolled for not timely providing proof of citizenship, you uploaded a copy of your United States passport. Your United States Passport was issued on October 19, 2009, and states your place of birth is India (Appellant's Exhibit A).
- 6) You testified that you believed your coverage had ended as of May 31, 2015 and did not make any further monthly premium payments.
- 7) You also testified that there was much confusion between the Marketplace and the insurance company as to when your coverage ended because the Marketplace was showing you had active coverage and the insurance company was showing you did not.
- 8) You testified that when you were found eligible to purchase a qualified health plan and the July 16, 2015 notice confirmed that your enrollment in the silver-level qualified health plan you had selected could begin as early as August 1, 2015, you believed that this meant coverage could start September 1, 2015, if you elected to make payment that month as your first month's premium. You testified that this is what you intended to do.

- 9) According to your Marketplace account and the July 16, 21, and 29, 2015 eligibility redetermination notices, however, the Marketplace found you eligible to purchase a qualified health plan effective June 1, 2015, and manually conducted an override for your coverage to begin June 1, 2015 as aid to continue during the appeal process and so as to ensure that you would not have a gap in coverage.
- 10) You testified that you did not want your aid to continue and preferred to have your health plan coverage start September 1, 2015, as per the July 16, 2015 enrollment notice, but were not allowed to make a premium payment because your insurance company said your coverage had been terminated due to non-payment of premium.
- 11) You testified that you filed several complaints with the Marketplace regarding this problem and other problems you were having since being disenrolled on May 31, 2015, that went unanswered or unresolved.

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

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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 and did not expect that it was an issue since you had coverage through the Marketplace in 2014 and had provided your Social Security Number so that the Marketplace could use it to verify your citizenship status.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the May 3, 2015 eligibility determination notice and the May 4, 2015 disenrollment notices are RESCINDED.

On June 16, 2015, after you became aware of the inconsistency in your account, you provided a copy of your United States passport to the Marketplace.

You testified that you then relied upon the July 16, 2015 enrollment notice that stated your coverage could start as early as August 1, 2015 and would start after you paid your first premium. You testified that you elected to have your coverage start as of September 1, 2015, but could not enroll with your health plan because you had been terminated for non-payment of premium in June and July 2015 due to the Marketplace continuing your coverage during the appeals process. You credibly testified that you did

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not understand that this had occurred and did not receive notices to this effect. The Appeals Unit notes that the July 16, 21, and 29, 2015 notices of eligibility redetermination do not specify that your aid to continue was granted and that enrollment had been manually inserted so you would not have a gap in coverage, You further credibly testified that you did not want aid to continue, but wanted to be able to straighten out the health plan enrollment issues and confusion between the Marketplace and your health plan so that your health plan coverage could resume September 1, 2015.

Therefore, the July 16, 21, and 29, 2015 notices of eligibility redetermination are RESCINDED.

Your case is RETURNED to the Marketplace to effectuate the coverage start date in the health plan you selected, effective September 1, 2015 and for the remainder of the year. You will be responsible for paying the monthly premiums that are due and owing beginning September 1, 2015, if you elect to have your coverage under the silver-level qualified health plan you had selected resume effective September 1, 2015.

## **Decision**

The May 3, 2015 notice of eligibility determination and May 3, 2015 disenrollment notice are RESCINDED.

The July 16, 21, and 29, 2015 notices of eligibility redetermination are RESCINDED.

Your case is RETURNED to the Marketplace to facilitate the coverage start date in the health plan you selected, effective September 1, 2015 and for the remainder of the year.

You will be responsible for paying the monthly premiums that are due and owing beginning September 1, 2015, if you elect to have your coverage under the silver-level qualified health plan you had selected resume effective September 1, 2015.

**Effective Date of this Decision:** October 28, 2015

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

Your case is RETURNED to the Marketplace to facilitate the coverage start date in the health plan you selected, effective September 1, 2015 and for the remained of the year.

You will be responsible for paying the monthly premiums that are due and owing beginning September 1, 2015, if you elect to have your coverage under the silver-level qualified health plan you had selected resume effective September 1, 2015.

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## **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

## **Summary**

The May 3, 2015 notice of eligibility determination and May 3, 2015 disenrollment notice are RESCINDED.

The July 16, 21, and 29, 2015 notices of eligibility redetermination are RESCINDED.

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Your case is RETURNED to the Marketplace to facilitate the coverage start date in the health plan you selected, effective September 1, 2015 and for the remained of the year.

You will be responsible for paying the monthly premiums that are due and owing beginning September 1, 2015, if you elect to have your coverage under the silver-level qualified health plan you had selected resume effective September 1, 2015.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

