



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

## Notice of Decision

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004046

[REDACTED]

Dear [REDACTED],

On October 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 27, 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 Code of Federal Regulation (CFR) 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: November 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004046

[REDACTED]

## Issue

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

Did the Marketplace properly determine that your household was no longer eligible to enroll in a qualified health plan through the Marketplace, effective July 31, 2015?

## Procedural History

On March 3, 2015, the Marketplace received your application for health insurance.

On March 4, 2015, the Marketplace issued a notice of eligibility determination stating that your household was conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective April 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before June 1, 2015 and, 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.

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

On July 19, 2015, the Marketplace issued a notice of eligibility redetermination stating that you and your family 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 July 31, 2015.

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On that same day, the Marketplace issued a notice that stated your and your family's enrollment in your qualified health plan was terminated effective July 31, 2015.

On July 27, 2015, the Marketplace found your household conditionally eligible to receive advance premium tax credits and cost sharing reductions, but that you still needed to confirm your citizenship status before October 25, 2015.

That same day you spoke with the Marketplace's Account Review Unit and appealed the July 27, 2015, determination insofar as you were determined to be ineligible to remain enrolled in a qualified health plan as you needed to provide additional documentation to confirm your citizenship status.

On October 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 closed at the end of the hearing.

## **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) It was not until July 19, 2015 when you found out you were disenrolled from your health coverage that you were aware of the inconsistency in your account.
- 3) Your Marketplace account indicates that you elected to receive notifications via electronic mail as stated in Document [REDACTED] sent to you via regular mail on October 28, 2013.
- 4) There is no evidence in the record that the Marketplace received your citizenship documentation before June 1, 2015.
- 5) You uploaded a copy of your Passport to the Marketplace on August 14, 2015. The document was verified on August 19, 2015.
- 6) 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 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

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR §435.918).

## **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 July 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 March 4, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before June 1, 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 March 4, 2015 eligibility determination notice, or any notice stating that you needed to provide proof of your citizenship status.

When a person elects to receive communications from the Marketplace electronically, the Marketplace is required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The March 4, 2015, eligibility determination notice was posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that it was available in your account. The record further does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

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You testified that you did not receive e-mails or other notices telling you that copies of the notice were available in your Marketplace account and that your health coverage was being discontinued.

Lacking evidence to the contrary, it must be concluded that you did not receive notice regarding the need for additional information to confirm your eligibility through the Marketplace.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the July 27, 2015 eligibility determination is **RESCINDED**.

On July 19, 2015, you became aware of the inconsistency in your account and appealed the July 27, 2015 determination notice. On August 14, 2015, you provided a copy of your passport to the Marketplace and it was confirmed as valid.

Your case is **RETURNED** to the Marketplace to determine your household's eligibility based on your citizenship status of U.S. Citizen.

## **Decision**

The July 27, 2015, eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to determine your household's eligibility based on your citizenship status of U.S. Citizen.

**Effective Date of this Decision:** November 16, 2015

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

Your case is being sent back to the Marketplace to determine you and your spouse's eligibility based on your citizenship status of U.S. Citizen.

## **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

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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 July 27, 2015, eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace to determine your household's eligibility based on your citizenship status of U.S. Citizen.

### **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:**

