



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

## Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004051

[REDACTED]

Dear [REDACTED],

On October 7, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 17, 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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004051



## Issue

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

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

## Procedural History

On February 15, 2015, the Marketplace issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive advance premium tax credits, effective March 1, 2015. The notice further requested that you and your spouse provide documentation confirming your citizenship status before May 17, 2015.

Also on February 15, 2015, the Marketplace issued a notice confirming enrollment in a qualified health plan for you and your spouse.

On July 17, 2015, the Marketplace issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible to enroll in health insurance through the Marketplace because you had not confirmed your citizenship status and your eligibility for coverage would end effective July 31, 2015.

On July 19, 2015 the Marketplace issued a notice that stated enrollment in your qualified health plan for you and your spouse was terminated effective July 31, 2015.

On July 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 17, 2015 eligibility determination insofar as you and your spouse were no longer eligible to enroll in a qualified health plan.

On October 7, 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) The Marketplace issued a notice on February 15, 2015 stating that you and your spouse were conditionally eligible to receive advance premium tax credits. The notice requested that you and your spouse provide documentation confirming your citizenship status before May 17, 2015.
- 2) You testified that you received the Marketplace's February 15, 2015 notice requesting documentation confirming your citizenship.
- 3) You testified that on March 2, 2015 you faxed in copies of your and your spouse's naturalization certificates.
- 4) On March 9, 2015, a copy of your naturalization certificate was uploaded to your Marketplace account. The document was stamped "MAR 02 2015."
- 5) The Marketplace also received a copy of your spouse's naturalization certificate via fax and it was stamped "MAR 02 2015." However, your spouse's certificate does not appear to have been uploaded to your Marketplace account.

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

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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)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that you and your spouse 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 February 15, 2015 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before May 17, 2015.

You testified that, on March 2, 2015, you faxed in copies of your and your spouse's naturalization certificates. A review of the record confirms that on March 9, 2015 a copy of your naturalization certificate was uploaded to your Marketplace account. The document was stamped "MAR 02 2015." A review of the record also confirms that the Marketplace also received a copy of your spouse's naturalization certificate via fax and it was stamped "MAR 02 2015." However, your spouse's certificate does not appear to have been uploaded to your Marketplace account.

Since there is credible evidence in the record that you did submit both your and your spouse's citizenship documentation within the required time frame, the Marketplace improperly determined that, effective July 31, 2015, you and your spouse were no longer eligible to enroll in health insurance through the Marketplace because you had not confirmed your citizenship status.

Therefore, the Marketplace's July 17, 2015 eligibility determination is incorrect and is RESCINDED.

Generally, we would return your case for reinstatement of your and your spouse's coverage as of the date you were disenrolled. However, you should not have to pay premiums for any months you and your spouse were without coverage by no fault of your own, and during which you were unable to use such insurance.

Accordingly, your case is RETURNED to the Marketplace to assist you and your spouse in reenrolling into a health plan for 2015 coverage with an effective date as early as August 1, 2015, pending your selection of a start date and payment of the necessary premiums, after APTC is applied.

## **Decision**

The July 17, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to assist you and your spouse in reenrolling into a health plan for 2015 coverage with an effective date as early as August 1, 2015, pending your selection of a start date and payment of the necessary premiums, after APTC is applied.

**Effective Date of this Decision:** October 27, 2015

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

You and your spouse were improperly found not eligible to enroll in a qualified health plan.

Your case is being sent back to the Marketplace to assist you and your spouse with reenrolling into a health plan.

## **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 July 17, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to assist you and your spouse in reenrolling into a health plan for 2015 coverage with an effective date as early as August 1, 2015, pending your selection of a start date and payment of the necessary premiums, after APTC is applied.

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You and your spouse were improperly found not eligible to enroll in a qualified health plan.

Your case is being sent back to the Marketplace to assist you and your spouse with reenrolling into a health plan.

### **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:**

