



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

## Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004069



Dear Mr. [REDACTED]

On October 7, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility determination notice.

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 regulations 45 § 155.545(b).

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## Decision

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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 your spouse was no longer eligible to enroll in a qualified health plan, effective July 31, 2015?

## Procedural History

On June 16, 2014, June 17, 2014, June 25, 2014, and September 27, 2014 the Marketplace issued notices of eligibility determination stating that your spouse was temporarily eligible to receive advance premium tax credits and cost-sharing reductions. The notices further stated that your spouse needed to provide information regarding her Citizenship Status to the Marketplace.

On November 27, 2014, the Marketplace issued a notice of eligibility determination stating that your spouse was conditionally eligible to receive advance premium tax credits and cost-sharing reductions, effective January 1, 2015. The notice further directed you to provide documentation confirming your spouse's citizenship status before February 26, 2015, or the eligibility for insurance might end or you might lose your financial assistance.

On December 10, 2014 the Marketplace issued a notice confirming your spouse's enrollment in a qualified health plan with coverage beginning January 1, 2015 if you paid the first month's premium.

On March 7, 2015, the Marketplace issued a notice of eligibility determination stating that your spouse was conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective April 1, 2015. The notice further

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directed you to provide documentation confirming your spouse's citizenship status before June 5, 2015, or the eligibility for insurance might end or you might lose your financial assistance.

On July 19, 2015, the Marketplace issued a notice of eligibility redetermination stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because you had not confirmed her citizenship status. Your spouse's eligibility for coverage ended effective July 31, 2015.

Also on July 19, 2015 the Marketplace issued a disenrollment notice stating that your spouse's enrollment in her qualified health plan was terminated effective July 31, 2015.

On July 27, 2015 your insurance broker spoke with the Marketplace's Account Review Unit and filed an appeal on your behalf in regards to the July 19, 2015 eligibility determination insofar as your spouse was not eligible to be enrolled in a qualified health plan for the month of August 2015.

Also on July 27, 2015 the Marketplace reran your spouse's eligibility and on July 28, 2015 issued an enrollment confirmation notice confirming your spouse's enrollment in a qualified health plan with coverage beginning September 1, 2015 if you paid the first month's premium.

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 notices on June 16, 2014, June 17, 2014, June 25, 2014, and September 27, 2014 stating that your spouse's eligibility was only temporary and that she needed to submit proof regarding her citizenship status.
- 2) The Marketplace issued a notice on November 27, 2014 stating that your spouse's eligibility for January 1, 2015 coverage was only conditional and that she needed to submit documentation confirming her citizenship status before February 26, 2015.
- 3) The Marketplace issued a notice on March 7, 2015 stating that your spouse's eligibility was only conditional and that she needed to submit documentation confirming her citizenship status before June 5, 2015.

- 4) You testified, and the record reflects, that you receive your notices from the Marketplace via regular mail.
- 5) There is no indication in the file that any notices that were sent to you via regular mail were returned to the Marketplace as undeliverable.
- 6) You testified that you and your spouse went to an insurance broker to assist you with applying for health insurance.
- 7) You testified that when you went to the insurance broker in June 2014 you gave him copies of your and your spouse's passports to upload to your Marketplace account.
- 8) The record reflects that on June 15, 2014 a copy of your passport was uploaded to your Marketplace account. However, there is no indication in the record that your spouse's passport was uploaded at that time.
- 9) The record reflects that on July 27, 2015 a copy of your spouse's passport was uploaded to your Marketplace account.
- 10) The record reflects that your spouse has been reenrolled into coverage effective September 1, 2015 and that your spouse has a gap in coverage for the month of August 2015.

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

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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 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)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that your spouse was 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 five days after the date on the notice.

You testified that you and your spouse went to an insurance broker in June 2014 to assist you with applying for health insurance and that you gave him copies of your and your spouse's passports to upload to your Marketplace account. The record reflects that on June 15, 2014 a copy of your passport was uploaded to your Marketplace account. However, there is no indication in the record that your spouse's passport was uploaded at that time.

Furthermore, notices were sent to you in regards to your spouse's 2014 health insurance coverage on June 16, 2014, June 17, 2014, June 25, 2014, and September 27, 2014 stating that your spouse's eligibility was only temporary and that she needed to submit proof regarding her citizenship status. The Marketplace also issued a notice for 2015 coverage on November 27, 2014 stating that your spouse's eligibility was only conditional and that she needed to submit documentation confirming her citizenship status before February 26, 2015. The Marketplace issued a final notice on March 7, 2015 advising you that your spouse's eligibility was only conditional and that she needed to submit documentation confirming her citizenship status before June 5, 2015.

You testified, and the record reflects, that you receive your notices from the Marketplace via regular mail and there is no indication in the record that any notices that were sent to you via regular mail were returned to the Marketplace as undeliverable.

Therefore, there is sufficient evidence in the record to conclude that you were sent proper notice that your spouse's application contained an inconsistency regarding her citizenship status and that the Marketplace did not receive the requested citizenship documentation before the deadline.

If the Marketplace remains unable to resolve an 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 spouse's eligibility without verification of her citizenship status. As a result, the Marketplace properly determined that your spouse could not enroll in a qualified health plan through NY State of Health effective July 31, 2015 because she did not provide the information requested by the Marketplace.

Therefore, the Marketplace's July 19, 2015 eligibility determination is correct and is AFFIRMED.

## **Decision**

The July 19, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** December 10, 2015

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

Your spouse was not eligible to be enrolled in a qualified health plan as of July 31, 2015.

This decision has no effect on her re-enrollment into a health as of September 1, 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.

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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 19, 2015 eligibility determination notice is AFFIRMED.

Your spouse was not eligible to be enrolled in a qualified health plan as of July 31, 2015.

This decision has no effect on her re-enrollment into a health as of September 1, 2015.

### **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:**

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