



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

## Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004076

[REDACTED]

Dear [REDACTED],

On October 28, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 27, 2015 eligibility redetermination.

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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004076



## 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 for Medicaid as you failed to provide the proper citizenship status documentation effective May 31, 2015?

## Procedural History

On January 12, 2015, the Marketplace received your household's application for financial assistance with your health insurance.

On January 13, 2015 the Marketplace issued a notice of eligibility determination stating that you were found conditionally eligible for Medicaid effective January 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before April 14, 2015.

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 would end effective May 31, 2015.

On July 27, 2015, the Marketplace redetermined your household's eligibility for health insurance and found you newly eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$0.00 a month effective September 1, 2015. The Marketplace further found your husband and four

children no longer eligible for Medicaid, however they would receive continuous coverage until December 31, 2015, effective July 1, 2015.

On July 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 27, 2015, redetermination insofar as you were determined to be ineligible to remain enrolled in your Medicaid

On October 9, 2015, a Notice of Telephone hearing was issued for a hearing on October 27, 2015.

On October 27, 2015, a Hearing Officer from the Marketplace's appeals unit contacted you and you requested an adjournment of your hearing date. The request was granted.

On October 28, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You waived formal notice on the record of the requisite formal 15 day notice for the rescheduled hearing. The record was developed during the hearing and was closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You testified, and your Marketplace account confirms, that you receive all of your notices via electronic notice.
- 2) You confirmed your e-mail address as being current and has not changed since your initial application.
- 3) On July 27, 2015 you uploaded a copy of your Permanent Resident card IR6: Spouse of a U.S. Citizen effective 3/23/2012 through 3/28/2022. The card also identifies on the front your nine digit USCIS number.
- 4) There is no evidence in the record that the Marketplace received your citizenship documentation before April 14, 2015.
- 5) You testified you gave all of your documents to your Navigator for your updated application.
- 6) You testified that you received notice asking you to provide your citizenship status by April 14, 2015.
- 7) The record reflects that on your January 12, 2015 application you identified yourself as a U.S. Citizen.

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- 8) The record reflects that on your July 27, 2015 updated application you identified yourself as an Immigrant Non-Citizen.
- 9) You are seeking insurance for yourself.
- 10) You currently reside with your husband and your four children.
- 11) You will be claiming your four children as dependents on your 2015 tax return.
- 12) You testified that you will be filing your 2015 taxes as married filing jointly.
- 13) You testified and the record reflects that your husband currently earns \$75,000.13 annually.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) Are age 19 or older and under age 65; (2) Are not pregnant; (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) Have a household modified adjusted gross income that is at or below 138% of the federal poverty level for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. Generally, no person except a United States citizen, naturalized citizen, qualified alien, or person permanently residing in the United States under color of law (PRUCOL) is eligible for full Medicaid benefits (NY Soc. Serv. Law § 122(1); 18 NYCRR § 360-3.2).

In general, the Marketplace must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s

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circumstances that may affect eligibility” (42 CFR § 435.916(a)(1)(d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

A person whose Medicaid eligibility is based on the modified adjusted gross income of the person or the person’s household remains Medicaid eligible for 12 months unless the person becomes ineligible due to “citizenship status, lack of [New York] state residence, or failure to provide a valid social security number” (N.Y. Social Services Law § 366.4(c)).

### Citizenship and Immigration Status: Qualified Aliens

Medicaid must be provided to otherwise eligible residents of the United States who are Qualified Aliens and who have provided satisfactory documentary evidence of Qualified Alien status which has been verified with the Department of Homeland Security (DHS) as described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C §1641) (42 CFR § 435.406 (a)(2)(i)).

Sec. 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 defines qualified aliens as an alien who, at the time the alien applies for, receives, or attempts to receive a Federal Public benefit is—

- (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act. (8 U.S.C. §1641 (b)(1)).

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 for Medicaid effective May 31, 2015, because you did not provide documentation verifying your citizenship status by the requested deadline of April 14, 2015.

The Marketplace issued a notice of eligibility determination after receiving your application for financial assistance on January 12, 2015, stating that you were found conditionally eligible for Medicaid effective January 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before April 14, 2015. Your eligibility would not be finalized until you complied with this request. The documentation was mandatory because on your application you attested to being a United States citizen.

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. 90 Days from January 12, 2015 would be by April 14, 2015.

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When a person elects to receive communications from the Marketplace electronically, it must 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.

You testified that you received the January 12, 2015 eligibility determination notice asking you to provide your citizenship documentation by April 14, 2015. You also verified your e-mail address as being current. Your eligibility was subsequently terminated effective May 31, 2015.

The record reflects that the Marketplace did not receive the requested citizenship documentation before the deadline of April 14, 2015. It was not until July 27, 2015 that you then uploaded a copy of your Permanent Resident card IR6: Spouse of a U.S. Citizen effective 3/23/2012 through 3/28/2022. The card also identifies on the front of the card your nine digit USCIS number.

On July 27, 2015, the Marketplace redetermined your household's eligibility for health insurance and found you newly eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$0.00 a month effective September 1, 2015. It further found your husband and four children no longer eligible for Medicaid, however they would receive continuous coverage until December 31, 2015, effective July 1, 2015.

The record reflects that on your July 27, 2015 updated application you properly identified yourself as an Immigrant Non-Citizen and not a United States Citizen.

A person whose Medicaid eligibility is based on the modified adjusted gross income of the person or the person's household remains Medicaid eligible for 12 months unless the person becomes ineligible due to "citizenship status, lack of [New York] state residence, or failure to provide a valid social security number."

Your status as a qualified alien needed to be confirmed and the documentation you provided on July 27, 2015 would have been an acceptable basis for you to remain eligible for Medicaid under continuous coverage, but only for an individual who is determined eligible, and not conditionally eligible based on the need for further immigration documentation to be supplied. Because you failed to provide the required documentation within the requested timeline by April 14, 2015 you were properly terminated from your Medicaid eligibility.

Therefore the July 27, 2015 eligibility determination finding you newly eligible to receive advance premium tax credits and cost sharing reductions and no longer eligible for continuous coverage under Medicaid is AFFIRMED.



However, since you provided adequate proof of your status as a qualified alien in the form of your Permanent Resident card, your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance. A person who is lawfully admitted for permanent residence is a qualified alien that is eligible to receive Medicaid for purposes of the Marketplace.

## **Decision**

The July 27, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

**Effective Date of this Decision:** November 25, 2015

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

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary.

## **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.

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## **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 is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary.

## **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:**

