



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: AP000000004091

[REDACTED]

Dear [REDACTED],

On October 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 notices of eligibility redetermination and disenrollment.

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: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004091

[REDACTED]

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 to enroll in a qualified health plan through the Marketplace, effective July 31, 2015?

Procedural History

On February 14, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective March 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before May 16, 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 with Fidelis Care.

As of May 16, 2015, the Marketplace did not receive citizenship documentation from you.

On July 19, 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 ended effective July 31, 2015.

That same day, the Marketplace issued a disenrollment notice that stated your enrollment in your silver-level qualified health plan with Fidelis Care was terminated, effective July 31, 2015.

On July 28, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 eligibility redetermination and disenrollment insofar as you were determined to be ineligible to remain enrolled in a qualified health plan and were to be disenrolled, effective July 31, 2015.

On October 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit a copy of your United States passport.

On October 14, 2015, the Appeals Unit received a one-page fax from you, which was a copy of your United States passport. That same day, this document was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) You testified that, on February 13, 2015, you completed your Marketplace application with the assistance of an application counselor, who only told you what your eligibility was and who helped you select a silver-level qualified health plan.
- 2) According to your Marketplace account and your testimony, you elected to receive notifications from the Marketplace via regular mail.
- 3) Your February 13, 2015 Marketplace application stated that you were a United States citizen.
- 4) You testified that you paid your first month's premium online on February 13, 2014 for your coverage to start March 1, 2015, and paid all other monthly premiums on time after you received the monthly billing statement by regular mail.
- 5) You testified that you did not receive the Marketplace's February 14, 2015 notice requesting documentation confirming your citizenship so you did not know to provide your United States passport by May 16, 2015.
- 6) You further testified that the application counselor made no mention that you needed to provide documentation to confirm your citizenship status when he or she assisted you on February 13, 2015.

- 7) You testified that, on July 28, 2015, you offered to provide to the Marketplace a copy of your United States passport, but were told to wait for your hearing.
- 8) You submitted a copy of your United States passport to the Appeals Unit on October 14, 2015 via fax (Appellant's Exhibit A).
- 9) You are seeking reinstatement of your health insurance coverage.
- 10) On the date of your hearing, you also updated your Marketplace account and uploaded a copy of your United States passport. The Marketplace verified your citizenship, redetermined your eligibility, and submitted your enrollment in a silver-level Fidelis Care health plan with an enrollment start date of November 1, 2015 (see Document [REDACTED] and Document [REDACTED]).

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)).

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.

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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.

In the eligibility determination issued on February 14, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before May 16, 2015.

The record and your testimony reflect that the Marketplace did not receive the requested citizenship documentation before the deadline.

If the Marketplace remains unable to verify the 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 eligibility without verification of your citizenship status. As a result, the Marketplace properly determined that you could not remain enrolled in a qualified health plan through NY State of Health, effective July 31, 2015, because you had not timely provided the information requested by the Marketplace.

Therefore, the Marketplace's July 19, 2015 notices of eligibility re determination and enrollment are correct and are AFFIRMED.

However on October 14, 2015, you provided a copy of your United States passport to both the Marketplace and the Appeals Unit.

Ordinarily in such circumstances, this decision would return your case to the Marketplace to verify your documentation and redetermine your eligibility for health insurance. Since the October 14, 2015 notices of eligibility redetermination and enrollment demonstrate that this has already been effectuated, no further action by the Marketplace is required at this time.

Decision

The July 19, 2015 notices of eligibility redetermination and enrollment are AFFIRMED.

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The October 14, 2015 notices of eligibility redetermination and enrollment demonstrate that your citizenship has been verified, your eligibility redetermined, and your enrollment confirmed, effective November 1, 2015. Therefore, no further action by the Marketplace is required at this time

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You were not eligible to enroll in a qualified health plan through the Marketplace as of July 31, 2015.

As of October 14, 2015, you have been redetermined eligible for advance premium tax credits and cost sharing reductions and enrolled in a silver-level Fidelis Care health plan, effective November 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.

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):

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- By fax: 1-855-900-5557

Summary

The July 19, 2015 notices of eligibility redetermination and enrollment are **AFFIRMED**.

You were not eligible to enroll in a qualified health plan through the Marketplace as of July 31, 2015.

The October 14, 2015 notices of eligibility redetermination and enrollment demonstrate that your citizenship has been verified, your eligibility redetermined, and your enrollment confirmed, effective November 1, 2015. Therefore, no further action by the Marketplace is required at this time

As of October 14, 2015, you have been redetermined eligible for advance premium tax credits and cost sharing reductions and enrolled in a silver-level Fidelis Care health plan, effective November 1, 2015.

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:

