



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: AP000000004099

[REDACTED]

Dear [REDACTED]

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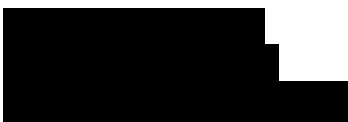


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Issue

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

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

Procedural History

On February 14, 2015, the Marketplace issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$585.00 of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan, effective March 1, 2015. The notice further requested that you and your spouse provide documentation confirming your citizenship status before May 16, 2015.

On February 14, 2015, the Marketplace issued a notice confirming your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep25 and that coverage could start as early as March 1, 2015.

On May 13, 2015, additional citizenship status documentation was uploaded to your Marketplace account.

On May 28, 2015, the Marketplace issued a notice stating:

We previously notified you that additional information is required to confirm you eligibility for health insurance through New York State of Health. You have since submitted documentation to resolve the

inconsistency; however, the documentation appears to be insufficient to resolve the request.

On July 19, 2015, the Marketplace issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible for financial assistance or to enroll in health insurance at full cost through the Marketplace because you had not confirmed your citizenship status and your eligibility for coverage will end effective July 31, 2015.

On July 19, 2015, the Marketplace issued a disenrollment notice that stated your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep 25 was terminated effective July 31, 2015.

On June 29, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 determination insofar as you had been terminated from your qualified health plan.

On October 19, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and the record was left open to allow you to submit additional documentation.

On October 20, 2015, you uploaded your and your spouse's U.S. Passports to your Marketplace account. The Passports have been made part of the record as "Appellant Exhibit A." The record is now complete and closed.

Findings of Fact

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

1. On February 14, 2015, the Marketplace issued an eligibility determination notice directing you and your spouse to submit citizenship status documentation to the Marketplace by May 16, 2015.
2. You and your spouse were enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25 through the Marketplace from March 1, 2015 until July 31, 2015.
3. On May 13, 2015, you faxed your and your spouse's U.S. Passports to the Marketplace. The Passports that were faxed to the Marketplace were not legible and no information could be ascertained from the faxes.
4. On May 28, 2015, the Marketplace issued a notice that "[w]e previously notified you that additional information is required to confirm you eligibility for health insurance through New York State of Health. You

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have since submitted documentation to resolve the inconsistency; however, the documentation appears to be insufficient to resolve the request.”

5. You testified that you became aware that your health was cancelled when you received the disenrollment notice from the New York State of Health.
6. You testified that you contacted the Marketplace and were informed that your health plan was terminated for failing to provide citizenship status documentation.
7. You are seeking reinstatement of your health insurance coverage.
8. On October 20, 2015, you uploaded copies of your ([REDACTED]) and your spouse’s ([REDACTED]) U.S. Passports to your Marketplace account (Appellant Exhibit A).

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 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 14, 2015, you were advised that you and your spouse's eligibility was only conditional, and that you needed to confirm you and your spouse's citizenship status before May 16, 2015.

The record reflects that on May 13, 2015 you faxed copies of your and your spouse's U.S. Passports to the Marketplace. The Passports that were faxed to the Marketplace were not legible and no information could be ascertained from the faxes. The Marketplace subsequently issued a notice stating that you have submitted documentation to resolve the inconsistency, but the documentation appears to be insufficient to resolve the request.

Therefore, the Marketplace did not receive the requested citizenship documentation before the deadline of May 15, 2015.

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 eligibility without verification of your citizenship status. As a result, the Marketplace properly determined that you and your spouse could not enroll in a qualified health plan through NY State of Health effective July 31, 2015 because you did not provide the information requested by the Marketplace.

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

However on October 20, 2015, you uploaded copies of you and your spouse's U.S. Passports to your Marketplace account. Since you provided satisfactory

documentation, your case is RETURNED to the Marketplace to redetermine you and your spouse's eligibility for health insurance.

Decision

The July 19, 2015 eligibility determination notice is AFFIRMED.

Your case is being RETURNED to the Marketplace to redetermine you and your spouse's eligibility for health insurance, if the Marketplace has not already done so.

Effective Date of this Decision: November 16, 2015

How this Decision Affects Your Eligibility

This decision does not determine your eligibility for health insurance.

Your case is being sent back to the Marketplace for a redetermination of you and your spouse's eligibility based on the citizenship/immigration documentation you provided to the Marketplace. The Marketplace will issue an appropriate notice with its determination.

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

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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:

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Albany, NY 12211
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Summary

The July 19, 2015 eligibility determination notice is AFFIRMED.

Your case is being RETURNED to the Marketplace to redetermine you and your spouse's eligibility for health insurance, if the Marketplace has not already done so.

This decision does not determine your eligibility for health insurance.

Your case is being sent back to the Marketplace for a redetermination of you and your spouse's eligibility based on the citizenship/immigration documentation you provided to the Marketplace. The Marketplace will issue an appropriate notice with its determination.

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:

