



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: AP000000004106

[REDACTED]

Dear Ms. [REDACTED]

On October 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 29, 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 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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## Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004106

[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 remain enrolled in a qualified health plan through the Marketplace, effective July 31, 2015?

## Procedural History

On March 11, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective April 1, 2015. The notice further requested that you provide documentation confirming your citizenship status and income before June 8, 2015; if you failed to submit the documentation your eligibility to remain enrolled in a qualified health plan through the Marketplace or to receive financial assistance might end.

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 would end effective July 31, 2015.

On July 20, 2015, the Marketplace issued a notice that stated your enrollment in your qualified health plan would be terminated effective July 31, 2015.

On July 29, 2015, a new determination was made again finding you conditionally eligible to receive advance premium tax credits and cost sharing reductions in the amount \$102.00 per month effective September 1, 2015. However you still

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needed to provide documentation that would verify your citizenship, and income status by October 27, 2015.

That same day you spoke with the Marketplace's Account Review Unit and appealed the July 29, 2015, determination insofar as you were determined that you needed to provide proof of citizenship documentation as you believe you had provided it timely.

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 left open for 15 days for you to provide proof of the date you faxed your citizenship documentation to the Marketplace in the form of a return fax receipt. No such evidence was received by the Appeals Unit within the requested time frame.

## **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 regular mail.
- 2) You testified that you believe you received the notices asking you to provide your citizenship and income information.
- 3) You testified that you faxed in your income and citizenship documentation to the Marketplace but that you were not certain of the exact date.
- 4) There is no evidence in the record that the Marketplace received your citizenship documentation before June 8, 2015.
- 5) You are a naturalized United States citizen.
- 6) You submitted a copy of your United States Passport and 2014 Income Tax Return to the Marketplace on September 11, 2015.
- 7) You were disenrolled from your health insurance provider effective July 31, 2015.
- 8) Your citizenship documentation was verified by the Marketplace on September 15, 2015.
- 9) You are seeking reinstatement of your health insurance coverage.

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?

On March 11, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective April 1, 2015. The notice further requested that you provide documentation confirming your citizenship status and income before June 8, 2015; if you failed to submit the documentation your eligibility to remain enrolled in a qualified health plan through the Marketplace or to receive financial assistance might end. Your coverage was ended 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.

On July 29, 2015 a new determination was made again finding you conditionally eligible to receive advance premium tax credits and cost sharing reductions. However, you still needed to provide documentation that would verify your citizenship, and income status by October 27, 2015. You appealed this determination as you believed that you had provided the requested information.

You testified that you believe you received the notices asking you to provide your citizenship and income information. You explained that you thought you had faxed in your income and citizenship documentation to the Marketplace before the deadline stated in the notice, but that you were not certain of the exact date.

The record reflects that the Marketplace did not receive your requested citizenship documentation before the deadline of June 8, 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 from data sources.

You testified that you receive your notices via regular mail and your address has not changed since the time of your application. There is no proof in the record that there was a failure in the delivery of the notice to your address in the form of a returned mailing.

Since the requested citizenship documentation was not received within the applicable 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.

The Hearing Officer allowed you fifteen days from your October 13, 2015 hearing to provide supporting documentation in the form of your return fax to the Marketplace to demonstrate the exact day you submitted your passport and income information. This documentation was never received by the stated deadline of fifteen days.

Therefore, the Marketplace's July 29, 2015 eligibility determination is correct and is **AFFIRMED**.

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However on September 11, 2015, you provided a copy of your United States Passport by way of secure fax to the NY State of Health Marketplace. This documentation has since been verified on September 15, 2015.

Therefore, your case is RETURNED to the Marketplace to redetermine your eligibility for health insurance based upon your status as a naturalized citizen.

## **Decision**

The July 29, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for health insurance based upon your status as a naturalized citizen, if necessary.

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

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

You are not eligible to enroll in a qualified health plan through the Marketplace at this time.

Your case is being sent back to the Marketplace to redetermine your eligibility for health insurance, if necessary.

Please also make sure to provide the Marketplace with the requested income documentation in the form of four valid pay stubs for your husband [REDACTED] as you attested to in your application.

## **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

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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
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## **Summary**

The July 29, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for health insurance based upon your status as a naturalized citizen, if necessary.

You are not eligible to enroll in a qualified health plan through the Marketplace at this time.

Please also make sure to provide the Marketplace with the requested income documentation in the form of four valid pay stubs for your husband [REDACTED] as you attested to in your application.

## **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

[REDACTED]