



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: AP000000004135

[REDACTED]

Dear [REDACTED],

On October 15, 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 regarding your spouse.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004135

[REDACTED]

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 through the Marketplace, effective July 31, 2015?

Procedural History

On April 3, 2015, the Marketplace issued a notice of eligibility determination stating, in part, that your spouse was conditionally eligible to share in advance premium tax credits (APTC) with you, effective May 1, 2015. The notice further requested that your spouse provide documentation confirming his citizenship status before July 1, 2015 and, if he missed this deadline, his eligibility to remain enrolled in health insurance through the Marketplace and receive financial assistance might end.

That same day, the Marketplace issued a notice confirming your and your spouse's enrollment in a platinum-level qualified health plan with Affinity Health Plan and your monthly premium responsibility of \$565.83 after your monthly APTC was applied. The notice also stated that your and your spouse's coverage could begin after you paid the first month's premium and could start as early as May 1, 2015.

On April 14, 2015, the Marketplace invalidated the proofs provided by your spouse regarding his citizenship status.

On April 17, 2015, the Marketplace issued a notice that additional information regarding your spouse's citizenship status was still needed. Attached to the notice was a list of acceptable documents.

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As of July 1, 2015, the Marketplace did not receive additional citizenship documentation from your spouse.

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 he had not confirmed his citizenship status. His eligibility for coverage ended effective July 31, 2015.

On July 20, 2015, the Marketplace issued a disenrollment notice that stated your spouse's enrollment in a couple's platinum-level qualified health plan with Affinity Health Plan was terminated effective July 31, 2015.

On July 30, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 eligibility redetermination insofar as your spouse was determined to be ineligible to remain enrolled in a qualified health plan.

That same day, the Marketplace prepared a preliminary eligibility redetermination that your spouse was conditionally eligible to share in advance premium tax credits with you, effective September 1, 2015.

On July 31, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the July 30, 2015 preliminary determination.

On October 15, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. A Twi Interpreter (ID # [REDACTED]) assisted. 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) You and your spouse expect to file your 2015 taxes using the tax status of Married Filing Jointly and will not be claiming any dependents on that return.
- 2) According to your Marketplace account, your spouse indicated he was a United States citizen. You testified he made a mistake in doing so.
- 3) The documents your spouse provided to the Marketplace consisted of copies of:

His United States Employment Authorization Card, issued 04/16/2015

His NY State Identification Card

His Social Security Card, issued 04/29/2015

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Form I-797C, Notice of Action in his name, dated 02/20/2015.

(Appellant's Exhibit A).

- 4) You testified that your spouse also recently received his green card in the mail.
- 5) You testified that, even if your spouse's immigration status is verified, you cannot afford to pay over \$500.00 for his health insurance.
- 6) According to your Marketplace account, you requested that your individual coverage be terminated August 31, 2015, which the Marketplace processed.
- 7) You testified that you no longer need health insurance for yourself through the Marketplace because you are now working and have employer-sponsored health insurance.

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)).

Immigrants who are permanently residing under color of law (PRUCOL) are eligible for all of the State's financial assistance programs, including advance premium tax credits. Department of Health policy, in part, defines PRUCOL individuals as those persons whose application is pending before the U.S. Citizenship and Immigration Services (USCIS).

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Acceptable proofs of immigration status for immigrant non-citizens include:

- I-551 resident alien card (green card)
- I-94 arrival/departure record
- U.S. Visa
- I-766 employment authorization card
- Document from USCIS:
 - Your application for Immigration Status
 - Letters to and from USCIS
 - I-797 USCIS Notice of Action
 - Other documents from the USCIS
- Proof that you lived continuously in the U.S. before 1972 (lease agreement, proof of employment).

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.

In the eligibility determination issued on April 3, 2015, your spouse was advised that his eligibility was only conditional, and that he needed to confirm his citizenship status before July 1, 2015.

The record reflects that the Marketplace received acceptable citizenship documentation in Form I-797C, Notice of Action, from the United States Citizenship and Immigration Services before the July 1, 2015 deadline to meet the PRUCOL standards. However, the record reflects that the Marketplace erroneously invalidated this document.

Although the Marketplace was provided with adequate documentation but invalidated its accuracy, it incorrectly determined your spouse's citizenship status on July 19, 2015. As a result, the Marketplace improperly determined that your spouse could not remain enrolled in a qualified health plan through NY State of Health effective July 31, 2015 because he had not provided the information requested by the Marketplace.

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Therefore, the Marketplace's July 19, 2015 notices of eligibility redetermination and disenrollment are incorrect and are RESCINDED.

Notwithstanding, on July 30, 2015, the Marketplace redetermined your spouse's eligibility and found him to be conditionally eligible to share in advance premium tax credits with you. You credibly testified that you cannot afford to pay health insurance for your spouse and will look into putting him on your employer-sponsored health insurance. Therefore, no further action is required at this time.

If, however, your or your spouse's circumstances change, you or he can request that the Marketplace verify his citizenship status based on the documents already in your Marketplace account and upon submission of his green card and redetermine your and/or his eligibility for financial assistance and health coverage through the Marketplace.

Decision

The July 19, 2015 notices of eligibility redetermination and disenrollment are RESCINDED.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

Your spouse's eligibility for and enrollment in a qualified health plan through the Marketplace remain in effect as of May 1, 2015 to present.

However, you testified that you cannot afford to pay for health insurance for your spouse and will look into putting him on your employer-sponsored health insurance. Therefore, no further action is required at this time.

If, however, your or your spouse's circumstances change, you or he can request that the Marketplace verify his citizenship status based on the documents already in your Marketplace account and upon submission of his green card and redetermine your and/or his eligibility for financial assistance and health coverage through the Marketplace.

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):

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 notices of eligibility redetermination and disenrollment are **RESCINDED**.

Your spouse's eligibility for and enrollment in a qualified health plan through the Marketplace remain in effect as of May 1, 2015 to present.

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However, you testified that you cannot afford to pay for health insurance for your spouse and will look into putting him on your employer-sponsored health insurance. Therefore, no further action is required at this time.

If, however, your or your spouse's circumstances change, you or he can request that the Marketplace verify his citizenship status based on the documents already in your Marketplace account and upon submission of his green card and redetermine your and/or his eligibility for financial assistance and health coverage through the Marketplace.

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:

