



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

## Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004162

[REDACTED]

Dear [REDACTED],

On October 14, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility determination and July 20, 2015 disenrollment notice.

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: November 09, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004162

[REDACTED]

## 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 December 5, 2014, the Marketplace issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to purchase a qualified health plan at full cost, effective January 1, 2015. The notice further requested that you provide documentation confirming citizenship status for you and your spouse before March 6, 2015, or your eligibility for health insurance might end.

On December 10, 2014, the Marketplace issued a notice confirming enrollment in a qualified health plan for you and your spouse.

On March 10, 2015, the Marketplace issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to purchase a qualified health plan at full cost, effective April 1, 2015. The notice further requested that you provide documentation confirming citizenship status for you and your spouse before June 7, 2015, or your eligibility for health insurance might end.

On July 19, 2015, the Marketplace issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible to enroll in health

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insurance through the Marketplace because you had not confirmed citizenship status.

On July 20, 2015, the Marketplace issued a notice stating that enrollment for you and your spouse in your qualified health plan was terminated effective July 31, 2015.

On August 3, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 determination insofar as you and your spouse were not eligible to enroll in a qualified health plan.

On October 14, 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 up to 15 days to provide you an opportunity to submit supporting evidence, including a copy of your U.S. Passport.

On October 14, 2015, you provided your spouse's Permanent Resident identification number. Also on October 14, 2015, the Marketplace's Appeals Unit received your supporting evidence, including a copy of your U.S. Passport. This document was marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on October 14, 2015.

## **Findings of Fact**

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

- 1) You testified that you did not receive any notice from the Marketplace telling you that you needed to submit documentation in order to confirm you and your spouse's citizenship status.
- 2) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 3) There is no evidence in the record that the Marketplace received your proof of citizenship before June 7, 2015.
- 4) On October 14, 2015, after the hearing, you uploaded a copy of your U.S. passport to the Marketplace. You further provided your spouse's Permanent Resident identification number to the Marketplace on that same day. The Marketplace's system reflects that your documentation was verified on October 19, 2015, and your eligibility for health insurance was redetermined.

- 5) The Marketplace's system reflects that you and your spouse were re-enrolled in Select Care Platinum, Platinum, ST, INN, Dep25 on October 26, 2015.

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 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

The Marketplace must permit individuals a choice to receive notices and information in electronic format or by regular mail and must be permitted to change such election (42 CFR § 435.918(a)).

If the individual elects electronic communications, the Marketplace must send "an email or other electronic communication alerting the individual that a notice has been posted to his or her account" and send a notice by regulation mail within three business days if the electronic communication cannot be delivered (42 CFR § 435.918(b)(4), (5)).

## 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 five days after the date on the notice.

In the eligibility determination issued on March 10, 2015, you were advised that your and your spouse's eligibility was only conditional, and that you needed to confirm both of your citizenship statuses before June 7, 2015.

This notice was uploaded to your account and an e-mail was sent advising you of the notice.

You testified that you did not receive an e-mail regarding that notification, nor did you receive the notification via U.S. Mail.

The record reflects that the Marketplace did not receive the requested citizenship documentation before the deadline.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an email or other electronic communication alerting you that a notice has been posted to your account.

If the electronic communication failed, the Marketplace was required to send a notice by regular mail within three business days of the date of the failed electronic communication if the electronic communication was undeliverable.

The record does not contain any evidence on behalf of the Marketplace as to whether the electronic communications were undeliverable. Without evidence on behalf of the Marketplace that you were given proper electronic notice or proper written notice, the notices in question must be Rescinded and/or Modified.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the July 19, 2015 eligibility determination is **RESCINDED**.

After the hearing, you provided a copy of your U.S. Passport, and your spouse's Permanent Resident identification number to the Marketplace.

The record reflects that you and your spouse's citizenship documentation was verified on October 19, 2015, and your eligibility for health insurance was redetermined. The Marketplace's system further reflects that you and your spouse were re-enrolled in Select Care Platinum, Platinum, ST, INN, Dep25 on October 26, 2015.

## **Decision**

The July 19, 2015 eligibility determination notice and the July 20, 2015 disenrollment notice are RESCINDED.

Your case is returned to the Marketplace to facilitate the correction to your account to the effect that you and your spouse remained enrolled in Select Care Platinum, Platinum, ST, INN, Dep25.

**Effective Date of this Decision:** November 09, 2015

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

This decision does not change your eligibility.

You and your spouse remain enrolled in Select Care Platinum, Platinum, ST, INN, Dep25 without interruption.

You are responsible for the monthly premium amounts that are due and owing.

## **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.

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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 eligibility determination notice and the July 20, 2015 disenrollment notice are **RESCINDED**.

Your case is returned to the Marketplace to facilitate the correction to your account to the effect that you and your spouse remained enrolled in Select Care Platinum, Platinum, ST, INN, Dep25.

This decision does not change your eligibility.

You and your spouse remain enrolled in Select Care Platinum, Platinum, ST, INN, Dep25.

You are responsible for the monthly premium amounts that are due and owing.



## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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

