



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: AP000000004239



Dear [REDACTED],

On November 9, 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 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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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, effective July 31, 2015?

Procedural History

On March 7, 2015 the Marketplace issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$622.00 of advance premium tax credits and cost-sharing reductions effective April 1, 2015. The notice further requested that you provide documentation confirming you and your spouse's citizenship status before June 4, 2015.

On the same day the Marketplace issued a notice confirming you and your spouse's enrollment in Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 and coverage could start as early as April 1, 2015.

On July 19, 2015 the Marketplace issued a notice of eligibility redetermination stating that your spouse was no longer eligible for financial assistance or to enroll in health insurance at full cost through the Marketplace because documentation had not been received to confirm your spouse's citizenship status. Your spouse's eligibility for coverage ended effective July 31, 2015.

On same day the Marketplace issued a disenrollment notice that stated that your spouse's enrollment in Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 would terminate effective July 31, 2015.

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On August 5, 2015 you faxed an appeal request to the Marketplace. You requested an appeal insofar as your spouse's termination of health coverage through the Marketplace.

On November 9, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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. On March 7, 2015 the Marketplace issued you an eligibility determination notice directing you and your spouse to submit citizenship status documentation to the Marketplace by June 4, 2015.
2. Your spouse was enrolled in Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 through the Marketplace from April 1, 2015 until July 31, 2015.
3. On April 6, 2015 the Marketplace received your U.S. Passport via mail.
4. You testified that you became aware that your spouse's health insurance was cancelled when you received the disenrollment notice from the New York State of Health.
5. You testified that you contacted the Marketplace and was informed that your spouse's health insurance was terminated for failing to provide citizenship status documentation.
6. You testified that your spouse is a Permanent Resident, not a U.S. citizen or Naturalized Citizen.
7. On August 5, 2015 you faxed your spouse's Permanent Resident Card with your appeal request.
8. You are seeking reinstatement of your spouse's 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 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 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 5 days after the date on the notice.

In the eligibility determination issued on March 7, 2015 you were advised that your spouse's eligibility was only conditional, and that you needed to confirm your spouse's citizenship status before June 4, 2015.

The record reflects 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 spouse's eligibility without verification of your citizenship status. As a result, the Marketplace properly determined that you could not enroll in a qualified health plan through NY State of Health effective July 31, 2015 because the documentation that was requested from your spouse was not provided to the Marketplace.

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

However, on August 5, 2015 you provided your spouse's Permanent Resident Card, and you testified that your spouse is a Permanent Resident, not a citizen of the United States. Since documentation of your spouse's status is now available in the record, your case is REMANDED to the Marketplace to verify the submitted documentation and redetermine your spouse's eligibility.

Decision

The July 19, 2015 eligibility determination notice is AFFIRMED.

The case is REMANDED to the Marketplace to verify your spouse's eligibility based on her Permanent Resident Card and testimony that she is a Permanent Resident.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

Your spouse's case is being returned to the Marketplace to verify the citizenship/immigration documents you have provided and to redetermine your spouse's eligibility, if it has not already done so.

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

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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 eligibility determination notice is **AFFIRMED**.

The case is **REMANDED** to the Marketplace to verify your spouse's eligibility based on her Permanent Resident Card and testimony that she is a Permanent Resident.

Your spouse's case is being returned to the Marketplace to verify the citizenship/immigration documents you have provided and to redetermine your spouse's eligibility, if it has not already done so.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

