



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: AP000000004295

[REDACTED]

Dear [REDACTED],

On November 2, 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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Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
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[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 enroll in a qualified health plan, effective July 31, 2015?

Procedural History

On December 4, 2014, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective January 1, 2015. The notice further stated that you needed to provide documentation confirming your citizenship status before March 5, 2015, or your eligibility or financial assistance might end.

On December 10, 2014, the Marketplace issued a notice confirming your enrollment in Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25.

On January 3, 2015, the Marketplace again issued a notice stating that you were conditionally eligible to enroll in a plan and receive financial assistance, and to confirm your citizenship status by March 5, 2015.

On March 9, 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 before June 6, 2015.

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Also on March 9, 2015, the Marketplace issued a notice reconfirming your enrollment in Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25.

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 ended effective July 31, 2015.

Also on July 19, 2015, the Marketplace issued a notice that stated your enrollment in your qualified health plan was terminated effective July 31, 2015.

On August 12, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 determination insofar as you were not eligible to enroll in a qualified health plan.

On November 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you requested interpretation services, which were provided by Interpreter Number [REDACTED]. 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 testified that you were aware of the Marketplace's request for documentation confirming your citizenship.
- 2) You testified that you faxed in a copy of your work permit to the Marketplace in February 2015.
- 3) There is no evidence in the record that the Marketplace received your citizenship documentation before June 6, 2015.
- 4) On August 10, 2015, prior to the hearing, you provided your I-766 Employment Authorization Card Number to the Marketplace.
- 5) 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 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)).

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.

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 determinations issued on December 4, 2014 and March 9, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 5, 2015, which was extended to June 6, 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 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 you did not provide the information requested by the Marketplace.

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

The record reflects that you provided your I-766 Employment Authorization Card Number to the Marketplace on August 10, 2015. Your eligibility for health insurance was subsequently redetermined on August 10, 2015, finding that no further citizenship documentation is required at this time.

Decision

The July 19, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

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

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 eligibility determination notice is **AFFIRMED**.

This decision does not change your eligibility.

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

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Legal Authority

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A Copy of this Decision Has Been Provided To:

