



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: AP000000004419



Dear [REDACTED],

On November 19, 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).

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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, [REDACTED], was no longer eligible to enroll in a qualified health plan, effective July 31, 2015?

Procedural History

On December 22, 2013, the Marketplace received a copy of a birth certificate issued for your spouse by the City of New York Department of Health on November 21, 1988.

On March 25, 2015, the Marketplace issued an eligibility determination notice stating, in relevant part, that you and your spouse were eligible to receive advance premium tax credits (APTC) and cost-sharing reductions (CSR), effective May 1, 2015. However, the notice further stated that your spouse's eligibility was conditional pending the receipt of documents to confirm her citizenship status. The Marketplace requested that you provide documentation confirming your spouse's citizenship status before June 22, 2015.

Also on March 25, 2015, the Marketplace issued a notice confirming enrollment in a platinum-level qualified health plan (QHP) by you and your spouse.

On July 19, 2015, the Marketplace issued an eligibility redetermination notice stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because you had not provided documentation to confirm

her citizenship status. The notice confirmed that her eligibility for coverage ended effective July 31, 2015.

Also on July 19, 2015, the Marketplace issued a notice that stated your spouse's enrollment in the platinum-level QHP was terminated effective July 31, 2015.

On August 21, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 determination insofar as your spouse was found not eligible to enroll in a qualified health plan.

On October 13, 2015, the Marketplace received a copy of your spouse's Social Security card.

On November 19, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: a copy of your spouse's U.S. Passport. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On November 20, 2015, you provided the above referenced document to the Appeals Unit through your Marketplace online account.

The record was closed on November 20, 2015.

Findings of Fact

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

- 1) You testified that you did not recall reviewing any notices from the Marketplace telling you that you needed to submit documentation in order to confirm your spouse's citizenship status; however, you conceded it was likely that you had in fact received the e-mails, but had inadvertently deleted them.
- 2) You testified that since you had provided your spouse's birth certificate to the Marketplace in December 2013, you didn't think there would be any outstanding issues confirming her citizenship status, especially since she was born in the United States.
- 3) You testified, and your Marketplace account reflects, that you elected to receive notifications via electronic mail.

- 4) You testified that the e-mail address you provided to the Marketplace for the delivery of correspondence, "[REDACTED]", was accurate.
- 5) There is no evidence in the record that the Marketplace received your citizenship documentation before June 22, 2015.
- 6) You testified that your first became aware that your spouse's coverage had been terminated was when you attempted to pay the premium for August 2015, but was unable to do so.
- 7) You testified that after having spoken with a Marketplace representative in August 2015 regarding your spouse's disenrollment you were told to provide a copy of her Social Security card.
- 8) You ultimately provided a copy of your spouse's Social Security card to the Marketplace on October 13, 2015.
- 9) At the request of the Hearing Officer, you submitted a copy of your spouse's U.S. Passport to the Appeals Unit on November 20, 2015.
- 10) You testified that you were concerned about providing your spouse's U.S. Passport since your spouse's legal first name is "[REDACTED]" but the passport reflects her nickname of "[REDACTED]" as her first name. You further testified that you believed this inconsistency of her first name might have led to the citizenship status issue.
- 11) You testified that you are seeking reinstatement of your spouse's health insurance coverage because after having submitted your most recent application to the Marketplace on October 29, 2015, your spouse is now pregnant.
- 12) You testified, and your application reflects, that you live with your spouse and your daughter.
- 13) Your application reflects that you will be filing your 2015 taxes return jointly with your spouse, and will be claiming only your daughter as a dependent.

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)).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

For purposes of Medicaid eligibility, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

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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 25, 2015, you were advised that your spouse' eligibility was only conditional, and that you needed to confirm her citizenship status before June 22, 2015.

The record reflects that the Marketplace that while the Marketplace received a copy of your spouse's birth certificate on December 22, 2013, this document by itself is insufficient to confirm your spouse's citizenship status since it was not accompanied by an approved secondary document as identified within the March 25, 2015 eligibility determination. Accordingly, the Marketplace did not receive the requested citizenship documentation before the deadline.

You testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you do not recall reviewing any notices from the Marketplace telling you that you needed to submit documentation in order to confirm your spouse's citizenship status; however, you also conceded it was likely that you had in fact received the e-mails, but had inadvertently deleted them.

Since you confirmed the accuracy of your e-mail address to which you requested such e-mail notifications to be delivered, and you conceded that likely deleted the e-mail notifications in question, we find there is sufficient evidence that the notifications were properly delivered to you.

Therefore, the July 19, 2015 eligibility determination is **AFFIRMED**.

The record also reflects that after you requested the appeal of the July 19, 2015 eligibility determination, you had provided a copy of your spouse's Social Security card for purposes of providing additional documentation to confirm your spouse's eligibility. However, a Social Security card is not considered acceptable documentation for confirming citizenship status.

On November 20, 2105, at the request of the Hearing Officer, you provided to the Appeals Unit a copy of your spouse's U.S. Passport to the Appeals Unit on November 20, 2015. Furthermore, you also testified that your primary motivation on reinstating coverage for your spouse was that she is now pregnant.

Therefore, your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance based on a household size of three for purposes of APTC and CSR eligibility, and a household size of four for purposes of Medicaid eligibility.

Decision

The July 19, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance based on a household size of three for purposes of advance premium tax credit and cost sharing reductions eligibility, and a household size of four for purposes of Medicaid eligibility.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

Your spouse is not eligible to enroll in Medicaid through the Marketplace at this time.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your spouse's eligibility for health insurance, if necessary.

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
- By fax: 1-855-900-5557

Summary

The July 19, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to verify your documentation and redetermine your eligibility for health insurance based on a household size of three for purposes of advance premium tax credit and cost sharing reductions eligibility, and a household size of four for purposes of Medicaid eligibility.

Your spouse is not eligible to enroll in Medicaid through the Marketplace at this time.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your spouse's eligibility for health insurance, if necessary.

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:

