



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: AP000000004455

[REDACTED]

Dear [REDACTED],

On November 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 3, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004455

[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 August 31, 2015?

Procedural History

On April 22, 2015, April 29, 2015, and April 30, 2015, the Marketplace issued notices of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits and cost-sharing reductions, effective June 1, 2015. The notices directed you to provide proof of your incarceration status before July 20, 2015, July 27, 2015 and July 28, 2015, respectively, or you might be found ineligible for health insurance or lose your financial assistance.

The Marketplace issued multiple notices confirming your enrollment into different plans in April 2015. On April 30, 2015, the Marketplace issued a final notice confirming your enrollment in Affinity Access Silver ST INN Dep25.

On August 3, 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 provided proof of your incarceration status. Your eligibility for coverage ended effective August 31, 2015.

On August 4, 2015, the Marketplace issued a notice that stated your enrollment in your qualified health plan was terminated effective May 31, 2015.

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On August 25, 2015, a copy of your paystub dated April 22, 2015 was uploaded to your Marketplace account.

Also on August 25, 2015, you spoke with the Marketplace's Account Review Unit and appealed the August 3, 2015 determination insofar as you were disenrolled from coverage for failure to provide proof of your incarceration status.

On September 8, 2015, a copy of your New York State driver license, and a copy of your paystub dated August 21, 2015, were uploaded to your Marketplace account.

On September 11, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible to receive advance premium tax credits and cost-sharing reductions, effective October 1, 2015.

On September 17, 2015, and September 25, 2015, the Marketplace issued notices of eligibility redetermination stating that you were conditionally eligible to receive advance premium tax credits and cost-sharing reductions, effective November 1, 2015. The notices further requested that you provide proof of your incarceration status before December 23, 2015, at the latest, or you might be found ineligible for health insurance or lose your financial assistance.

On November 23, 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 recent paystub.

On November 30, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a written statement, a copy of your paystub issued on November 20, 2015, and a copy of your employee identification card. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on November 30, 2015.

Findings of Fact

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

- 1) You testified that you have never been incarcerated.
- 2) You testified that you did not receive any notice from the Marketplace requesting documentation confirming your incarceration status.
- 3) You testified, and your Marketplace account indicates, that you elected to receive notifications via electronic mail. You confirmed that the email

address in your account is correct, and you have received some electronic alerts from the Marketplace.

- 4) You testified that you were aware that your coverage was terminated after you received the August 4, 2015 disenrollment notice.
- 5) The record reflects that a copy of your New York State driver license and a copy of a recent paystub were uploaded to your Marketplace account on September 8, 2015. The Marketplace's system reflects that these documents were validated as proof that you were not incarcerated on September 10, 2015.
- 6) The record reflects that you were determined fully eligible for advance premium tax credits and cost-sharing reductions on September 11, 2015. The record further reflects that your eligibility was conditional as of September 17, 2015, and you were again requested to provide proof of your incarceration status.
- 7) The record reflects that you were disenrolled from your coverage in Affinity Access Silver ST INN Dep25, effective August 31, 2015, and have not been re-enrolled in coverage.
- 8) On November 30, 2015, after the hearing, you submitted a copy of your paystub issued on November 20, 2015, and a copy of your employee identification card to the Marketplace's Appeal's Unit (Appellant's Exhibit 1, November 30, 2015).
- 9) You are requesting to have your coverage reinstated. You are further requesting that your current and future applications no longer reflect that you are incarcerated.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Eligibility for Enrollment in a Qualified Health Plan

Generally, an applicant is eligible for enrollment in a qualified health plan (QHP) through the Marketplace if he: (1) is a citizen or national of the United States; (2) is not incarcerated; and (3) is a resident of the state (45 CFR § 155.305(a)(1)-(3)).

The Marketplace must verify an applicant's attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting

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the applicant's attestation when electronic data sources are unavailable (45 CFR § 155.315(e)). However, if an applicant's attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, the Marketplace must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(e)(3); 45 CFR § 155.315(f)(2)(i)-(ii)).

If the Exchange remains unable to verify the attestation after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)(i)).

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)).

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 (QHP) through the Marketplace, effective August 31, 2015.

An applicant is eligible to enroll in a QHP if he is a citizen or national of the United States, is not incarcerated, and is a resident of New York State. There being no contention regarding your citizenship or residency statuses, they are not addressed here.

If the Marketplace cannot verify information required to determine the applicant's eligibility, the Marketplace must provide the applicant a period of 90 days to resolve the inconsistency.

In the eligibility determinations issued on December 22, 2014, April 22, 2015, April 29, 2015, and April 30, 2015, you were advised that your eligibility was only conditional, and that you needed to provide proof of your incarceration status before July 28, 2015, at the latest.

The record reflects that the marketplace did not receive the requested documentation regarding your incarceration status before the deadline.

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You testified that you did not

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receive the notices issued in April 2015 asking you to provide proof of your incarceration status to the Marketplace, and there is no evidence in your Marketplace account that would show any email notifications were sent to you.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the August 3, 2015 eligibility determination is **RESCINDED**.

On August 25, 2015, and September 8, 2015, after you became aware of the inconsistency in your account, you provided a copy of your recent paystubs and a copy of your New York State driver license to the Marketplace.

The record reflects that these documents were validated on September 10, 2015, and, on September 11, 2015, the Marketplace issued a notice of eligibility determination that you were fully eligible for advance premium tax credits and cost-sharing reductions. However, on September 17 and 25, 2015, the Marketplace issued notices of eligibility redetermination stating that your eligibility was, again, conditional upon the submission of proof of your incarceration status.

After the hearing, you provided a copy of your recent paystub and a copy of your employee identification card to the Marketplace's Appeals Unit.

The credible evidence of record indicates that your incarceration status did not change from September 10, 2015, when your documents were initially validated, and the hearing. Therefore, the September 17 and September 25, 2015 notices of eligibility determination are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to verify the documentation provided after the hearing, and redetermine your eligibility for health insurance.

At the hearing, you requested that your current and future applications no longer reflect that you are incarcerated.

The NY State of Health electronically checks the federal Prisoner Update Processing System (PUPS) and the NYS Department of Correctional Community Services (DOCCS) to identify incarcerated individuals applying for coverage. This issue is also not one that the NY State of Health Appeals Unit is authorized to address or to correct, and therefore it cannot be reviewed here.

However, your complaint on this issue is also being returned to the Marketplace to facilitate a correction of this ongoing problem.

Decision

The August 3, 2015 eligibility determination notice is RESCINDED.

The September 17, 2015 and September 25, 2015 eligibility determination notices are RESCINDED.

Your case is RETURNED to the Marketplace to verify your documentation, redetermine your eligibility for health insurance, and facilitate your reenrollment.

The NY State of Health Appeals Unit is not authorized to address the issue regarding the electronic checks of your incarceration status; therefore, it cannot not addressed here.

However, your complaint on this issue is also being returned to the Marketplace to facilitate a correction of this ongoing problem.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your 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 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)).

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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 August 3, 2015 eligibility determination notice is RESCINDED.

The September 17, 2015 and September 25, 2015 eligibility determination notices are RESCINDED.

Your case is RETURNED to the Marketplace to verify your documentation, redetermine your eligibility for health insurance, and facilitate your reenrollment.

The NY State of Health Appeals Unit is not authorized to address the issue regarding the electronic checks of your incarceration status; therefore, it cannot not addressed here.

However, your complaint on this issue is also being returned to the Marketplace to facilitate a correction of this ongoing problem.

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your 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:

