



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

Notice of Decision

Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004471

[REDACTED]

Dear [REDACTED],

On November 17, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility determination and disenrollment notices regarding your spouse.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004471

[REDACTED]

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 31, 2015, the Marketplace issued a notice of eligibility redetermination stating in part that your spouse was conditionally eligible to share in monthly advance premium tax credits and cost sharing reductions with you and your son, effective May 1, 2015. The notice further requested that your spouse provide proof of his incarceration status before June 28, 2015.

That same day, the Marketplace issued a notice confirming in part your spouse's enrollment in a silver-level qualified health plan (QHP) with you and your son.

On July 19, 2015, the Marketplace issued a notice of eligibility redetermination stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because he had not provided proof of his incarceration status. The notice further stated that his eligibility for coverage would end effective July 31, 2015.

That same day, the Marketplace issued a notice that stated your spouse's enrollment in your silver-level QHP was terminated effective July 31, 2015.

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On August 25, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 redetermination insofar as your spouse was not eligible to enroll in a QHP and was disenrolled from your plan effective July 31, 2015.

On November 17, 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) You testified your spouse was incarcerated from September 30, 2014 to March 27, 2015.
- 2) You testified you provided copies of his prison release paperwork to the Marketplace on March 10, 2015 and March 14, 2015 because you wanted your spouse to have health insurance as of April 1, 2015. Your Marketplace account shows there was activity in your account on both of these dates.
- 3) You testified you were told by Marketplace representatives on both dates your spouse could not be added to your Marketplace account until after he had been released, that is, after March 27, 2015, so the earliest his coverage could start would be May 1, 2015. Your Marketplace account reflects that your spouse had coverage in your health plan as of May 1, 2015.
- 4) You testified you believed your spouse's enrollment indicated that your Marketplace application was complete and no further documentation was required.
- 5) According to your Marketplace account and your testimony at hearing, you elected to receive all notices via regular mail service.
- 6) You testified that you did not receive the March 31, 2015 notice, which contained notice of your spouse's conditional eligibility and document submission deadline, and did not receive the July 19, 2015 notices of eligibility redetermination and disenrollment.
- 7) You testified that, had you known, you would have immediately re-submitted your spouse's prison release document to the Marketplace.
- 8) On August 18, 2015, you provided via facsimile another copy of your spouse's Notice of Release and Arrival from the U.S. Department of Justice, Federal Bureau of Prisons, which indicated your spouse was due to be released on March 27, 2015 to your residence in Staten Island, New York (Appellant's Exhibit A).

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- 9) This document was uploaded to your Marketplace account on September 2, 2015.
- 10) You are seeking reinstatement of your spouse's health insurance coverage, effective November 1, 2015.

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 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)).

Timely Eligibility Determination

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR § 155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR § 155.605(g)(1)(iii)).

The Marketplace may adopt an exemption eligibility determination made by HHS for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR § 155.625(b)).

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.

An applicant is eligible to enroll in a qualified health plan (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 determination issued on March 31, 2015, you were advised that your spouse's eligibility was only conditional, and that you needed to provide proof of your incarceration status before June 28, 2015.

While the record does not contain the requested documentation before the deadline, your Marketplace account and credible testimony demonstrates you contacted the Marketplace on March 10, 2015, and added your spouse as a household member, and there was an additional communication on March 14, 2015 when you tried to get him added to your health plan for his coverage to start April 1, 2015. You testified that you were told the earliest your husband could be enrolled in your health plan would be May 1, 2015, since his release date of March 27, 2015 was after the 15th day of the month, which is in keeping with the regulation regarding start dates of coverage.

You testified you assumed his release paperwork had been received because your husband was enrolled as of May 1, 2015 in your health plan. You testified you did not receive the March 31, 2015 eligibility notice regarding your spouse's conditional eligibility nor the July 19, 2015 eligibility redetermination or disenrollment notices and, therefore, were unaware that there was an outstanding request for documentation or that your husband's coverage was due to end. You credibly testified that you would have reacted immediately as you had in March 2015 and provided the requisite document again so as to avoid his disenrollment.

Notwithstanding, you have elected to receive notices via regular mail service. The record indicates that the March 31, 2015 eligibility redetermination notice was issued to the address you have listed on your Marketplace account, and there is no indication that notice or the July 19, 2015 notices issued to you were returned to the Marketplace as undeliverable. Therefore, the notices are deemed to have been sent to your address.

Since the Marketplace had not received any updated information from you by the time of the deadline stated in the March 31, 2015 eligibility redetermination notice, on July 19, 2015, another eligibility redetermination notice was issued that stated your spouse was no longer eligible for financial assistance or to enroll in a qualified health plan at full cost through the Marketplace, effective July 31, 2015 because documentation regarding his incarceration status had not been provided. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's July 19, 2015 eligibility redetermination notice must be AFFIRMED.

You testified in August 2015, you received a premium bill for a lesser amount and contacted the Marketplace to find out why and were told that your husband had been disenrolled for not providing proof of his incarceration status. The record reflects this prompted you to again fax in a copy of his prison release paperwork on August 18, 2015, in an effort to get your spouse's health insurance reinstated.

In this regard, the Marketplace must provide applicants for QHPs notice of their eligibility determination within 60 days from the date of the completed application. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination. To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of the completed application to the date the Marketplace notifies the applicant of its decision.

The record reflects that the Marketplace received your spouse's release documentation on August 18, 2015, which was uploaded to your Marketplace account on September 2, 2015, on which date his application was complete. The Marketplace has not yet issued an eligibility redetermination regarding his eligibility and 60 days from September 2, 2015 ran on November 1, 2015. Since the Marketplace has not made nor issued an eligibility determination yet, any redetermination made after November 1, 2015 would be untimely.

For this reason and since the requisite paperwork regarding your spouse's incarceration is now available in your Marketplace account, your case is RETURNED to the Marketplace to verify your spouse's documentation and redetermine his eligibility for health insurance as of November 1, 2015, and to allow him to re-enroll in your health plan on November 1, 2015, the date you indicated was preferred.

Because your spouse has been without health insurance as of July 31, 2015, you also want to be granted an exemption from paying any tax penalty for the month's he was without coverage.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. If both of the following applied to you in 2015, you might qualify for a health coverage exemption:

- In 2015, you/your spouse were/was not enroll in a qualified health plan because of an appealable reason
- Your appeal was eventually successful.

If this is accurate, you may not to have to pay the fee for the months you and your spouse were uncovered. If approved, the exemption generally also covers the month of the decision itself. It will not cover the month of the decision itself if the decision is in the next plan year.

Please note, that you must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, the NY State of Health Marketplace cannot and will not accept hardship exemption applications.

You will find all of the information you need to claim the exemption due to an appeal decision at www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The July 19, 2015 eligibility redetermination notice is AFFIRMED.

However, your case is being RETURNED to the Marketplace to verify your spouse's documentation and redetermine his eligibility for health insurance as of November 1, 2015, and to allow him to re-enroll in your health plan on November 1, 2015.

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).

If you and your spouse would like to be considered for an exemption for the months that your spouse were without coverage as a result of being disenrolled, you must contact the United States Department of Health and Human Services (HHS).

Effective Date of this Decision: December 16, 2015

How this Decision Affects Your Eligibility

Your spouse was disenrolled from your health plan, effective July 31, 2015.

As of November 1, 2015, the Marketplace had not issued an eligibility redetermination and, therefore, any determination after that date is untimely.

For this reason, your is being RETURNED to the Marketplace to verify your spouse's documentation and redetermine his eligibility for health insurance as of November 1, 2015, and to allow him to re-enroll in your health plan on November 1, 2015, if he so desires.

Please note that this decision only applies to your eligibility for the year 2015. For insurance coverage starting January 1, 2016, you will need to reapply with the Marketplace during the Open Enrollment Period. The Open Enrollment Period for 2016 health coverage is November 1, 2015 to January 31, 2016. For more information on Open Enrollment please go to <https://nystateofhealth.ny.gov/> or contact the Marketplace at the contact information listed in this decision.

You may apply for an exemption from paying a tax penalty for the months that your spouse was without coverage. You must claim this exemption through the United States Department of Health and Human Services (HHS).

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

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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 redetermination notice is AFFIRMED.

Your spouse was disenrolled from your health plan, effective July 31, 2015.

As of November 1, 2015, the Marketplace had not issued an eligibility redetermination and, therefore, any determination after that date is untimely.

For this reason, your is being RETURNED to the Marketplace to verify your spouse's documentation and redetermine his eligibility for health insurance as of November 1, 2015, and to allow him to re-enroll in your health plan on November 1, 2015, if he so desires.

Please note that this decision only applies to your eligibility for the year 2015. For insurance coverage starting January 1, 2016, you will need to reapply with the Marketplace during the Open Enrollment Period. The Open Enrollment Period for 2016 health coverage is November 1, 2015 to January 31, 2016. For more information on Open Enrollment please go to <https://nystateofhealth.ny.gov/> or contact the Marketplace at the contact information listed in this decision.

If you and your spouse would like to be considered for an exemption for the months that your spouse were without coverage as a result of being disenrolled, you must contact the United States Department of Health and Human Services (HHS) to apply for an exemption.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

