



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: AP000000004479

[REDACTED]

Dear [REDACTED],

On November 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 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).

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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NY State of Health Number: [REDACTED]
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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 you were no longer eligible to enroll in a qualified health plan, effective May 3, 2015?

Procedural History

On December 16, 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 requested that you provide documentation confirming your citizenship status before March 17, 2015.

On December 16, 2014, the Marketplace issued a notice confirming your enrollment in TotalIndependence Bronze NS INN Dep25 Acupuncture Massage Therapy Naturopathy.

On May 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 confirmed your citizenship status. Your eligibility for coverage ended effective May 31, 2015.

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

On August 26, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 determination insofar as you were not eligible to enroll in a qualified health plan.

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 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 did not receive any notice from the Marketplace telling you that you needed to submit documentation in order to confirm your citizenship status.
- 2) Your Marketplace account indicates that you elected to receive notifications via electronic mail. You confirmed that the email address listed in your account is correct.
- 3) There is no evidence in the record that the Marketplace received your citizenship documentation before March 17, 2015.
- 4) You uploaded a copy of your permanent resident alien card to your Marketplace account on May 29, 2015. The record reflects that your document was invalidated on June 2, 2015, because the card was expired (NYSOH Exhibit 1, November 23, 2015). The record further reflects that your document was subsequently verified as valid proof of citizenship on August 27, 2015, in response to a note posted on August 26, 2015, stating that a permanent resident card is acceptable even if expired (*id.*).
- 5) You testified that you were aware that your health insurance coverage was terminated after you were contacted by your health plan, prior to submitting your permanent resident alien card to the Marketplace.
- 6) You are seeking reinstatement of your health insurance coverage, and to have your citizenship documentation properly verified.
- 7) As of the November 23, 2015 hearing, there were no outstanding requests for verification documentation.

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)).

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 May 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

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inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on December 16, 2014, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 17, 2015.

The record reflects that the Marketplace did not receive the requested citizenship documentation before the deadline.

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the December 16, 2014 eligibility determination notice asking you to provide citizenship documentation to the Marketplace.

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

On May 29, 2015, after you became aware of the inconsistency in your account, you provided a copy of your permanent resident alien card to the Marketplace. Although this document was improperly invalidated on June 2, 2015, it was properly validated on August 27, 2015.

As of November 23, 2015, there were no outstanding requests for additional verification documentation in your account.

Therefore, your case is RETURNED to the Marketplace to facilitate your reinstatement in your qualified health plan.

Decision

The May 3, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate reinstatement in your qualified health plan.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility. Your case is being sent back to the Marketplace to facilitate your reinstatement in your qualified health plan.

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There are no outstanding requests for verification documentation in your Marketplace account as of November 23, 2015.

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 May 3, 2015 eligibility determination notice is **RESCINDED**.

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Your case is RETURNED to the Marketplace to facilitate reinstatement in your qualified health plan.

This decision does not change your eligibility. Your case is being back to the Marketplace to facilitate your reinstatement in your qualified health plan.

There are no outstanding requests for verification documentation in your Marketplace account as of November 23, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

