



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

## Notice of Decision

Decision Date: February 4, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004571

[REDACTED]

Dear [REDACTED],

On January 5, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 18, 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 and the NY State of Health number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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

Decision Date: February 4, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004571

[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 February 16, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to purchase a qualified health plan at full cost, effective March 1, 2015. The notice directed you to provide documentation confirming your citizenship status before May 18, 2015, or you might lose your eligibility for health insurance.

Also on February 16, 2015 the Marketplace issued a notice confirming your enrollment in a qualified health plan.

On July 18, 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 18, 2015 the Marketplace issued a disenrollment notice stating that your enrollment in your qualified health plan ended effective July 31, 2015.

On September 1, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 18, 2015 determination insofar as you were not eligible to remain enrolled in a qualified health plan.

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On January 5, 2016, 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, and the record reflects, that you receive all of your notices from the Marketplace via electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your Marketplace account telling you that you needed to submit documentation in order to confirm your citizenship status before May 18, 2015.
- 3) There is no evidence in the record that the Marketplace received your citizenship documentation before May 18, 2015.
- 4) On August 6, 2015 you uploaded a copy of your United States passport and Resident Alien card to your Marketplace account.
- 5) You testified that you are seeking reinstatement in your health plan because you have been without coverage since August.

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)).

### 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 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 determination issued on February 16, 2015 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before May 18, 2015, respectively.

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

However, you testified and the record reflects that, at the time of the February 16, 2015 eligibility determination notice, you elected to receive alerts regarding notices from the Marketplace electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which directed you to provide citizenship documentation to the Marketplace. There is no evidence in your account documenting that any email alert was sent to you regarding the need for you to submit evidence regarding your citizenship status.

Therefore, it is determined that you did not receive the required notice of a deficiency in your account.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your Marketplace account, the July 18, 2015 eligibility determination stating that you are no longer eligible for failure to submit documentation is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to assist you in reenrolling into a health plan for 2015 coverage with an effective date of August 1, 2015, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

You may be eligible for an exemption from any tax penalty for the failure to have health insurance for the entire 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](http://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.

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).

## **Decision**

The July 18, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace to assist you in reenrolling into a health plan for 2015 coverage with an effective date of August 1, 2015, if you so choose. You will be responsible for any unpaid premiums.

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

**Effective Date of this Decision:** February 4, 2016

### **How this Decision Affects Your Eligibility**

The Marketplace erred in disenrolling you from qualified health plan effective July 31, 2015, without the proper notice.

Your case is being sent back to the Marketplace to assist you in reenrolling into a health plan for 2015 coverage as of August 1, 2015, if you so choose.

If you would like an exemption for the months you were without coverage as a result of being improperly disenrolled, you must contact 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 of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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 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 18, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace to assist you in reenrolling into a health plan for 2015 coverage with an effective date of August 1, 2015, if you so choose. You will be responsible for any unpaid premiums.

The Marketplace erred in disenrolling you from qualified health plan effective July 31, 2015 without proper notice.

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

### **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

