



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

Notice of Decision

Decision Date: February 10, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004584

[REDACTED]

[REDACTED]

Dear [REDACTED],

You appealed the September 2, 2015 eligibility determination issued by New York State of Health. An impartial hearing officer has reviewed the evidence, and the enclosed decision has been rendered on your appeal based on information in your Marketplace account.

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) § 155.715(e).

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]
Appeal Identification Number: AP000000004584

[REDACTED]

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

- 1) Did the Marketplace properly determine that your company did not meet eligibility criteria for enrollment in insurance through New York State of Health, Small Business Marketplace?

Procedural History

- 1) You submitted an NYS-45 form to the Marketplace on or about August 22, 2015, with information regarding withholding, wage reporting, and unemployment insurance.
- 2) According to the "Marketplace Eligibility Status" in your Marketplace account, the Marketplace found that, "Your company does not currently meet eligibility criteria for enrollment in Small Business Marketplace," without further explanation.
- 3) On September 4, 2015, the Marketplace issued a notice, stating that you did not "appear to be eligible to offer coverage to employees through the Small Business Marketplace." The reason given was that, "Address verification is passed," without further explanation.

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- 4) Also, on September 4, 2015, the Marketplace issued a notice, acknowledging that your appeal request had been received.
- 5) No other information is available for review.

Findings of Fact

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

- 1) According to an internal note in the Marketplace's files, you objected to a finding that your company was not an eligible employer, although this finding is not reflected in any decision issued by the Marketplace.
- 2) According to another internal note in the Marketplace's files, on October 6, 2015, your case was referred for review to the Marketplace's Account Review Unit. There is no indication that any decision was issued by the Marketplace as a result of that review.

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

Applicable Law and Regulations

The Small Business Marketplace of New York State of Health must provide an employer requesting eligibility to purchase coverage with a notice of approval or denial of eligibility, and must advise the employer of its right to appeal such eligibility determination (45 CFR § 155.715(e)).

An employer has the right to appeal a notice of denial of eligibility; an employer also has the right to appeal a failure of the Small Business Market to make an eligibility determination in a timely manner. (45 CFR § 155.740(c)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your company did not meet eligibility criteria for enrollment in insurance through New York State of Health, Small Business Marketplace.

In the current case, the only finding made by the Marketplace's regarding your application was that your company did not "appear" to be eligible to enroll in insurance through the Marketplace. The only basis provided for that finding was that "Address verification is passed."

It is determined that the Marketplace's September 4, 2016 did not constitute either a proper notice of approval or a proper denial of eligibility. The apparent basis for denying your company the right to participate through the Marketplace, "Address verification is passed," is insufficient to justify any denial.

Therefore, your case is returned to the Marketplace for a determination on your company's eligibility and to facilitate enrollment in health insurance for your employees if your company wishes to do so.

Decision

The Marketplace failed to timely respond to your company's application for enrollment through the Marketplace.

Your case is returned to the Marketplace for a determination on your company's eligibility and to facilitate enrollment in health insurance for your employees if your company wishes to do so.

Effective Date of this Decision: February 10, 2016

How this Decision Affects Your Eligibility

Your case is returned to the Marketplace for a determination on your company's eligibility and to facilitate enrollment in health insurance for your employees if your company wishes to do so.

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
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The Marketplace failed to timely respond to your company's application for enrollment through the Marketplace.

Your case is returned to the Marketplace for a determination on your company's eligibility and to facilitate enrollment in health insurance for your employees if your company wishes to do so.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.715(e).

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]