



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

## Notice of Decision

Decision Date: December 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004622

[REDACTED]

Dear [REDACTED]

On December 1, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 10, 2015, and September 4, 2015 eligibility determinations.

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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## Decision

Decision Date: December 18, 2015

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 terminate your enrollment in coverage through the Marketplace, effective August 31, 2015?

Did the Marketplace properly terminate your wife's enrollment in coverage through the Marketplace, effective August 31, 2015?

## Procedural History

On May 7, 2015, the Marketplace received your household's application for financial assistance with your health insurance.

That same day, an eligibility determination was made finding you conditionally eligible and your spouse eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$577.00 per month effective June 1, 2015. You were asked to provide proof of your citizenship status by August 5, 2015.

Also on May 7, 2015, you enrolled both yourself and your spouse in Healthfirst Silver level plan through the Marketplace with a premium responsibility of \$223.75. Your coverage could begin after you paid your first month's premium June 1, 2015.

On August 10, 2015, your household's eligibility was redetermined. The determination found you ineligible to enroll in a qualified health plan because you did not provide the requested documentation to verify your citizenship status by the deadline required by the Marketplace, your eligibility would end effective August 31, 2015.

On August 12, 2015, a disenrollment notice was issued stating that your insurance through Healthfirst would end effective August 31, 2015 for you and your spouse.

On August 27, 2015, you uploaded a copy of your Certificate of Naturalization to your Marketplace account.

On September 2, 2015, the Marketplace received a copy of your Certificate of Naturalization via regular mail.

On September 4, 2015, your household's eligibility was redetermined finding you and your spouse eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$557.00 per month effective October 1, 2015. However, you were told that you and your spouse did not qualify to select a health plan outside of open enrollment for 2015.

On September 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed the September 4, 2015, redetermination insofar as you and your spouse were determined to be ineligible to enroll in a qualified health plan outside of open enrollment.

On December 1, 2015, you had a telephone hearing with a Hearing Officer from the NY State of Health Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

## **Findings of Fact**

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

- 1) You testified, and your Marketplace account confirms, you receive all of your notices via regular mail.
- 2) On your May 7, 2015 application you stated you and your spouse are United States Citizens.
- 3) There is no evidence in the record that the Marketplace received your citizenship documentation before August 5, 2015.

- 4) On August 27, 2015, you uploaded a copy of your Certificate of Naturalization No. [REDACTED] to your Marketplace account.
- 5) On September 2, 2015, the Marketplace received a copy of your Certificate of Naturalization via regular mail.
- 6) You testified that you were told by the Marketplace representative the picture you provided was too dark see and so you were required to submit proof of the documentation again. You provided that documentation with a clearer copy via regular mail to the Marketplace.
- 7) You and your spouse were disenrolled from your Silver level health plan on August 31, 2015.
- 8) You are seeking reinstatement of your health insurance coverage and your spouses' coverage.

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 expecting 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, from the date the notice of inconsistency is received by the applicant, to provide satisfactory documentary evidence. Notice is considered to have been received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)).

## Enrollment Periods

The Marketplace must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)); however, the open enrollment period was further extended to February 28, 2015 for individuals who took steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-line%E2%80%99-provision-ahead-february-15-open>).

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan (45 CFR § 155.420(d)).

This is permitted when any one of multiple events occurs, including a qualified individual or his or her dependent loses certain health insurance coverage (45 CFR § 155.420(d)(1)).

Another qualifying event is when the qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange (45 CFR § 155.420(d)(4)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

## **Legal Analysis**

The first issue under review is whether the Marketplace properly determined you were no longer eligible to enroll in a qualified health plan through the Marketplace, effective August 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 May 7, 2015, you were advised that your eligibility was only conditional. The August 10, 2015 determination notice stated you did not tell the Marketplace that you could not provide the documentation needed to remain eligible for health coverage effective August 31, 2015.

The record reflects that the Marketplace did not receive the requested citizenship documentation before the deadline of August 5, 2015.

If the Marketplace remains unable to verify the inconsistency after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

You testified that you receive your notices via regular mail and your address has not changed since the time of your application. There is no proof in the record that there was a failure in the delivery of the notice to your address in the form of a returned mailing.

Since the requested citizenship documentation was not received within the 90-day period, the Marketplace was required to redetermine your eligibility without verification of your citizenship status. As a result, the Marketplace properly determined that you could not remain enrolled in a qualified health plan through NY State of Health effective August 31, 2015 because you had not provided the information requested by the Marketplace by the deadline of August 5, 2015.

Therefore, the Marketplace's, August 10, 2015 eligibility determination finding you no longer eligible to enroll in a qualified health plan effective August 31, 2015 is correct and is AFFIRMED.

However, on August 27, 2015, you uploaded a copy of your Certificate of Naturalization to your Marketplace account. On September 2, 2015, the Marketplace also received a copy of your Certificate of Naturalization via regular mail after it was determined that the previous copy you uploaded was too dark to see. This documentation was accepted by the Marketplace.

The second issue under review is whether the Marketplace properly terminated your spouse's coverage under her qualified health plan effective August 31, 2015.

When a qualified individual loses coverage considered to be minimum essential coverage, that individual may be entitled to a special enrollment period in which to reenroll, pursuant to 45 CFR § 155.420(d)(1)(i). After your coverage was terminated, your wife continued to be eligible. Her loss of coverage is not considered to be voluntary on her part, because there were no outstanding requirements for her to remain eligible.

Therefore, when your coverage terminated, your wife's coverage should not have been. Once her coverage ended, she should have been granted a special enrollment period in which to sign up for new coverage. On September 4, 2015 the Marketplace issued a notice of eligibility determination stating in part that your wife did not qualify to select a health plan outside of open enrollment. There is no indication in the record that your wife was informed prior to September 4, 2015 of her eligibility to enroll into another health plan. Generally, a person is given 60 days to enroll into a health plan after a qualifying event. Since your wife was not informed of her eligibility for a special enrollment period before it expired, she is granted an additional sixty days from the date of this decision to reenroll.

Since the Marketplace considers your failure to provide proof of citizenship as a voluntary action causing the termination of your coverage, you individually would not be entitled to a special enrollment period in which to enroll in new coverage, barring other circumstances. However, currently, once a family member is found to be eligible for a special enrollment period, all members of the family will be granted one as well.

Since your wife has been granted an additional special enrollment period, you are granted one as well. Therefore, the September 4, 2015 eligibility determination notice addressed to you and your spouse is **RESCINDED** insofar as it did not provide her with sufficient time to reenroll into a new health plan.

Your case is **RETURNED** to the Marketplace to determine your eligibility, and allow you and your wife to reenroll into a qualified health plan.

## **Decision**

August 10, 2015, eligibility determination finding you no longer eligible to enroll in a qualified health plan effective August 31, 2015 is correct and is **AFFIRMED**. The September 4, 2015 eligibility determination notice addressed to you and your spouse is **RESCINDED** insofar as it did not provide her with sufficient time to reenroll into a new health plan.

**Effective Date of this Decision:** December 18, 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).



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

The Marketplace properly terminated your enrollment in a qualified health plan because you did not provide citizenship documentation in timely manner.

Your case is RETURNED to the Marketplace to determine your eligibility, and allow you and your wife to reenroll into a qualified health plan.

## **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

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## **Summary**

August 10, 2015, eligibility determination finding you no longer eligible to enroll in a qualified health plan effective August 31, 2015 is correct and is AFFIRMED.

The September 4, 2015 eligibility determination notice addressed to you and your spouse is RESCINDED insofar as it did not provide her with sufficient time to reenroll into a new health plan.

The Marketplace properly terminated your enrollment in a qualified health plan because you did not provide citizenship documentation in timely manner.

Your case is RETURNED to the Marketplace to determine your eligibility, and allow you and your wife to reenroll into a qualified health plan.

## **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:**

