



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

## Notice of Decision

Decision Date: January 27, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004673

[REDACTED]

Dear [REDACTED],

On December 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 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 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(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: January 27, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004673

[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 September 30, 2015?

## Procedural History

On May 27, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive advance payments of the premium tax credit, effective July 1, 2015. The notice further directed you to provide proof of your incarceration status before August 24, 2015, or you might lose your eligibility for health insurance or your eligibility for financial assistance.

On May 29, 2015, the Marketplace issued a notice confirming your enrollment in your health plan.

On September 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 provided proof of your incarceration status. Your eligibility for coverage ended effective September 30, 2015.

On September 3, 2015 the Marketplace issued a notice that stated the enrollment for yourself and your spouse in your qualified health plan was terminated effective September 30, 2015.

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On September 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed the September 3, 2015 determination insofar as you were not eligible to enroll in a qualified health plan.

Also on September 11, 2015, a copy of your recent paystub was uploaded to your Marketplace account.

On October 27, 2015, an updated copy of your recent paystub was uploaded to your Marketplace account.

On December 8, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence, including a copy of your health insurance premium invoice.

On December 23, 2015, the Marketplace's Appeals Unit did not receive your supporting evidence and the record was closed.

## **Findings of Fact**

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

- 1) You testified that you have never been incarcerated.
- 2) Your Marketplace account indicates that you receive notices from the Marketplace by regular mail.
- 3) You testified that you did not receive the Marketplace's notice requesting documentation confirming your incarceration status, and you had not been informed of the request for additional information by the application counselor who assisted you with your application for health insurance.
- 4) No notices sent to you at the address listed on your Marketplace account have been returned as undeliverable.
- 5) You testified that you uploaded a copy of your most recent paystub on September 11, 2015, after receiving a notice that your qualified health plan would be terminated.
- 6) There is no evidence in the record that the Marketplace received the requested documentation before August 24, 2015.

- 7) You uploaded a copy of your most recent paystub to your Marketplace account on October 27, 2015.
- 8) Your application for health insurance was rerun on November 2, 2015, at which time your account indicated that the request for proof of your incarceration status was satisfied.
- 9) You testified, and the record reflects, that you were re-enrolled in the same qualified health plan with MVP, effective November 1, 2015. You further testified that you are being billed for coverage during the months of October and November 2015. You testified that you are requesting coverage beginning the month of December 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)).

## **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 September 30, 2015.

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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 May 27, 2015, you were advised that your eligibility was only conditional, and that you needed to provide proof of your incarceration status before August 24, 2015.

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

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.

Since the requested documentation was not received within the 90-day period provided, the Marketplace was required to redetermine your eligibility based on the information available in the data sources, which included insufficient information to confirm your incarceration status. As a result, the Marketplace properly determined that you were no longer eligible to enroll in health insurance through the Marketplace because you did not provide the information requested by the Marketplace.

Therefore, the Marketplace's September 3, 2015 eligibility determination is correct and is AFFIRMED.

However, at the hearing, you testified that you are being billed for months in which you were not enrolled in coverage. The Marketplace's Appeals Unit is not authorized to address billing matters, therefore, your case is being RETURNED to the Marketplace's Plan Management Unit for further consideration.

## **Decision**

The September 3, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace's Plan Management Unit for further consideration to address your billing concerns.

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).

**Effective Date of this Decision:** January 27, 2016

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

This decision does not change your current eligibility.

Your case is being sent back to the Marketplace's Plan Management Unit to address your billing concerns.

## **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**

The September 3, 2015 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace's Plan Management Unit for further consideration to address your billing concerns.

This decision does not change your current eligibility.

Your case is being sent back to the Marketplace's Plan Management Unit to address your billing concerns.

## **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:**

