



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

## Notice of Decision

Decision Date: January 14, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004686

[REDACTED]

Dear [REDACTED],

On December 10, 2015, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 3, 2015 eligibility determination and August 4, 2015 disenrollment notices.

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 Code of 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: January 14, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004686



## Issue

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

Did the Marketplace properly determine that your spouse was no longer eligible to enroll in a qualified health plan, effective August 31, 2015?

## Procedural History

On April 30, 2015, the Marketplace issued a notice of eligibility determination stating that your spouse was conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective June 1, 2015. The notice further requested that you provide documentation confirming her citizenship status before July 28, 2015.

Also on April 20, 2015, the Marketplace issued a notice confirming your spouse's enrollment in a qualified health plan.

On August 3, 2015, the Marketplace issued a notice of eligibility redetermination stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because you had not confirmed her citizenship status. Her eligibility for coverage ended effective August 31, 2015.

On August 4, 2015 the Marketplace issued a notice that stated your spouse's enrollment in her qualified health plan was terminated effective August 31, 2015.

On September 14, 2015, you spoke with the Marketplace's Account Review Unit and appealed the August 3, 2015 determination insofar as your spouse was not eligible to enroll in a qualified health plan.

On December 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You and your spouse both appeared and both provided sworn testimony. 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 proof of her citizenship status.

On December 15, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of your spouse's U.S. passport. This document was marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on December 15, 2015.

## **Findings of Fact**

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

- 1) Your spouse testified that neither of you received any notice from the Marketplace stating she needed to submit documentation in order to confirm her citizenship status.
- 2) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 3) There is no evidence in the record that the Marketplace received your spouse's citizenship documentation before July 28, 2015.
- 4) Your spouse testified, and the record reflects that her U.S. passport number was provided to the Marketplace on September 14, 2015.
- 5) You faxed a copy of your spouse's U.S. passport to the Appeals Unit on December 15, 2015.
- 6) Your spouse is seeking reinstatement of her health insurance 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 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)).

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).

## Legal Analysis

The issue under review is whether the Marketplace properly determined that your spouse was 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. The Marketplace must also 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 5 days after the date on the notice.

In the eligibility determination issued on April 30, 2015, you were advised that your spouse's eligibility was only conditional, and that you needed to confirm her citizenship status before July 28, 2015.

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

However, the record reflects, that you elected to receive your notices from the Marketplace via electronic mail. Your spouse credibly testified that neither of you received the April 30, 2015 eligibility determination notice from the Marketplace stating she needed to submit documentation in order to confirm her citizenship status.

Since your spouse was not made aware of and did not receive proper notice that there was an inconsistency in your Marketplace account, the August 3, 2015 eligibility determination stating that your spouse is no longer eligible to enroll in a qualified health plan for failure to submit documentation and the August 4, 2015 disenrollment notice are **RESCINDED**.

Accordingly, your case is **RETURNED** to the Marketplace to verify your spouse's passport and assist her in reenrolling into a health plan for 2015 coverage with an effective date of September 1, 2015, if she so chooses. She will be responsible for any unpaid premiums.

However, in the interest of fairness she should not have to pay premiums for any months she was without coverage by no fault of her own. Sometimes after an appeal decision an appellant can claim an exemption from the requirement to have health insurance. If both of the following applied to you in 2015, she might qualify for a health coverage exemption:

- In 2015 you were not enroll in a qualified health plan because of an appealable reason
- Your appeal was eventually successful.

If this is accurate, your spouse may not to have to pay the fee for the months she was uncovered. If approved, the exemption generally also covers the month of the decision itself. It will not cover the month of the decision itself if the decision is in the next plan year.

Please note, that your spouse 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 your spouse needs 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.

## **Decision**

The August 3, 2015 eligibility determination notice and the August 4, 2015 disenrollment notice are RESCINDED.

Your case is RETURNED to the Marketplace to verify your spouse’s passport and to assist her in reenrolling into a health plan for 2015 coverage with an effective date of September 1, 2015, if she so chooses. She 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:** January 14, 2016

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

The Marketplace erred in disenrolling your spouse from her qualified health plan effective August 31, 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).

Your case is being sent back to the Marketplace to assist your spouse in reenrolling into a health plan for 2015 coverage as of September 1, 2015, if she so chooses.

If she would like an exemption for the months she was without coverage as a result of being improperly disenrolled, she 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 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 August 3, 2015 eligibility determination notice and the August 4, 2015 disenrollment notice are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to verify your spouse's passport and to assist her in reenrolling into a health plan for 2015 coverage with an effective date of September 1, 2015, if she so chooses. She will be responsible for any unpaid premiums.

The Marketplace erred in disenrolling your spouse from her qualified health plan effective August 31, 2015.

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

## **Legal Authority**

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

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

