



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

Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004709

[REDACTED]

Dear [REDACTED],

On December 11, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015 eligibility determination and May 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:

- 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

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: January 08, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004709

[REDACTED]

Issue

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

Did the Marketplace properly determine that as of May 3, 2015, that your spouse was not eligible to receive financial assistance or to be enrolled in a qualified health plan at full cost through the Marketplace effective May 31, 2015?

Did the Marketplace properly disenroll your spouse from Select Care Silver, Silver ST, INN, Dep25 effective May 31, 2015?

Procedural History

On November 27, 2013 the Marketplace issued a notice confirming "that you have chosen to receive all information from the New York Marketplace electronically."

On December 9, 2014, the Marketplace issued an eligibility determination notice that your spouse is conditionally eligible to receive up to \$583.00 of advance premiums tax credits and cost-sharing reductions, if they enroll in a silver-level health plan through New York State of Health effective as of January 1, 2015. You were directed to provide additional documentation regarding citizenship status before March 10, 2015.

On the same day the Marketplace issued a notice confirming that your spouse was enrolled in Select Care Silver, Silver, ST, INN, Dep25 and coverage could start as early as January 1, 2015.

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On May 3, 2015, the Marketplace issued an eligibility determination notice that your spouse is not eligible to receive financial assistance or to be enrolled in a qualified health plan at full cost through the Marketplace. You failed to provide information regarding your citizenship status and your spouse's eligibility will end effective May 31, 2015.

On May 4, 2015 the Marketplace issued a disenrollment notice that your spouse's Select Care Silver, Silver, ST, INN, Dep25 health plan will end effective May 31, 2015.

On September 15, 2015 you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as your spouse was found not eligible to be enrolled in a qualified health plan at full cost or receive financial assistance through the Marketplace and was disenrolled as of May 31, 2015.

On December 11, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing the record was developed. The record is now complete and closed.

Findings of Fact

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

- 1) Your spouse was enrolled in Select Care Silver, Silver, ST, INN, Dep25 health plan from January 1, 2015 through May 31, 2015, when they were disenrolled for failure to provide citizenship documentation.
- 2) You testified that you first became aware that your spouse had been discontinued from their Marketplace insurance when picking up a prescription in September 2015.
- 3) On November 27, 2013 the Marketplace issued a notice confirming "that you have chosen to receive all information from the New York Marketplace electronically."
- 4) You testified that you never received a notice that your spouse needed to provide additional documentation to the Marketplace to confirm eligibility.
- 5) You testified that you changed your option from electronic notice delivery to paper notice delivery in September 2015.
- 6) You testified that your spouse is a naturalized United States citizen.
- 7) On December 3, 2015 you uploaded a copy of your spouse's U.S. Passport ([REDACTED]) to your Marketplace account.

- 8) You testified that you are not seeking reimbursement of any outstanding medical bills.

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

Applicable Law and Regulations

Citizenship 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)).

Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR §435.918).

Legal Analysis

The Marketplace must determine an applicant's eligibility promptly and without undue delay and then provide a timely notice to the applicant of the eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination for enrollment in a qualified health plan (QHP) or insurance affordability programs through the Marketplace.

On December 9, 2014, the Marketplace issued an eligibility determination notice that your spouse was conditionally eligible to receive up to \$583.00 of advance premiums tax credits and cost-sharing reductions, if you enroll in a silver-level health plan through the Marketplace effective January 1, 2015. You were directed to provide documentation by March 10, 2015 of your spouse's citizenship status to confirm their eligibility.

On the same day your spouse was enrolled in Select Care Silver, Silver, ST, INN, Dep25 and coverage could start as early as January 1, 2015.

On May 3, 2015 the Marketplace issued an eligibility determination notice that your spouse is "not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance. [You] also cannot enroll in a qualified health plan at full cost through the [Marketplace]." The notice states that you failed to provide proof of your citizenship status.

On May 4, 2015 the Marketplace issued a disenrollment notice that your spouse's Select Care Silver, Silver, ST, INN, Dep25 health plan will end effective May 31, 2015.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The December 9, 2014 eligibility determination notice was posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that it was available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were

sent by regular mail within three business days of the date of a failed electronic communication.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding the need for additional information to confirm your spouse's eligibility through the Marketplace.

Accordingly, the May 3, 2015 notice stating that your spouse is not eligible to enroll in a qualified health plan or receive financial assistance because you did not provide additional documentation within the required timeframe lacks support in the record and is RESCINDED.

Therefore, the May 4, 2015 disenrollment notice is RESCINDED.

On December 3, 2015 you faxed your spouse's U.S. Passport ([REDACTED]) to the Marketplace Appeals Unit. Therefore, your case is REMANDED to the Marketplace to redetermine your eligibility based on the documentation you provided.

Decision

The notice of eligibility determination issued on May 3, 2015 is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

The case is RETURNED to the Marketplace to determine your spouse's eligibility based on your spouse's citizenship status of being a naturalized U.S. citizen.

Effective Date of this Decision: January 08, 2016

How this Decision Affects Your Eligibility

This decision cancels the May 3, 2015 eligibility determination and the May 4, 2015 disenrollment notices.

The case is RETURNED to the Marketplace to determine your eligibility based on your spouse's citizenship status of being a naturalized U.S. citizen.

The Marketplace will issue a new notice of eligibility determination.

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.

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).

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:

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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The notice of eligibility determination issued on May 3, 2015 is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

The case is RETURNED to the Marketplace to determine your spouse's eligibility based on your spouse's citizenship status of being a naturalized U.S. citizen.

The Marketplace will issue a new notice of eligibility determination.

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 Authority

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

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A Copy of this Decision Has Been Provided To:

