



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: AP000000004710

[REDACTED]

Dear [REDACTED],

On December 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 2, 2015, and September 10, 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 Code of Federal Regulation (CFR) 45 CFR § 155.545(b).

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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly terminate your enrollment in your qualified health plan, effective May 31, 2015?

Did the Marketplace deny you the ability to enroll in another qualified health plan outside of open enrollment as of September 10, 2015?

Procedural History

On December 12, 2014, 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 for advance premium tax credits and cost-sharing reductions, effective January 1, 2015. According to the corresponding December 13, 2014 notice of eligibility redetermination, you were asked to provide documentation verifying your citizenship status before March 14, 2015.

On May 3, 2015, the Marketplace redetermined your eligibility for enrollment through the NY State of Health. The determination found you no longer eligible to enroll in a qualified health plan because you did not provide documentation verifying your citizenship within the required timeframe. Accordingly, the notice further stated that your eligibility would end effective May 31, 2015.

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On May 4, 2015, a disenrollment notice was issued terminating your coverage in your silver-level qualified health plan effective May 31, 2015.

On September 10, 2015, the Marketplace redetermined your eligibility based upon the updated information on your application and found you conditionally eligible to receive advance premium tax credits and cost-sharing reductions, effective October 1, 2015.

This finding was stated in the corresponding September 11, 2015 notice, which also stated that you qualified to select a health plan outside of open enrollment and needed to review your health plan options and confirm your selection no later than November 9, 2015. This determination was based on the condition that you confirm your immigration status by December 9, 2015.

On September 16, 2015, you spoke with the Marketplace's Account Review Unit and appealed the September 11, 2015 redetermination on the basis that you were denied a special enrollment period.

On December 10, 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 left open 15 days for you to provide the backside of your Permanent Resident ID card. On December 22, 2015, a copy of the front and back of your Permanent Resident ID card was uploaded to your account and the record was closed.

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) There is no evidence in the record that the Marketplace received your citizenship documentation before March 14, 2015.
- 3) You testified that you are not disputing that you did not respond to the request for documentation confirming your citizenship status by the March 14, 2015 deadline required by the Marketplace.
- 4) You were disenrolled from your silver-level health plan on May 31, 2015.
- 5) On August 4, 2015, you uploaded a copy of your Form I-797 Notice of Action, Application for Replacement of Permanent Resident Card. This

documentation was deemed invalid by the Marketplace on September 8, 2015.

- 6) On your September 10, 2015 application, you changed your citizenship status from U.S. citizen to Immigrant Non-Citizen.
- 7) According to the September 11, 2015 eligibility redetermination notice, you were granted a special enrollment period and had until November 9, 2015 to confirm your health plan selection.
- 8) According to your Marketplace account, you did not select a plan by November 9, 2015, but rather appealed being denied a special enrollment period on September 16, 2015.
- 9) You testified that you had lost your immigration documentation previously and were in the process of applying for a new permanent resident ID card.
- 10) On October 20, 2015, you uploaded a copy of the front of your Permanent Resident ID card with an expiration date of October 5, 2025.
- 11) According to your Marketplace account, on October 29, 2015, the Marketplace issued an eligibility redetermination notice that you were eligible to receive advance premium tax credits without condition and qualified to select a health plan outside of the open enrollment period. You were instructed to review your health plan options and confirm your selection by December 27, 2015.
- 12) On December 22, 2015, a copy of the front and back of that ID card was uploaded to your account (see Document [REDACTED]).
- 13) According to your Marketplace account, on December 29, 2015, the Marketplace issued an eligibility redetermination notice that you were eligible to receive advance premium tax credits without condition, effective February 1, 2016.

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 (45 CFR § 155.420(d)(1)).

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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)).

Appealable Issues

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

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 May 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 notice issued on December 13, 2014, you were advised that your eligibility was only conditional. That determination notice stated you were to provide documentation verifying your citizenship status before March 14, 2015.

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 nor are you alleging any failure in delivery occurred. In fact, you testified that you did not provide the requested documentation by the March 14, 2015 deadline because you had lost your Permanent Resident ID card and were in the process of applying for a replacement ID card.

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

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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 May 31, 2015, because you had not provided the information requested by the Marketplace by the deadline of March 14, 2015.

Therefore, the Marketplace's, May 3, 2015 eligibility redetermination notice finding you no longer eligible to enroll in a qualified health plan, effective May 31, 2015, is correct and is AFFIRMED.

As to the second issue under review, on September 11, 2015, the Marketplace issued an eligibility redetermination notice based upon the updated information on your application. That determination found you conditionally eligible to receive advance premium tax credits effective October 1, 2015 and stated that you qualified to select a health plan outside of open enrollment. The notice informed you that you needed to review your health plan options and confirm your selection no later than November 9, 2015. In addition, this determination was based on the condition that you confirm your immigration status by December 9, 2015.

The September 11, 2015 eligibility redetermination notice clearly stated that you qualified to enroll in a qualified health plan outside of open enrollment. As such, your September 16, 2015 request for an appeal on the issue of denial of a special enrollment period is without merit since you were granted, and not denied, a special enrollment period, which you did not act upon. Therefore, the Appeals Unit declines to review your appeal since it lacks merit and because the Marketplace had provided you with the remedy you were seeking as stated in the September 11, 2015 eligibility redetermination notice and, again, provided you with the same remedy as stated in the October 29, 2015 eligibility redetermination notice.

Therefore, no further action by the Marketplace is required.

Decision

The May 3, 2015 eligibility redetermination notice finding you no longer eligible to enroll in a qualified health plan effective May 31, 2015 is correct and is AFFIRMED.

The September 11, 2015 eligibility determination notice is AFFIRMED and your appeal on the issue of a denial of a special enrollment period is dismissed.

No further action by the Marketplace is required.

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 08, 2016

How this Decision Affects Your Eligibility

You were disenrolled from your health plan on May 31, 2015 because you did not provide the required citizenship documentation by the Marketplace's deadline of March 14, 2015.

You were provided with the remedy of a special enrollment period on September 11, 2015 and prior to your September 16, 2015 appeal request such that your appeal is without merit and is dismissed.

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

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- By mail at:
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- By fax: 1-855-900-5557

Summary

The May 2, 2015 eligibility determination finding you no longer eligible to enroll in a qualified health plan effective May 31, 2015 is correct and is AFFIRMED.

The September 10, 2015 eligibility determination notice is AFFIRMED and your appeal on the issue of a denial of a special enrollment period is dismissed.

You were disenrolled from your health plan on May 31, 2015 because you did not provide the required citizenship documentation by the Marketplace's deadline of March 14, 2015.

You were provided with the remedy of a special enrollment period on September 11, 2015 and prior to your September 16, 2015 appeal request such that your appeal is without merit and is dismissed.

No further action by the Marketplace is required.

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:

