



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

Notice of Decision

Decision Date: February 29, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000004729

[REDACTED]

Dear [REDACTED],

On December 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 2, 2015 eligibility determinations and your eligibility for advance premium tax credit during the month of July 2015.

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 Account ID 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.

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 Date: February 29, 2016

NY State of Health Number: [REDACTED]
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[REDACTED]

Issues

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

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

When your spouse was again eligible to enroll in a qualified health plan through the Marketplace, should your collective eligibility for advance payments of the premium tax credit have increased on the same effective date that your spouse's eligibility was reinstated?

Procedural History

On December 18, 2014, the Marketplace issued a notice of eligibility determination stating that you and your spouse were together eligible to receive up to \$583.00 per month in advance payments of the premium tax credit (APTC), as well as cost-sharing reductions (CSR), effective January 1, 2015. The notice further stated that your spouse's eligibility was conditional pending the receipt of documentation to confirm his immigration status and Social Security number. It requested that this documentation be provided to the Marketplace before March 19, 2015. If you failed to submit the documentation your spouse's eligibility to remain enrolled in health insurance through the Marketplace or to receive financial assistance might end.

Also on December 18, 2014, the Marketplace issued a notice confirming enrollment in your health plan of you and your spouse, at a premium rate of

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\$795.47 per month, which was reduced to \$212.47 after applying the maximum APTC of \$583.00. The notice also stated coverage would begin January 1, 2015, provided you timely paid the first premium amount.

On May 2, 2015, the Marketplace issued an eligibility redetermination notice stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because he had not confirmed his immigration status or provided a Social Security number. His eligibility for coverage would end effective May 31, 2015.

Also on May 2, 2015, the Marketplace issued an additional eligibility redetermination notice stating that you, [REDACTED], were eligible for up to \$212.00 per month in APTC, as well as CSR, effective June 1, 2015.

On May 4, 2015, the Marketplace issued a disenrollment notice that stated your spouse's enrollment in your plan was terminated effective May 31, 2015.

Also on May 4, 2015, the Marketplace issued an enrollment confirmation notice stating that you, [REDACTED], had been reenrolled in your plan at a premium rate of \$397.73 per month, which was reduced to \$185.73 after applying the maximum APTC of \$212.00.

On July 22, 2015, the Marketplace received copies of your spouse's (1) Social Security card and (2) I-766 (Employment Authorization Card).

Also on July 22, 2015, your Marketplace account details reflect that your spouse was reenrolled in Oscar Edge Silver NS INN Dep25 Free Generic Drugs Two Free PCP Visits Wellness with you, effective July 1, 2015.

On July 23, 2015, the Marketplace issued an eligibility redetermination notice stating that you and your spouse were eligible to receive an APTC of up to \$583.00 per month and CSR, effective September. The notice further stated that your spouse's eligibility was conditional pending the receipt of documentation to confirm his immigration status. It requested that this documentation be provided to the Marketplace before October 20, 2015.

Also on July 23, 2015, the Marketplace issued a notice confirming reenrollment in your plan for you and your spouse at a premium rate of \$795.47 per month, which was reduced to \$212.47 after applying the maximum APTC of \$583.00. The notice also stated coverage would begin August 1, 2015, and the APTC would be applied to your monthly premium effective August 1, 2015.

On September 17, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 21, 2015 determination insofar as your spouse was determined to be ineligible to remain enrolled in a qualified health plan. You

were also seeking a review of your eligibility for APTC during the month of July 2015.

On December 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) Oscar premium statements issued to you for coverage between May and September 2015 and (2) reasonably acceptable documentation confirming receipt of such payments during that period. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On December 26, 2015 you provided the above referenced documents to the Appeals Unit through your Marketplace online account.

Accordingly, the record was closed on December 26, 2015.

Findings of Fact

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

- 1) You testified that you received the Marketplace's December 18, 2014 notice requesting documentation to confirm your spouse's immigration status and Social Security number.
- 2) You testified that you had faxed copies of your spouse's of your citizenship documents shortly after they had been requested, but that you did not retain any evidence of having sent such materials to the Marketplace.
- 3) There is no evidence in the record that the Marketplace received your citizenship documentation before March 19, 2015.
- 4) Your spouse was disenrolled from coverage under Oscar Edge Silver NS INN Dep25 Free Generic Drugs Two Free PCP Visits Wellness effective May 31, 2015. Your spouse was reenrolled in coverage under this plan effective July 1, 2015; however, your eligible for APTC did not increase from \$212.00 per month to \$583.00 per month until August 1, 2015.
- 5) You testified that you were seeking reinstatement of your spouse's health insurance coverage during June 2015. You further testified that you were seeking a review of your household's eligibility for APTC during the month of July 2015 since your spouse was placed back on

your insurance policy at that time and should have eligible for an APTC of \$583.00, not \$212.00.

- 6) On December 26, 2015, you provided multiple statement and receipts issued by Oscar reflecting premium amounts due and paid for coverage between April 2015 and October 2015.

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)).

Social Security Number Verification

To enroll in a qualified health plan through the Marketplace, an applicant must provide a Social Security number for each applicant seeking health insurance (45 CFR § 155.315(b)).

If an applicant attests to a Social Security number, 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(b)(2)).

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Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined you're your spouse was 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 immigration status is satisfactory and Social Security number is valid.

If the Marketplace cannot verify an individual's immigration status or Social Security number, it must provide the individual a period of 90 days, from the date notice is received, to resolve the inconsistency. For purposes of verifying immigration and the Social Security number, notice is considered received five days after the date on the notice.

In the eligibility determination issued on December 18, 2014, you were advised that your spouse's eligibility was only conditional, and that you needed to confirm his immigration status and Social Security number before March 19, 2015.

The credible evidence of record reflects that the Marketplace did not receive the requested citizenship 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 immigration documentation and Social Security number was not received within the 90-day period, the Marketplace was required to redetermine your spouse's eligibility without verification of your immigration status or Social Security number. As a result, the Marketplace properly determined that your spouse 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.

Therefore, the Marketplace's May 2, 2015 eligibility determination was correct and is AFFIRMED.

The second issue under review is whether, when your spouse was again eligible to enroll in a qualified health plan through the Marketplace, your collective eligibility for advance payments of the premium tax credit should have increased on the same effective date that your spouse's eligibility was reinstated.

You testified during the hearing that you were seeking a review of your household's eligibility for advance payments of the premium tax credit during July 2015, since that month your spouse had been reenrolled in your qualified health plan, effective July 1, 2015.

It is not clear from the record why spouse's coverage was backdated to July 1, 2015, leaving him uninsured for June of 2015, as indicated by your 1095-A tax form. In any event, once your eligibility for APTC was redetermined mid-year, your monthly benefit should have been recalculated pursuant to 45 CFR § 155.330(g). It does not appear that this was done.

Decision

The May 2, 2015 eligibility determination notice is AFFIRMED.

Your case is being returned to the Marketplace to evaluate your eligibility for advance payments of the premium tax credit for 2015.

Effective Date of this Decision: February 29, 2016

How this Decision Affects Your Eligibility

Your spouse was properly disenrolled from his qualified health plan effective May 31, 2015.

However, your case is begin returned to the Marketplace to redetermine your eligibility for advance payments of the premium tax credit for 2015.

If You Disagree with this Decision (Appeal Rights)

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).

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

Summary

The May 2, 2015 eligibility determination notice is **AFFIRMED**.

Your spouse was properly disenrolled from his qualified health plan effective May 31, 2015.

However, your case is being returned to the Marketplace to redetermine your eligibility for advance payments of the premium tax credit for 2015.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

