



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

Notice of Decision

Decision Date: January 15, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004784



Dear [REDACTED],

On December 21, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 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 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).

This page intentionally left blank.



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

Decision

Decision Date: January 15, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004784



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 August 31, 2015?

Procedural History

On April 7, 2015 the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits, effective May 1, 2015. The notice further requested that you provide proof of your incarceration status before July 5, 2015.

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

On the same day Marketplace issued a notice confirming your enrollment in Empire Blue Cross Blue Shield and coverage could start as early as June 1, 2015.

On August 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 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).

On August 4, 2015 the Marketplace issued a notice that stated your enrollment in Empire Blue Cross Blue Shield was terminated effective August 31, 2015.

On September 24, 2015, you spoke with the Marketplace's Account Review Unit and appealed the August 3, 2015 determination insofar as you were not eligible to enroll in a qualified health plan.

On September 27, 2015 the Marketplace issued an eligibility determination stating that you are conditionally eligible to receive advance premium tax credits, effective November 1, 2015. The notice further requested that you provide proof of your incarceration status and income before December 23, 2015.

On December 18, 2015 you had a scheduled telephone hearing with a Hearing Officer from the Marketplace Appeals Unit. During the hearing you requested to adjourn the hearing until December 21, 2015 and waived the fifteen-day notice of hearing requirement.

On December 21, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and the record was left open to allow you to submit additional documentation to the Marketplace Appeals Unit.

On December 22, 2015 you uploaded five documents to your Marketplace account. The five documents have been marked as "Appellant Exhibit A-E" and made part of the record. The record is now complete and 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) According to your Marketplace account, you opted to receive electronic notices from the Marketplace.
- 3) On April 7, 2015 and April 30, 2015 the Marketplace issued notices stating that you are conditionally eligible to enroll in a qualified health plan through the Marketplace. The notice directed to submit proof of your incarceration status before July 5, 2015 and July 28, 2015 to confirm your eligibility.
- 4) You testified that you became aware that your health insurance was discontinued in August 2015.
- 5) You testified that you logged into your Marketplace account and saw the documents requesting proof of your incarceration status.

- 6) You testified that you have outstanding medical bills because your health insurance was discontinued on August 31, 2015.
- 7) You submitted five documents to the Marketplace on December 22, 2015:
 - (a) A benefit notice, dated May 15, 2015, from the Social Security Administration (Appellant Exhibit A);
 - (b) A notice from your cable provider, [REDACTED] (Appellant Exhibit B);
 - (c) A bill, dated April 1, 2015, from [REDACTED] (Appellant Exhibit C);
 - (d) A statement, dated December 7, 2015, from [REDACTED] [REDACTED] (Appellant Exhibit D); and
 - (e) An Official Record of Benefit Payment History for Unemployment Insurance Benefits (UIB) with the latest transaction as of December 22, 2015 (Appellant Exhibit E).

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 August 31, 2015.

An applicant is eligible to enroll in a qualified health plan (QHP) if he or she 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 determinations issued on April 7, 2015 and April 30, 2015, you were advised that your eligibility was only conditional, and that you needed to provide proof of your incarceration status before July 5, 2015 and July 28, 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 August 3, 2015 eligibility determination is correct and is AFFIRMED.

However on December 22, 2015, you uploaded: A benefit notice from the Social Security Administration; a notice from your cable provider, [REDACTED]; a bill, dated April 1, 2015, from [REDACTED]; a statement, dated December 7, 2015, from [REDACTED], and an Official Record of Benefit Payment History for Unemployment Insurance Benefits (UIB), with the latest transaction as of December 22, 2015.

Each of the documents that were uploaded to your Marketplace account verify that your benefit and billing statements are being sent to the mailing address listed on your Marketplace account.

Furthermore, on September 25, 2015 the Marketplace issued an eligibility determination that you are conditionally eligible to receive advance premium tax credits, effective November 1, 2015. The notice further requested that you provide proof of your incarceration status and income before December 23, 2015.

The documents uploaded to your Marketplace account on December 22, 2015 provide proof of your incarceration status and income.

Therefore, your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

Decision

The August 3, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your documentation regarding your incarceration status and income, and redetermine your eligibility for health insurance.

Effective Date of this Decision: January 15, 2016

How this Decision Affects Your Eligibility

The Marketplace properly disenrolled you from your qualified health plan effective August 31, 2015.

Your case is being sent back to the Marketplace to verify the incarceration status and income documentation you submitted and redetermine your eligibility for health insurance, if necessary.

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.

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).

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 August 3, 2015 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

The Marketplace properly disenrolled you from your qualified health plan effective August 31, 2015.

Your case is being sent back to the Marketplace to verify the incarceration status and income documents you submitted and redetermine your eligibility for health insurance, if necessary.

Legal Authority

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

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).

A Copy of this Decision Has Been Provided To:

