



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

**Notice of Decision**

Decision Date: January 27, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004828

[REDACTED]

Dear [REDACTED],

On December 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s September 9, 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 and the NY State of Health number 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(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 27, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004828



## 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 September 30, 2015?

## Procedural History

On June 6, 2015, the Marketplace issued a notice of eligibility determination stating that your spouse was eligible, and you were conditionally eligible, to receive advance payments of the premium tax credit and cost-sharing reductions, effective July 1, 2015. The notice further directed you to provide documentation confirming your citizenship status before September 3, 2015, or you might lose your eligibility to enroll in a plan through the Marketplace or financial assistance.

Also on June 6, 2015, the Marketplace issued a notice confirming that you and your spouse had enrolled in a plan.

On September 9, 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 confirmed your citizenship status. Your eligibility for coverage ended effective September 30, 2015.

On September 10, 2015, the Marketplace issued a notice that stated the qualified health plan enrollment for yourself and your spouse was terminated effective September 30, 2015.

On September 30, 2015, you spoke with the Marketplace's Account Review Unit and appealed the September 9, 2015 determination insofar as you were not eligible to enroll in a qualified health plan.

On December 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) Your Marketplace account indicates that you receive notices from the Marketplace via regular mail.
- 2) You testified that you did not receive the Marketplace's notice requesting documentation confirming your citizenship. You further testified that your mailman was changed earlier during the year, and you have experienced numerous issues regarding your mail.
- 3) No notices sent to you at the address listed on your Marketplace account have been returned as undeliverable.
- 4) There is no evidence in the record that the Marketplace received your citizenship documentation before September 3, 2015.
- 5) The record reflects that a copy of your permanent resident card was faxed to the Marketplace, and available for review in your Marketplace account, on September 23, 2015.
- 6) You are seeking reinstatement of your 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 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 to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered 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)).

## **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 September 30, 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 5 days after the date on the notice.

In the eligibility determination issued on June 6, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before September 3, 2015.

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

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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 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 enroll in a qualified health plan through NY State of Health effective September 30, 2015 because you did not provide the information requested by the Marketplace.

Therefore, the Marketplace's September 9, 2015 eligibility determination is correct and is AFFIRMED.

## **Decision**

The September 9, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** January 27, 2016

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

You were not eligible to enroll in a qualified health plan through the Marketplace as of September 30, 2015, for the remainder of the 2015 coverage year.

This decision does not change your eligibility for 2016 coverage.

## **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

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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 September 9, 2015 eligibility determination notice is **AFFIRMED**.

You were not eligible to enroll in a qualified health plan through the Marketplace, as of September 30, 2015, for the remainder of the 2015 coverage year.

This decision does not change your eligibility for 2016 coverage.

### **Legal Authority**

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

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

