



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

## Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004847

[REDACTED]

Dear Ms. [REDACTED]

On October 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 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 (CFR) 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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004847



## Issue

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

Did the Marketplace properly determine that your spouse was no longer eligible to enroll in a qualified health plan, effective September 30, 2015?

## Procedural History

On April 22, 2015, the Marketplace issued a notice of eligibility determination stating that your spouse was newly conditionally eligible to receive advance premium tax credits and cost-sharing reductions, effective June 1, 2015. However, the notice also directed you provide proof of his incarceration status before July 20, 2015, or he might be found ineligible to enroll in insurance through the Marketplace, or he might lose financial assistance.

On April 23, 2015, the Marketplace issued a notice confirming your spouse's enrollment in a health plan.

On May 21, 2015, the Marketplace issued a notice of eligibility determination stating that your spouse was conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective July 1, 2015. The notice further requested that you provide proof of his incarceration status before August 18, 2015.

On September 3, 2015, the Marketplace issued a notice of eligibility redetermination stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because you had not provided proof of his

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incarceration status. His eligibility for coverage ended effective September 30, 2015. Also on September 3, 2015, the Marketplace issued a notice that stated his enrollment in his qualified health plan was terminated effective September 30, 2015.

On October 1, 2015, you spoke with the Marketplace's Account Review Unit and requested an expedited appeal of the September 3, 2015 determination insofar as your spouse was not eligible to enroll in a qualified health plan.

Also on October 1, 2015, multiple documents were uploaded to your Marketplace account, including: a letter from Navigator [REDACTED]; a copy of your spouse's New York State Driver License; a copy of your spouse's Social Security card; and a copy of an undated portion of a [REDACTED] communication.

On October 9, 2015, you had an expedited telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, your spouse was also sworn in and appeared at the hearing. The record was developed during the hearing and left open until October 26, 2015 to provide you an opportunity to submit supporting evidence, including a letter from the New York State Department of Corrections confirming your spouse's incarceration status.

On October 26, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a letter from the New York State Department of Corrections and Community Supervision, certifying that your spouse has not been incarcerated through its correctional system. This document was marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on October 26, 2015.

## **Findings of Fact**

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

- 1) You testified that your spouse has never been incarcerated.
- 2) You testified that you received the Marketplace's notice requesting documentation confirming your spouse's citizenship.
- 3) You testified that you contacted the Marketplace on, or around, May 8, 2015 to confirm that your spouse had never been incarcerated, and stated that you could not provide a letter from an employer attesting to his incarceration status because he was not employed.
- 4) There is no evidence in the record that the Marketplace received the requested documentation before August 18, 2015.

- 5) On October 1, 2015, prior to the scheduled hearing, a letter from Navigator [REDACTED], confirming that your spouse was not incarcerated, was uploaded to your Marketplace account. The Marketplace's system reflects that this document was verified on October 6, 2015 as valid proof of his incarceration status.
- 6) According to the evidence provided, your spouse has not been incarcerated in the New York State Department of Corrections and Community Supervision (Appellant's Exhibit 1, October 26, 2015).
- 7) The Marketplace's system reflects that your spouse was re-enrolled in his plan on October 1, 2015. The system further reflects that his re-enrollment was effective October 1, 2015. There is no evidence in the record that your spouse experienced a gap in health insurance coverage.

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 your spouse was no longer eligible to enroll in a qualified health plan through the Marketplace, effective September 30, 2015.

An applicant is eligible to enroll in a qualified health plan (QHP) if he 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 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 determination issued on May 20, 2015, you were advised that your spouse's eligibility was only conditional, and that you needed to provide proof of his incarceration status before August 18, 2015.

You credibly testified that you contacted the Marketplace on or around May 8, 2015 to confirm that your spouse had never been incarcerated, and stated that you could not provide documentation, such as a letter from an employer attesting to his incarceration status, because he was unemployed.

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 spouse's eligibility based on the information available in the data sources, which included insufficient information to confirm his incarceration status. As a result, the Marketplace properly determined that your spouse was 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 September 3, 2015 eligibility determination is correct and is **AFFIRMED**.

However on October 1, 2015, prior to the scheduled hearing, you provided a letter from your Navigator, confirming that your spouse was not incarcerated. The Marketplace's system reflects that this documentation was verified on October 6, 2015, and your spouse was re-enrolled in the same health plan without

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experiencing a gap in health insurance coverage. At the hearing, you acknowledged your spouse's re-enrollment, and requested that his account no longer reflect that he is incarcerated for future applications.

The NY State of Health Appeals Unit has the authority to address: (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).

Although it is noted that NY State of Health electronically checks the federal Prisoner Update Processing System (PUPS) and the NYS Department of Correctional Community Services (DOCCS) to identify incarcerated individuals applying for coverage, the issue of future incarceration status checks is not one that the NY State of Health Appeals Unit is authorized to address, and cannot be reviewed here.

## **Decision**

The September 3, 2015 eligibility determination notice is **AFFIRMED**.

The NY State of Health Appeals Unit is not authorized to address the issue raised on appeal regarding future electronic checks of your spouse's incarceration status; therefore, it is not addressed here.

**Effective Date of this Decision:** November 09, 2015

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

This decision does not change your spouse's eligibility.

Your spouse remains enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25.

## **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
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The September 3, 2015 eligibility determination notice is **AFFIRMED**.

The NY State of Health Appeals Unit is not authorized to address the issue raised on appeal regarding future electronic checks of your spouse's incarceration status; therefore, it is not addressed here.

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This decision does not change your spouse's eligibility.

Your spouse remains enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25.

### **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:**

