



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

Notice of Decision

Decision Date: January 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004867

[REDACTED]

Dear [REDACTED],

On December 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 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 and the NY State of Health 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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NY State of Health Number: [REDACTED]
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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 through the Marketplace, effective May 31, 2015?

Procedural History

On December 30, 2014, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive advance payments of the premium tax credit (APTC) and cost sharing reductions (CSR), effective February 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before March 31, 2015 and informed you that if you failed to submit the documentation, your eligibility to remain enrolled in health insurance through the Marketplace or to receive financial assistance might end.

Also on December 30, 2014, the Marketplace issued a notice confirming your enrollment in your health insurance plan.

On May 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 confirmed your citizenship status by the March 31, 2015 deadline. Your eligibility for coverage ended effective May 31, 2015.

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On May 4, 2015, the Marketplace issued a notice that stated your enrollment in your health insurance plan was terminated effective May 31, 2015.

On October 5, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 determination insofar as you were determined to be ineligible to remain enrolled in a qualified health plan.

On December 22, 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 as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: a copy of your Certificate of Naturalization. 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 23, 2015, you provided the above referenced document to the Appeals Unit via facsimile.

The record was closed on December 23, 2015.

Findings of Fact

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

- 1) On January 7, 2014, the Marketplace issued a notice confirming your request to receive messages from the Marketplace electronically.
- 2) Your Marketplace account reflects that the e-mail address you provided for such correspondence was [REDACTED]. You testified that this e-mail address was accurate.
- 3) You testified that you did not recall receiving any e-mails or U.S. Mail notifications from the Marketplace requesting documentation to confirm your citizenship.
- 4) You testified that a human resources administrator at your place of employment assisted you with signing up for health insurance through the Marketplace, and must have elected on your behalf for you to receive all correspondence electronically.
- 5) You testified that you do not own a computer and that you never check your e-mail account.
- 6) You testified that you did not become aware that your insurance coverage had been cancelled until the second week of October 2015, when you attempted to make an appointment with a physician for your

eye. You further testified that you have switched your election to receive all correspondence from the Marketplace via regular U.S. Mail around that time.

- 7) There is no evidence in the record that the Marketplace received your citizenship documentation before March 31, 2015.
- 8) On December 23, 2015, you provided a copy of your Certificate of Naturalization to the Appeals Unit at the request of the Hearing Officer.
- 9) 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, 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)).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

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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 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 was 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 issued on December 30, 2014, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 31, 2015.

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

You elected to receive your notices from the Marketplace via electronic mail; therefore, notices were uploaded to your Marketplace account and emails were sent to you to inform you that these notices were in your account. You testified that you did not recall receiving the December 30, 2014 eligibility determination notice asking you to provide citizenship documentation to the Marketplace.

You testified that although you elected to receive correspondence from the Marketplace via e-mail, you never check your e-mail, so you would be unaware of any notifications from the Marketplace that were uploaded to your Marketplace account. Since you testified that you never checked your e-mail account, we find there is insufficient evidence to show that notices were not properly sent to you.

Therefore it is found that you were properly notified of the Marketplace's December 30, 2014 notice, which contained the request for documentation to prove your citizenship.

If the Marketplace remains unable to verify the inconsistency after the 90-day period ends, 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 remain enrolled in a qualified health plan through

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NY State of Health effective May 31, 2015 because you had not provided the information requested by the Marketplace.

Therefore, the Marketplace's May 3, 2015 eligibility determination is correct and is AFFIRMED.

However on December 23, 2015, you provided a copy of your Certificate of Naturalization after the hearing to the Appeals Unit.

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

Decision

The May 3, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your citizenship documentation and redetermine your eligibility for health insurance, if necessary.

Effective Date of this Decision: January 22, 2016

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary, as of the date your citizenship documentation was submitted.

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
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 3, 2015 eligibility determination is **AFFIRMED**.

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

Your case is being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary, as of the date your citizenship documentation was submitted.

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:

