



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

Notice of Decision

Decision Date: February 2, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004935

[REDACTED]

Dear [REDACTED]

On January 11, 2016, your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 17, 2015 eligibility determination and your eligibility for a health insurance exemption for 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 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.

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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Issues

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

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

Is there a basis for your spouse qualifying for a health insurance exemption for 2015, based on your interactions with the NY State of Health?

Procedural History

On February 14, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse were each conditionally eligible to receive advance payments of the premium tax credits (APTC) and cost-sharing reductions (CSR), effective March 1, 2015. The notice further directed you to provide documentation confirming the income of you and your spouse by May 16, 2015, and your spouse's citizenship status before May 16, 2015, or you might be found ineligible to enroll in an insurance plan through the Marketplace or to receive financial assistance.

Your Marketplace account enrollment details reflect that you and your spouse enrolled in a Fidelis Care plan on February 14, 2015, with coverage effective March 1, 2015.

On July 17, 2015, the Marketplace issued an eligibility redetermination notice stating that your spouse was no longer eligible to enroll in health insurance

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through the Marketplace because you had not confirmed his citizenship status. Your spouse's eligibility for coverage would end effective July 31, 2015.

Also on July 17, 2015, the Marketplace issued a disenrollment notice confirming that your spouse's enrollment in your plan would be terminated.

On October 15, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 17, 2015 eligibility determination notice insofar as your spouse was ineligible to enroll in a qualified health plan.

On January 11, 2016, your spouse had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. A Mandarin-language interpreter (██████████) also attended the hearing at your request. The record was developed during the hearing and remained open as the Hearing Officer directed your spouse to provide as additional evidence to corroborate his testimony: copies of your spouse's U.S. Passport and 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 January 13, 2016, you provided copies of your spouse's U.S. Passport and Certificate of Naturalization to the Appeals Unit via facsimile.

The record was closed on January 13, 2016.

Findings of Fact

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

- 1) Your spouse testified that neither he nor you received any notices from the Marketplace requesting documentation to confirm your spouse's citizenship status.
- 2) Your spouse testified, and your Marketplace account indicates, that you elected to receive notifications via standard U.S. Mail.
- 3) There is no evidence in the record that the Marketplace received your spouse's citizenship documentation before May 16, 2015.
- 4) Your spouse testified that the mailing address reflected in your application of "██████████" was accurate.
- 5) No notices sent to you at the address listed on your Marketplace account have been returned as undeliverable.

- 6) Your spouse testified that he believed he gave all of the necessary citizenship documents to a Fidelis Care representation when you initiated your account with the Marketplace.
- 7) Your spouse's health insurance through the Marketplace was terminated effective July 31, 2015.
- 8) Your spouse testified that he did not become aware that his insurance had been terminated until he attempted to use his son's health insurance. It was at this time a Fidelis Care representative instructed your spouse that his coverage had been cancelled as of July 31, 2015.
- 9) Your spouse testified that he is no longer looking for a reinstatement of his insurance since he has not incurred any medical expenses, but was rather seeking to avoid being assessed a tax penalty for the 2015 plan year for being without health insurance for a period greater than three months, which he felt was due to an error of the Marketplace.
- 10) On January 13, 2016, you submitted a copies of your spouse's U.S. Passport and Certificate of Naturalization to the Appeals Unit via facsimile.

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 expects 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

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demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)).

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR § 155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR § 155.605(g)(1)(iii)).

The Marketplace may adopt an exemption eligibility determination made by HHS for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR § 155.625(b)).

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 July 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 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 five days after the date on the notice.

In the eligibility determination issued on February 14, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before May 16, 2015.

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

The record indicates that the notices were issued to the address you have listed on your Marketplace account, and there is no indication that any of the notices were returned to the Marketplace as undeliverable.

Since we find that you received the proper notice that there was an inconsistency in your Marketplace account, and no documentation was received by the Marketplace confirming your spouse's citizenship status by the May 16, 2015 deadline, the July 17, 2015 eligibility determination is AFFIRMED.

After the hearing, you provided a copies of your spouse's U.S. Passport and Certificate of Naturalization to the Appeals Unit.

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

The second issue under review is whether your spouse would qualify for a health insurance exemption for 2015 based on errors made on the part of the Marketplace.

Based on the facts in the record and the Appellant's testimony, the Appeals Unit finds that the NY State of Health Marketplace did not err in disenrolling the Appellant's spouse from his plan coverage, effective July 31, 2015. In order for your spouse to have selected a plan after his disenrollment, he would have to have qualified for a special enrollment period. The now developed record does not support such a finding.

Decision

The July 17, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your spouse's documentation and redetermine his eligibility for health insurance.

The Marketplace did not err in disenrolling the Appellant's spouse from his plan coverage, effective July 31, 2015.

Effective Date of this Decision: February 2, 2016

How this Decision Affects Your Eligibility

Your spouse's eligibility had not changed.

Your case is being sent back to the Marketplace to verify the citizenship documentation your spouse submitted to the Appeals Unit and redetermine his eligibility for health insurance, if necessary.

This Decision has no effect on any subsequent eligibility determination issued on or after July 17, 2015.

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:
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- By fax: 1-855-900-5557

Summary

The July 17, 2015 eligibility determination notice is **AFFIRMED**.

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Your case is RETURNED to the Marketplace to verify your spouse's documentation and redetermine his eligibility for health insurance.

The Marketplace did not err in disenrolling the Appellant's spouse from his plan coverage, effective July 31, 2015.

Your spouse's eligibility had not changed.

Your case is being sent back to the Marketplace to verify the citizenship documentation your spouse submitted to the Appeals Unit and redetermine his eligibility for health insurance, if necessary.

This Decision has no effect on any subsequent eligibility determination issued on or after July 17, 2015.

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:

