



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

Notice of Decision

Decision Date: December 29, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005091

[REDACTED]

Dear [REDACTED],

On December 21, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 5, 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).

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Decision

Decision Date: December 29, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005091



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 2, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits (APTC) up to \$14.00 per month and cost sharing reductions, effective July 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before August 30, 2015.

On June 12, 2015, the Marketplace issued a notice confirming your enrollment in a gold-level qualified health plan (QHP).

By the August 30, 2015 deadline, your Marketplace account did not contain the requested documentation.

On September 5, 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. The notice further stated that your eligibility for coverage would end effective September 30, 2015.

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That same day, the Marketplace issued a notice that stated your enrollment in your QHP was terminated effective September 30, 2015.

On October 7, 2015, the Marketplace issued another notice of eligibility redetermination that, based on updated information it had received, you were eligible to receive APTC of up to \$165.00 per month effective November 1, 2015, and needed to pick a plan.

On November 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed the September 5, 2015 eligibility redetermination insofar as you were no longer eligible to be enrolled in a QHP and were disenrolled from your QHP, effective September 30, 2015.

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 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 initially elected to receive notifications via electronic mail.
- 2) You testified that you did not receive any notices from the Marketplace telling you that you needed to submit documentation in order to confirm your citizenship status.
- 3) There is no evidence in the record that the Marketplace received your citizenship documentation before August 30, 2015.
- 4) According to your Marketplace account, on October 6, 2015, your naturalized citizen status was verified by the Marketplace as proof of your citizenship and this information was added to your Marketplace application.
- 5) You were not aware that the Marketplace had redetermined your eligibility on October 6, 2015 and found you eligible to receive up to \$165.00 per month in advance premium tax credits, effective November 1, 2015, as stated in the October 7, 2015 eligibility redetermination notice. Therefore, did not know you needed to select a qualified health plan for coverage to be reinstated.
- 6) You submitted a copy of your U.S. Passport to the Marketplace on October 29, 2015.
- 7) You testified that you paid your monthly premium amount to your insurer for October 2015 and have not received a refund.

- 8) You changed the method of service to regular mail on November 4, 2015 when you requested an appeal.
- 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 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 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 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)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were no longer eligible to be enrolled in a qualified health plan through the Marketplace, effective September 30, 2015.

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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 redetermination notice issued on June 2, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before August 30, 2015, 90 days from the June 2, 2015 notice.

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

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the June 2, 2015 eligibility redetermination notice asking you to provide citizenship documentation to the Marketplace.

Since you did not receive proper notice that there was an inconsistency in your Marketplace account, the September 5, 2015 eligibility redetermination and disenrollment notices are **RESCINDED**.

Also, you were not aware nor told by the Marketplace representatives you spoke with that, on October 6, 2015, the Marketplace was able to verify your citizenship and redetermine your eligibility for an increase in advance premium tax credits to \$165.00 per month, effective November 1, 2015. Nor were you aware that you needed to select a qualified health plan in order for coverage to start.

On October 29, 2015, you provided a copy of your U.S. Passport to the Marketplace.

In order to bring your enrollment in line with the findings of fact herein and the credible evidence of record, the October 7, 2015 eligibility redetermination notice is **MODIFIED** to state that you are eligible to receive up to \$165.00 per month in advance premium tax credits, effective October 1, 2015.

Therefore, your case is **RETURNED** to the Marketplace to effectuate your enrollment in a QHP, effective October 1, 2015.

Decision

The September 5, 2015 eligibility redetermination and disenrollment notices are **RESCINDED**.

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).

The October 7, 2015 eligibility redetermination notice is MODIFIED to state that you are eligible to receive up to \$165.00 per month in advance premium tax credits, effective October 1, 2015.

Your case is RETURNED to the Marketplace to effectuate your enrollment in a QHP, effective October 1, 2015, if you so choose.

Effective Date of this Decision: December 29, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace to assist you in enrolling in a QHP, effective October 1, 2015, if you so choose.

You will be responsible for paying your monthly premium responsibility for the months of October, November, and December 2015, with any credit for premium payments already made to be refunded or applied accordingly.

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.

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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 5, 2015 eligibility redetermination and disenrollment notices are **RESCINDED**.

The October 7, 2015 eligibility redetermination notice is **MODIFIED** to state that you are eligible to receive up to \$165.00 per month in advance premium tax credits, effective October 1, 2015.

Your case is **RETURNED** to the Marketplace to effectuate your enrollment in a QHP, effective October 1, 2015, if you so choose.

The Marketplace will assist you in re-enrolling in a QHP, effective October 1, 2015.

You will be responsible for paying your monthly premium responsibility for the months of October, November, and December 2015, with any credit for premium payments already made to be refunded or applied accordingly.

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:

