



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

Notice of Decision

Decision Date: April 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005445

[REDACTED]

Dear [REDACTED]

On April 4, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility redetermination and disenrollment notices.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005445

[REDACTED]

Issue

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

Did the Marketplace properly determine that your eligibility for financial assistance and enrollment in a qualified health ended effective July 31, 2015?

Procedural History

On December 4, 2014, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective January 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before February 16, 2015.

On December 17, 2014, the Marketplace issued a notice confirming your enrollment in platinum-level qualified health plan (QHP) and your monthly premium responsibility was \$450.87 after your monthly APTC of \$309.00 was applied.

On March 7, 2015, the Marketplace issued an eligibility redetermination notice stating that you were conditionally eligible to receive advance premium tax credits and cost sharing reductions, effective April 1, 2015. This notice again requested that you provide documentation confirming your citizenship status before June 4, 2015.

On July 19, 2015, the Marketplace issued an eligibility redetermination notice that stated you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, and could not enroll in a qualified health plan at full cost because you had not confirmed your citizenship status within the required timeframe. The notice further stated your eligibility for coverage ended effective July 31, 2015.

Also on July 19, 2015, the Marketplace issued a disenrollment notice that stated your coverage in your QHP would end July 31, 2015.

On December 7, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it ended your financial assistance eligibility and enrollment in a qualified health plan on July 31, 2015 without providing you any notice.

On April 4, 2016, you had a telephone hearing with a Hearing Officer from NY State of Health's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to provide supporting documentation.

On April 5, 2016, the Appeals Unit received an eight-page facsimile from you, consisting of (1) Two cover pages; (2) Copies of Proof of monthly premium payments in 2015; and (3) Two copies of your United States Passport. That same day, this eight-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) You testified that when you filed your initial application on November 15, 2014, that you elected to receive all of your notices from the Marketplace via electronic mail. The November 15, 2014 introductory letter from the Marketplace confirms your electronic election (see, Document [REDACTED]); however, your Marketplace account currently reflects that you want notices sent to you via standard mail.
- 2) You testified that you scanned a copy of your U.S. Passport at work and uploaded at the time of your initial application. You testified that you did not retain proof that you submitted your passport.

- 3) You testified that you did not receive any electronic alerts stating that your eligibility was only conditional and that you needed to provide documentation of your citizenship status. You also testified that you did not receive any notices via standard mail.
- 4) You testified that you did not know that you needed to submit documentation of your citizenship status until you received a call from your doctor's office saying that payments for services related to labor and delivery during August 2015 had been reversed by your QHP.
- 5) You testified that you contacted the Marketplace upon learning this and filed a complaint; the outcome of which you were not satisfied with so you filed an appeal.
- 6) The record reflects that on April 5, 2016, the Appeals Unit received sufficient documentation of your citizenship status.
- 7) According to your U.S. Passport, it was issued to you on October 21, 2012 and expires on October 21, 2022 (see, Appellant's Exhibit A, p. 8).
- 8) You testified that you received a refund from your QHP for premiums you had paid.
- 9) According to the summary of your bank accounts, you paid your monthly premium amounts through August 31, 2015 (Appellant's Exhibit A, pp. 3-5).
- 10) You testified that you are seeking reinstatement in your qualified health plan as of August 1, 2015.

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 who is 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 with notice of the inconsistency. The Marketplace must then provide the applicant with 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), (f)(2)(i)).

If the Marketplace remains unable to verify the citizenship attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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)). The Marketplace must also send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable (42 CFR § 435.918(b)(5)).

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 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 with notice of the inconsistency. The Marketplace must then provide the individual with 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.

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In the eligibility determination notices issued on December 4, 2014 and March 7, 2015, you were advised that your eligibility was only conditional and, by the latter notice, that you needed to confirm your citizenship status before June 4, 2015.

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

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an email or other electronic communication alerting you that a notice had been posted to your account.

If the electronic communication failed, the Marketplace was required to send a notice by regular mail within three business days of the date of the failed electronic communication if the electronic communication was undeliverable.

You testified and the record reflects that you elected to receive alerts regarding notices from the Marketplace electronically. You credibly testified that you did not receive an electronic alert regarding the December 4, 2014 and March 7, 2015 eligibility determination notices, which informed you that your eligibility was only conditional and that you needed to submit documentation to confirm your citizenship status.

There is no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation. The record also does not contain any evidence on behalf of the Marketplace as to whether the electronic communications were undeliverable. Nor does the record contain evidence that the notices were sent by regular mail within three business days of the date of a failed electronic communication. Without evidence on behalf of the Marketplace, it must be concluded that you were not given proper notice that you needed to submit documentation of your citizenship or of the actions planned or contemplated by the Marketplace.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your Marketplace account, the July 19, 2015 eligibility redetermination notice stating that you are no longer eligible for financial assistance or to enroll in a QHP through the Marketplace for failure to submit documentation and the July 19, 2015 disenrollment notice stating you were disenrolled from your QHP, effective July 31, 2015, are RESCINDED.

Your case is RETURNED to the Marketplace to assist you in reenrolling into a QHP for coverage with an effective date of August 1, 2015, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

Decision

The July 19, 2015 notices of eligibility redetermination and disenrollment are **RESCINDED**.

Your case is RETURNED to the Marketplace to assist you in reenrolling into a QHP for coverage with an effective date of August 1, 2015, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

Effective Date of this Decision: April 12, 2016

How this Decision Affects Your Eligibility

The Marketplace erred in disenrolling you from qualified health plan effective July 31, 2015, without proper notice.

Your case is being sent back to the Marketplace to assist you in reenrolling into a health plan for coverage as of August 1, 2015, if you so choose.

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 July 19, 2015 notices of eligibility redetermination and disenrollment are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to assist you in reenrolling into a QHP for coverage with an effective date of August 1, 2015, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

The Marketplace erred in disenrolling you from qualified health plan effective July 31, 2015, without proper notice.

Your case is being sent back to the Marketplace to assist you in reenrolling into a health plan for coverage as of August 1, 2015, if you so choose.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

