



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

Notice of Decision

Decision Date: September 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007794

[REDACTED]

Dear [REDACTED]

On August 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s March 5, 2016 eligibility determination notice and disenrollment notice.

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 Account ID 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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Issues

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

Did NY State of Health (NYSOH) properly determine that your eligibility for financial assistance and enrollment in a qualified health plan ended effective March 31, 2016?

Did NYSOH properly terminate your spouse's enrollment in her qualified health plan effective March 31, 2016?

Procedural History

On December 6, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible and your spouse was eligible to purchase a qualified health plan at full cost, effective January 1, 2016. The notice further directed you to provide documentation confirming your citizenship status before February 28, 2016.

On January 26, 2016, a disenrollment notice was issued stating your request to end you and your spouse's coverage with your Silver level qualified health plan was received. Your coverage would end February 29, 2016.

On January 26, 2016, NYSOH issued a notice confirming you and your spouse's enrollment in a Silver level qualified health plan starting March 1, 2016.

On March 5, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or

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cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost because you had not confirmed your citizenship status within the required timeframe. Your eligibility for coverage ended effective March 31, 2016.

On March 5, 2016, a disenrollment notice was issued terminating you and your spouse's enrollment in a Silver level qualified health plan effective March 31, 2016.

On March 9, 2016, you contacted NYSOH's Account Review Unit and appealed the March 5, 2016 eligibility determination insofar as it ended your eligibility and enrollment in a qualified health plan on March 31, 2016 and the March 5, 2016 disenrollment notice insofar as it ended your spouse's coverage as of March 31, 2016.

On August 23, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide proof of your citizenship status in the form of a copy of your passport, or certificate of naturalization. By the date the record closed, the NYSOH's Appeals Unit had not received a copy of your passport or certificate of naturalization.

Findings of Fact

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

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified your e-mail address has not changed since initially applying for health insurance with NYSOH.
- 3) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your eligibility was only conditional and that you needed to provide documentation of your citizenship status.
- 4) You testified you did not receive a regular mail notice stating you and your spouse's eligibility had ended March 31, 2016.
- 5) You testified that you did not know that you needed to submit documentation of your citizenship status until you contacted NYSOH on March 9, 2016, you testified that you had been found eligible for enrollment for 2014 and 2015, and did not think there was any reason why you would be found ineligible for 2016.

- 6) The record reflects that the NYSOH's Appeals Unit has not received a copy of your passport or certificate of naturalization.
- 7) You testified you are a naturalized citizen. You testified you became a naturalized citizen two and a half years ago. You were unable to provide an exact date.
- 8) Your application states you are a U.S. Citizen.
- 9) You testified you are in the process of applying for and receiving your U.S. passport.
- 10) You testified that you are seeking reinstatement in your qualified health plan for you and your spouse.

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 NY State of Health (NYSOH), 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)).

NYSOH 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 NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH 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 NYSOH 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)).

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Enrollment in a Qualified Health Plan

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH 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)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were no longer eligible to enroll in a qualified health plan through NYSOH, effective March 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH 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.

In the eligibility determination issued on December 6, 2015, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before February 28, 2016.

No updates were made to your account, and no documentation was received by NYSOH before February 28, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which directed you that your eligibility was only conditional and that you needed to submit documentation to confirm your citizenship status. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your citizenship.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the March 5, 2016 eligibility redetermination stating that you are no longer eligible for coverage effective March 31, 2016 for failure to submit documentation is **RESCINDED**.

The second issue under review is whether the NYSOH properly terminated your spouse's coverage under her qualified health plan effective March 31, 2016.

When a qualified individual loses coverage considered to be minimum essential coverage, that individual may be entitled to a special enrollment period in which to reenroll. After your coverage was terminated for failure to provide citizenship

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documentation, your spouse continued to be eligible. Her loss of coverage is not considered to be voluntary on her part, because there were no outstanding requirements for her to remain eligible.

Therefore, when your coverage terminated, your spouse's coverage should not have been. Once her coverage ended, she should have been granted a special enrollment period in which to sign up for new coverage.

Generally, a person is given 60 days to enroll into a health plan after a qualifying event. Since your wife was not informed of her eligibility for a special enrollment period before it expired, she is granted an additional sixty days from the date of this decision to reenroll.

Therefore, the March 5, 2016, disenrollment notice stating you and your spouse's coverage in your qualified health plan ended effective March 31, 2016 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to assist you and your spouse in reenrolling into a health plan for coverage with an effective date of April 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage, otherwise the effective date of your new plan will depend on the date you select a new health plan.

Decision

The March 5, 2016, notice of eligibility redetermination is **RESCINDED**.

The March 5, 2016, disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to assist you in reenrolling into a health plan for coverage with an effective date of April 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage. Otherwise, the effective date of your new plan will depend on the date you select a new health plan.

Effective Date of this Decision: September 15, 2016

How this Decision Affects Your Eligibility

NYSOH erred in disenrolling you from qualified health plan effective March 31, 2016, without the proper notice.

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NYSOH erred in disenrolling your spouse from her qualified health plan involuntarily effective March 31, 2016.

Your case is being sent back to NYSOH to assist you in reenrolling into a health plan for coverage as of April 1, 2016, 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 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 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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- By fax: 1-855-900-5557

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Summary

The March 5, 2016, notice of eligibility redetermination is RESCINDED.

The March 5, 2016, disenrollment notice is RESCINDED.

NYSOH erred in disenrolling you from qualified health plan effective March 31, 2016, without the proper notice.

NYSOH erred in disenrolling your spouse from her qualified health plan involuntarily effective March 31, 2016.

Your case is RETURNED to NYSOH to assist you in reenrolling into a health plan for coverage with an effective date of April 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage. Otherwise, the effective date of your new plan will depend on the date you select a new health plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

