



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

Notice of Decision

Decision Date: September 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007847

[REDACTED]

Dear [REDACTED],

On August 29, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's March 8, 2016 eligibility determination 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 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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Decision

Decision Date: September 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007847

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Issue

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

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

Procedural History

On December 4, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$22.00 in advance premium tax credits per month, effective January 1, 2016. The notice further requested that you provide documentation confirming your citizenship status before March 2, 2016.

On January 17, 2016 NYSOH issued a notice confirming your enrollment in a qualified health plan. Your plan enrollment would start March 1, 2016.

On March 8, 2016 NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, Essential Plan, or to receive tax credits or 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 8, 2016 NYSOH issued a disenrollment notice, indicating that your coverage in a qualified health plan would end effective March 31, 2016.

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On March 10, 2016 you spoke to NYSOH'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 March 31, 2016.

On August 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH'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 supports the following findings of fact:

- 1) You testified, that at the time of the December 4, 2015 eligibility determination you were receiving all of your notices from NYSOH via regular mail.
- 2) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your citizenship status.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you did not know that you needed to submit documentation of your citizenship status until March 9, 2016.
- 5) The record indicates that in the application that you submitted in December 2015 you indicated that you were a US Citizen. You testified that you are actually a Naturalized Citizen.
- 6) The record indicates that on March 10, 2016, your NYSOH application was updated to state that you are a Naturalized Citizen and your certificate number was verified by the system.

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 NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in

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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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible for financial assistance or 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 4, 2015 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 2, 2016. Since this notice was considered received on December 9, 2015, the March 2, 2016 deadline to submit the requested documentation was 84 days from the date you would have been made aware of the inconsistency.

Since NYSOH failed to provide you with the required 90 day period for you to submit the requested documentation, NYSOH's March 8, 2016 eligibility

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determination as well as the March 8, 2016 disenrollment notice are RESCINDED. The matter is RETURNED to NYSOH to assist you with the reenrollment in your qualified health plan as of the date you were disenrolled, or from a later date of your choosing.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The March 8, 2016 notice of eligibility determination stating that you are not eligible to enroll in coverage through NYSOH is RESCINDED.

The March 8, 2016 disenrollment notice stating that your coverage is terminated effective March 31, 2016 is RESCINDED.

The matter is RETURNED to NYSOH to assist you with the reenrollment in your qualified health plan as of the date you were disenrolled, or from a later date of your choosing.

Effective Date of this Decision: September 1, 2016

How this Decision Affects Your Eligibility

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NYSOH failed to provide you with the required 90 days to submit documentation. You were improperly disenrolled from your qualified health plan as a result.

Your case is being sent back to NYSOH to assist you in reenrolling into coverage from the date of your disenrollment or from a later date of your choosing.

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 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
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Summary

The March 8, 2016 notice of eligibility determination stating that you are not eligible to enroll in coverage through NYSOH is RESCINDED.

The March 8, 2016 disenrollment notice stating that your coverage is terminated effective March 31, 2016 is RESCINDED.

The matter is RETURNED to NYSOH to assist you with the reenrollment in your qualified health plan as of the date you were disenrolled, or from a later date of your choosing.

NYSOH failed to provide you with the required 90 days to submit documentation. You were improperly disenrolled from your qualified health plan as a result.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

