



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

Notice of Decision

Decision Date: December 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009187

[REDACTED]

Dear [REDACTED],

On December 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 20, 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009187



Issue

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

Did NY State of Health (NYSOH) properly determine that you were disenrolled from the Essential Plan effective March 31, 2016?

Procedural History

On December 14, 2015, NYSOH received an update to your application for health insurance.

On December 15, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 14, 2015 application. The notice stated that you were eligible to enroll in the Essential Plan for a limited time. You were directed to provide proof of your citizenship status by March 13, 2016. This eligibility determination was effective January 1, 2016.

Also on December 15, 2015, NYSOH issued an enrollment notice confirming your selection of an Essential Plan, with coverage starting January 1, 2016.

No documentation regarding your citizenship was received by March 13, 2016.

On March 20, 2016, NYSOH issued an eligibility determination 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. This was because you had

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not provided the requested documentation confirming your citizenship status within the required time frame. Your eligibility ended as of March 31, 2016.

On April 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the March 20, 2016 eligibility determination notice insofar as you had been disenrolled from your Essential Plan, effective March 31, 2016.

On December 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At your request, a Russian-language interpreter (ID # [REDACTED]) also attended the hearing. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: a copies of your U.S Passport and Social Security card. The record was to be closed one day after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On December 2, 2016, you provided the above referenced documents to the Appeals Unit through facsimile.

Accordingly, the record was closed on December 2, 2016.

Findings of Fact

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

- 1) You testified that you received the December 15, 2015 eligibility determination notice requesting that you provide proof of your citizenship status by March 13, 2016.
- 2) You testified that you contacted the insurance carrier, Empire Blue Cross Blue Shield (BCBS) during January 2016 and provided a copy of your U.S. Passport to them at that time. You further testified that provided this same document again shortly prior to your NYSOH hearing.
- 3) You were disenrolled from your Essential Plan effective March 31, 2016.
- 4) You testified that some of the confusion on your Citizenship status had occurred as a result of the variance between your name provided in your U.S. Passport, [REDACTED], and the name provided in your application, [REDACTED].
- 5) At the Hearing Officer's direction, on December 2, 2016, you provided copies of your U.S. Passport and Social Security card. This is the first time any such documentation appeared in your account.

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 health plan through NYSOH, including the Essential Plan, 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 then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-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 properly determined that you were disenrolled from the Essential Plan 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 five days after the date on the notice.

In the eligibility determination issued on December 15, 2015 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 14, 2016. Since this notice was considered received on December 20, 2015, the March 14, 2016 deadline to submit the requested documentation was 85 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 20, 2016 eligibility determination notice and the March 20, 2016 disenrollment notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to (1) reinstate enrollment in your Essential Plan as of the date you were disenrolled and (2) review the proof of citizenship documents you provided to NYSOH Appeals Unit on December 2, 2016.

Decision

The March 20, 2016 eligibility determination notice and the March 20, 2016 disenrollment notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to (1) reinstate enrollment in your Essential Plan as of the date you were disenrolled, (2) review the proof of citizenship documents you provided to NYSOH Appeals Unit on December 2, 2016, and to ensure that the name on your account matches the name on your identification.

Effective Date of this Decision: December 12, 2016

How this Decision Affects Your Eligibility

Your Essential Plan coverage is reinstated as of April 1, 2016.

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.

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 20, 2016 eligibility determination notice and the March 20, 2016 disenrollment notice are RESCINDED.

Your case is RETURNED to NYSOH to (1) reinstate enrollment in your Essential Plan as of the date you were disenrolled, (2) review the proof of citizenship documents you provided to NYSOH Appeals Unit on December 2, 2016, and to ensure that the name on your account matches the name on your identification.

Your Essential Plan coverage is reinstated as of April 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

