



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

## Notice of Decision

Decision Date: November 2, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009365

[REDACTED]

Dear [REDACTED]

On October 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 3, 2016 eligibility determination 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 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009365



## 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 April 30, 2016?

## Procedural History

On October 3, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits, effective November 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before December 31, 2015.

On December 30, 2015, NYSOH issued a notice of eligibility determination stating that you were newly conditionally eligible to receive advance premium tax credits, effective February 1, 2016. The notice further requested that you provide documentation of your citizenship status before March 28, 2016.

Also on December 30, 2015, NYSOH issued an enrollment confirmation notice stating that your enrollment in a gold level qualified health plan would start February 1, 2016.

On April 3, 2016, NYSOH issued an eligibility determination notice stating that 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. You also could not enroll in a qualified health plan at full cost because you had not confirmed your

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citizenship status within the required timeframe. Your eligibility for coverage ended effective April 30, 2016. .

Also on April 3, 2016, NYSOH issued a disenrollment notice stating that your coverage in your gold level qualified health plan would end effective April 30, 2016.

On May 3, 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 October 26, 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, and the record reflects, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you received 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) The record reflects that NYSOH did not receive documentation of your citizenship status.
- 5) You testified that you are seeking reinstatement in your qualified health plan.

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 to enroll in a qualified health plan through NYSOH, effective April 30, 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 30, 2015 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before March 28, 2016.

You testified, and the record reflects, that you receive all of your notices from NYSOH via regular mail. You testified that you received notices stating that your eligibility was only conditional and that you needed to provide documentation of your citizenship status. The record reflects that NYSOH did not receive the requested citizenship documentation before the deadline.

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Therefore, NYSOH properly notified you of an inconsistency in your account and you did not submit the requested citizenship documentation before the deadline.

If NYSOH remains unable to verify the inconsistency after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship documentation was not received within the 90 day period, NYSOH was required to redetermine your eligibility without verification of your citizenship status. As a result, NYSOH properly determined that you could not enroll in a qualified health plan through NY State of Health effective April 30, 2016 because you did not provide the information requested by NYSOH.

Therefore, NYSOH's April 3, 2016 eligibility determination is correct and is AFFIRMED.

## **Decision**

The April 3, 2016 notice of eligibility determination is AFFIRMED.

**Effective Date of this Decision:** November 2, 2016

## **How this Decision Affects Your Eligibility**

NYSOH properly found you not eligible to enroll in a qualified health plan because you did not submit proof of your citizenship status.

## **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

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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 April 3, 2016 notice of eligibility determination is AFFIRMED.

NYSOH properly found you not eligible to enroll in a qualified health plan because you did not submit proof of your citizenship status

### **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

