



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

Notice of Decision

Decision Date: November 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009458

[REDACTED]

Dear [REDACTED],

On November 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 5, 2016 eligibility determination and May 5, 2016 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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009458



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 your eligibility for financial assistance and your and your spouse's enrollment in a qualified health plan ended effective May 31, 2016?

Procedural History

On January 31, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits of \$0.00 per month, effective March 1, 2016. The notice further directed you to provide documentation confirming your citizenship status before April 29, 2016, or your eligibility for coverage or financial assistance might end.

Also on January 31, 2016 NYSOH issued a notice confirming your and your spouse's enrollment in qualified health plan, effective March 1, 2016.

On May 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 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 May 31, 2016.

Also on May 5, 2016, NYSOH issued a disenrollment notice advising that coverage for you and your spouse would terminate on May 31, 2016 as you were no longer eligible to enroll in health insurance through NYSOH.

On May 6, 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 May 31, 2016.

On November 23, 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 you were not sure whether you had elected to receive notices from NYSOH via regular mail or electronic mail.
- 2) The record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 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 that upon being notified that the notice advising you to provide documentation of your citizenship status was sent via electronic mail, you searched through your electronic mail trash folder to determine whether you may have accidentally deleted the notice, however, the notice was not in your trash folder.
- 5) You testified that you did not know that you needed to submit documentation of your citizenship status until your spouse went to a doctor's appointment and was told your and her coverage had ended.
- 6) You testified that despite being disenrolled from your qualified health plan, your qualified health plan continued to collect premium payments from you through August 2016.
- 7) The record reflects that on May 6, 2016 you updated your application to NYSOH to include your naturalization certificate number and your alien registration number.

- 8) You testified that you are seeking reinstatement in your qualified health plan as of June 1, 2016.

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 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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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)).

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 May 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 January 31, 2016 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before April 29, 2016.

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

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH 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. Furthermore, you credibly testified that, after being informed that an alert was sent to you electronically, you searched your electronic mailbox for the alert, but could not find the alert. 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 May 5, 2016 eligibility determination stating that you are no longer eligible for financial assistance or to enroll in a qualified health plan for failure to submit documentation is **RESCINDED**.

Additionally, the May 5, 2016 disenrollment notice which found that you and your spouse were disenrolled from your qualified health plan effective May 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 June 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

Decision

The May 5, 2016 notice of eligibility determination is RESCINDED.

The May 5, 2016 disenrollment notice 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 June 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

Effective Date of this Decision: November 30, 2016

How this Decision Affects Your Eligibility

NYSOH erred in disenrolling you and your spouse from your qualified health plan effective May 31, 2016, without the proper notice.

Your case is being sent back to NYSOH to assist you and your spouse in reenrolling into a health plan for coverage as of June 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 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).

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 May 5, 2016 notice of eligibility determination is RESCINDED.

The May 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 June 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

NYSOH erred in disenrolling you and your spouse from your qualified health plan effective May 31, 2016, without the proper notice.

Your case is being sent back to NYSOH to assist you and your spouse in reenrolling into a health plan for coverage as of June 1, 2016, 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:

