



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

## Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010521

[REDACTED]

Dear [REDACTED],

On December 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 3, 2016 eligibility redetermination 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).

This page intentionally left blank.



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

## Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010521



## 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 and your spouse's eligibility to enroll in a qualified health ended effective May 31, 2016?

## Procedural History

On January 12, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective February 1, 2016. The notice further directed you to provide documentation confirming your and your spouse's citizenship status before April 10, 2016, or your eligibility for coverage might end.

Also on January 12, 2016, NYSOH issued a notice confirming your and your spouse's enrollment in a QHP.

On May 3, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were not eligible to enroll in a QHP at full cost through NYSOH because you had not confirmed your and your spouse's citizenship status within the required timeframe. There is no effective date listed on this eligibility redetermination.

Also on May 3, 2016, NYSOH issued a disenrollment notice that stated your and your spouse's coverage in your QHP would end effective May 31, 2016.

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).

On June 24, 2016, you updated your NYSOH account and submitted an application for non-financial assistance. On that date, NYSOH prepared a preliminary eligibility determination that found you and your spouse temporarily eligible to enroll in a QHP.

Also on June 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it found you and your spouse eligible to enroll in a QHP as of August 1, 2016.

On June 25, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to purchase a QHP at full cost through NYSOH, effective August 1, 2016. The notice stated that you and your spouse qualified to select a health plan outside of the open enrollment period for 2016. The notice further directed you to provide documentation confirming your and your spouse's citizenship status before September 22, 2016, or your eligibility for coverage might end.

Also on June 25, 2016, NYSOH issued a notice confirming your and your spouse's enrollment in a QHP, effective August 1, 2016.

On December 12, 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) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail; that is, by email alert.
- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your and your spouse's eligibility was only conditional and that you needed to provide documentation of your and your spouse's citizenship status. You testified that you did not receive any notices by regular mail either.
- 3) You further testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your and your spouse's eligibility was to end or that your enrollment in your QHP would terminate as of May 31, 2016. You testified that you did not receive any notices by regular mail either.

- 4) According to your NYSOH account and your testimony, on June 24, 2016, you contacted NYSOH and updated your family's application to include the fact that you moved within New York State.
- 5) You testified that, during this June 24, 2016, conversation with a NYSOH representative, you learned you needed to submit proof of citizenship for you and your spouse. You testified that when you first applied for health insurance with NYSOH in June 2015 you submitted copies of your and your spouse's passports via fax. However, there is no record of NYSOH receiving copies of your passports during this time frame.
- 6) According to your NYSOH account, on June 29, 2016, NYSOH received copies of your U.S. Passports as documentation of your citizenship status. (see Documents [REDACTED] and [REDACTED])
- 7) You testified that your spouse required medical treatment during the month of June 2016 and you incurred medical bills that month on her behalf.
- 8) You also testified that you are concerned that you and your spouse may face tax penalties for not having continuous health insurance in 2016.
- 9) You testified that you are seeking reinstatement in your and your spouse's QHP coverage 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 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 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 within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4)). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you and your spouse were no longer eligible to enroll in a QHP 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 12, 2016, you were advised that your and your spouse's eligibility was only conditional, and that you both needed to confirm your citizenship status before April 10, 2016.

The record reflects that NYSOH did not receive the requested citizenship documentation before the deadline. However, you testified this was because you had not received any alerts or notices stating additional information was needed.

Since you elected to receive communications from NYSOH electronically, it was required to post notices to your electronic account within one business day of notice generation. NYSOH was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

As noted above, 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. The record also does not indicate whether, if the electronic notice was not delivered, a paper notice was sent by regular mail within three business days of the date of a failed electronic communication.

Further, you credibly testified you did not receive electronic alerts informing you that the May 3, 2016 notices were available in your NYSOH account to the effect that your health coverage was being discontinued. There is also no evidence in your account documenting that any email alerts were sent to you in this regard of that the required citizenship documentation had still not been submitted. Nor does the record indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

Lacking evidence to the contrary, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your and your spouse's citizenship or that both of you were no longer eligible to enroll in a QHP and were being disenrolled from your QHP as of May 31, 2016.

Since you were not made aware of and did not receive proper notice that there was required documentation that was still missing in your NYSOH account, the May 3, 2016 eligibility redetermination notice stating that you and your spouse were no longer eligible to enroll in a QHP for failure to submit documentation and the May 3, 2016 disenrollment notice stating your coverage in your QHP would end May 31, 2016 are **RESCINDED**.

Your case is **RETURNED** to NYSOH to re-instate you and your spouse into your QHP for coverage to resume as of June 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to re-enroll in coverage for the months in question.

You also testified that you are concerned about being exposed to a tax penalty from the IRS for not having health insurance coverage for the requisite months during 2016.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You and your spouse 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 May 3, 2016 eligibility redetermination and disenrollment notices stating respectively that you and your spouse were not eligible to enroll in coverage through NYSOH and were disenrolled from your QHP, effective May 31, 2016, are RESCINDED.

Your case is RETURNED to NYSOH to re-instate you and your spouse into your QHP for coverage to resume as of June 1, 2016, if you so choose.

**Effective Date of this Decision:** February 1, 2017

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

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

Your case is being sent back to NYSOH to reinstate you and your spouse in your QHP for coverage to resume as of June 1, 2016, if you so choose.

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).



You will be responsible for any unpaid premiums if you choose to your and your spouse's QHP coverage reinstated as of June 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.

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 May 3, 2016 eligibility redetermination and disenrollment notices stating respectively that you and your spouse were not eligible to enroll in coverage

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).

through NYSOH and were disenrolled from your QHP, effective May 31, 2016, are RESCINDED.

Your case is RETURNED to NYSOH to re-instate you and your spouse into your QHP for coverage to resume as of June 1, 2016, if you so choose.

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

Your case is being sent back to NYSOH to reinstate you and your spouse in your QHP for coverage to resume as of June 1, 2016, if you so choose.

You will be responsible for any unpaid premiums if you choose to your and your spouse's QHP coverage reinstated as of June 1, 2016.

### **Legal Authority**

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

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

