



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

Notice of Decision

Decision Date: February 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011758

[REDACTED]

Dear [REDACTED]

On January 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 11, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011758

[REDACTED]

Issue

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

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

Procedural History

On March 26, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were conditionally eligible to receive advance premium tax credits of up to \$164.00 monthly, effective May 1, 2015. The notice further requested that you provide documentation confirming your citizenship status before June 23, 2015. You were subsequently enrolled in a qualified health plan.

Several later eligibility determinations also directed you to provide documentation confirming your citizenship status.

On April 14, 2015, a Form G-845 Document Verification Request from U.S. Citizenship Immigration Services was uploaded to your NYSOH account.

On April 16, 2015, a copy of the front and back of your type [REDACTED] United States Visa with expiration date June 18, 2017 was uploaded to your NYSOH account.

On July 2, 2015, NYSOH issued a notice stating that the notice further stated that the documentation you submitted was insufficient to resolve the inconsistency and directed you to submit additional documentation of immigration.

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On July 22, 2015, another copy of the front and back of your United States Visa was uploaded to your NYSOH account. This document was verified by NYSOH on October 27, 2015.

On October 28, 2015, NYSOH issued an eligibility determination notice, stating that you were eligible to receive of up to \$164.00 per month in advance payments of the premium tax credit, effective December 1, 2015.

On December 15, 2015, NYSOH issued an eligibility determination notice, based on your December 14, 2015 updated application, stating you were conditionally eligible to receive advance premium tax credits of up to \$164.00 monthly, effective January 1, 2016. The notice further requested that you provide documentation confirming your citizenship status before March 13, 2016.

On December 15, 2015, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan, effective January 1, 2016.

On August 11, 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 NYSOH did not receive information from federal data sources to confirm your immigration status. Your eligibility ended effective August 31, 2016.

Also on August 11, 2016, NYSOH issued a dis-enrollment notice stating your qualified health plan was terminated, effective August 31, 2016, because you were no longer eligible to remain enrolled in health coverage through NYSOH.

On August 17, 2016, NYSOH issued an eligibility determination notice, based on your August 16, 2016 updated application, stating you were conditionally eligible to receive advance premium tax credits of up to \$160.00 monthly, effective October 1, 2016. The notice further stated that NYSOH was checking federal data sources to confirm your immigration status and indicated that you would be contacted if you need to send in proof of an eligible immigration status. Finally, that notice stated you must have a qualifying event in order to select a plan outside of open enrollment.

On August 30, 2016, NYSOH issued an eligibility determination notice, based on your August 29, 2016 updated application, stating you were eligible to receive advance premium tax credits of up to \$160.00 monthly, effective October 1, 2015. The notice further stated that you must have a qualifying event in order to select a plan outside of open enrollment.

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Also on August 30, 2016, you spoke to NYSOH's Account Review Unit and appealed the August 11, 2016 eligibility determination insofar as it ended your financial assistance eligibility and enrollment in a qualified health plan on August 31, 2016.

On September 2, 2016, you were granted Aid to Continue and you enrolled in a qualified health plan, effective September 1, 2016.

On January 17, 2017, 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) Your original March 25, 2015 application for health insurance through NYSOH lists your immigration status as non-immigrant visa holder and indicated that you submitted a Form "I-94 Arrival/Departure Record in Unexpired Foreign Passport".
- 2) You testified, that you were asked to provide additional proof of your immigration status at the time you first applied for health insurance through NYSOH in March 2015.
- 1) The record reflects that on April 14, 2015, a Form G-845 Document Verification request from U.S. Citizenship Immigration Services was uploaded to your NYSOH account. Additionally, on April 16, 2015, a copy of the front and back of your type █████ United States Visa with expiration date June 18, 2017 was uploaded to your NYSOH account
- 2) NYSOH issued a notice indicating that the documentation you submitted was insufficient to resolve the inconsistency and directed you to submit additional documentation of immigration.
- 3) On July 22, 2015, another copy of the front and back of your United States Visa was uploaded to your NYSOH account.
- 4) NYSOH verified this documentation on October 27, 2015.
- 5) You were determined fully eligible to receive advance payments of the premium tax credit on October 28, 2015.
- 6) The record reflects you contacted NYSOH to update your account on December 14, 2015.

- 7) Following the update, NYSOH updated your eligibility to conditionally eligible to receive advance premium tax credits pending proof of your immigration status by March 13, 2016.
- 8) You testified that you called NYSOH following receipt of the December 15, 2015 notice requesting additional proof of your immigration status wherein you were advised that you had already provided the documentation being requested and therefore did not have to submit it again.
- 9) You testified that you contacted NYSOH in August 2016, following receipt of the August 11, 2016 disenrollment notice, and you were advised that you had to submit a copy of your visa again.
- 10) You testified that you tried to re-enroll into a plan at that time, but there was a “glitch” that prevented you from doing so.
- 11) The record reflects that the “system” redetermined your eligibility on August 29, 2016, and you were determined fully eligible to receive advance payments of the premium tax credit of up to \$160.00 monthly; however, you were required to establish grounds for a special enrollment period in order to enroll in a qualified health plan outside of the 2016 open enrollment period for 2016.
- 12) The record reflects you were disenrolled from your qualified health plan on August 31, 2016.
- 13) The record reflects you were granted “Aid to Continue” on September 2, 2016, and you were enrolled in a qualified health plan with advance premium tax credits of \$160.00 monthly, effective September 1, 2016.
- 14) You testified you are seeking reinstatement in your qualified health plan as of September 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 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 NYSOH properly determined you were no longer eligible to enroll in a qualified health plan through NYSOH, effective August 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 original eligibility determination issued on March 26, 2015, you were advised that your eligibility was only conditional, and you needed to confirm your citizenship status before June 23, 2015.

The record reflects that at the time of your original application, you provided a Form I-94 Arrival/Departure Record and an unexpired Foreign Passport. Additionally, the record establishes that in April 2015, you uploaded to your NYSOH account a Form G-845 Document Verification request from the U.S. Citizenship Immigration Services as well as a copy of the front and back of your

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type [REDACTED] United States Visa with expiration date June 18, 2017. You re-submitted a copy of your visa on July 22, 2015 in response to a letter from NYSOH requesting additional documentation of your immigration status.

The record reflects that NYSOH verified your documentation on October 27, 2015 and thereafter determined you fully eligible to receive advance premium tax credits, effective December 1, 2015. However, on December 15, 2015, following an application update, NYSOH changed your eligibility from fully eligible for advance payments of the premium tax credit to conditionally eligible pending proof of your immigration status.

The record reflects that no additional documentation was submitted, and on August 11, 2016, NYSOH determined you ineligible to enroll in a health plan through NYSOH because your immigration status was unable to be confirmed. Your eligibility ended effective August 31, 2016. As a result, you were disenrolled from your qualified health plan as of August 31, 2016.

Pursuant to the above cited regulations, in order 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.

In the present case, the record establishes that NYSOH properly notified you of an inconsistency in your account through the March 26, 2016 eligibility determination notice. However, the record further establishes that you had previously provided sufficient documentation establishing that you are a lawfully present non-citizen at the time you uploaded your unexpired United States Visa in April 2015. This documentation was verified by NYSOH on October 27, 2015 and you were thereafter determined fully eligible to receive advance premium tax credits as of December 1, 2015. Accordingly, you should not have been required to re-submit this documentation to confirm your eligibility.

Therefore, the December 15, 2015 eligibility determination, to the extent it states that your eligibility for advance payments of the premium tax credit is conditional upon your providing documentation to confirm your immigration status is MODIFIED and to reflect that you were fully eligible to receive advance premium tax credits, effective January 1, 2016.

Additionally, the August 11, 2016 eligibility determination notice stating you were not eligible for Medicaid, Child Health Plus, to receive tax credits or to enroll in a qualified health plan at full cost, as of August 31, 2016, because NYSOH did not receive information from federal data sources to confirm your immigration status is not correct and is RESCINDED.

Finally, the August 11, 2016 notice of dis-enrollment stating your qualified health plan was terminated, effective August 31, 2016, because you were no longer eligible to remain enrolled in health coverage through NYSOH, is not correct and is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan as of September 1, 2016.

Decision

The December 15, 2015 notice of eligibility determination is MODIFIED to reflect that you were fully eligible to receive advance premium tax credits, effective January 1, 2016.

The August 11, 2016 eligibility determination notice is RESCINDED.

The August 11, 2016 notice of dis-enrollment is RESCINDED

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan as of September 1, 2016.

Effective Date of this Decision: February 6, 2017

How this Decision Affects Your Eligibility

You are fully eligible to receive advance premium tax credits.

Your case is returned to NYSOH to reinstate you in your qualified health plan as of September 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 December 15, 2015 notice of eligibility determination is MODIFIED and RETURNED to NYSOH to reflect that you were fully eligible to receive advance premium tax credits, effective January 1, 2016.

The August 11, 2016 eligibility determination notice is RESCINDED.

The August 11, 2016 notice of dis-enrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan as of September 1, 2016.

You are fully eligible to receive advance premium tax credits.

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:

