



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

**Notice of Decision**

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001279

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On January 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 26, 2014 disenrollment notice and December 28, 2014 eligibility redetermination.

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 at the top of this notice.

**Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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## Decision

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[REDACTED]  
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[REDACTED]

## Issue

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

Did the Marketplace properly determine that the effective date for your and your spouse's enrollment in a qualified health plan was February 1, 2015?

## Procedural History

On November 4, 2014, the Marketplace issued a notice which stated that it was time to renew your health coverage for 2015, it cannot enroll you and your spouse in your current health plan, and you both need to select a different health plan if you want coverage in 2015. The notice also stated that, effective January 1, 2015, you and your spouse qualified for Medicaid because federal and state data sources show that your income was between \$0 and \$21,707.00. The notice further stated that if you think the Marketplace had made a mistake about the people listed to be covered or the health plan you have been enrolled in, you can make changes to your account between November 16, 2014 and December 15, 2014, for your new plan to be effective January 1, 2015.

On December 26, 2014, the Marketplace sent you a disenrollment notice which stated that your coverage with Fidelis Care Bronze would end effective December 31, 2014.

On December 27, 2014, income and other information in your application was modified.

On December 28, 2014, the Marketplace issued an eligibility redetermination notice based on the modified income information. The notice stated that you and your spouse were newly eligible for \$285.00 per month in advance premium tax credits (APTC) effective as of February 1, 2015.

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On December 27, 2014, you contacted the Marketplace's Account Review Unit and requested an appeal on the enrollment start date of your plan and asked that the hearing on your appeal be expedited.

On January 22, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to provide a letter from your insurance carrier regarding your 2015 renewal health insurance.

As of Sunday, February 8, 2015, two copies of the front side of a November 2014 letter from Fidelis Care had been uploaded to your Marketplace account. The Appeals Unit considers the Fidelis letter to be timely received and made it part of the record as "Appellant's Exhibit A." The record was closed the next business day, February 9, 2015.

## **Findings of Fact**

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

- 1) The record contains a notice dated November 18, 2013, which states that you have chosen to receive all information from the Marketplace electronically.
- 2) You testified that you never received an email notice from the Marketplace in November 2014, that there was a new document waiting in your inbox; namely, the November 4, 2014 notice that it's time to renew your health coverage.
- 3) You testified that you did not go into your Marketplace Inbox at that time because you had no reason to. According to your Marketplace Inbox, as of February 9, 2015, the renewal notice and all other documents contained therein have not been opened and viewed.
- 4) You testified that your health plan, Fidelis Care, sent you a notice in November 2014 regarding your health insurance options for 2015. That notice stated that, "On January 1, 2015, your current coverage will be automatically renewed, as long as you continue to be eligible for coverage, unless you choose another policy" (Appellant's Exhibit A).
- 5) It further states that, "If you want to keep your current policy, you don't need to do anything more. You will receive information from the Marketplace in December confirming your plan selection, including information about your new premium, as well as tax credits and premium assistance eligibility. Your new premium will start on January 1, 2015" (Appellant's Exhibit A).
- 6) You testified that, based on the November 2014 letter from Fidelis Care, you believed you and your wife had been automatically renewed for 2015 in Fidelis

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Care Bronze, the same plan you had in 2014, and did not need to do anything further until it was time to make your first monthly premium payment.

- 7) You testified that you were not aware that you had been disenrolled from your health plan coverage until you received the Marketplace's disenrollment notice, dated December 26, 2014.
- 8) You testified that you were further perplexed when you and your wife received common benefit insurance cards (CBIC) in the mail for Medicaid coverage from January 1, 2015 to January 31, 2015.
- 9) You testified that you called the Marketplace to ask why you and your wife had been put on Medicaid. You stated that, during that conversation, the Marketplace's Customer Service Unit reran your eligibility and said you and your wife did not qualify for Medicaid and should not have been put in that program. You further testified that since you had not chosen Medicaid, you requested that your enrollment in Medicaid be cancelled and that the Marketplace processed your cancellation request of Medicaid coverage for January 2015.
- 10) You testified you thought that, by cancelling your and your wife's enrollment in Medicaid, your coverage in the Fidelis Care Bronze Plan would be re-instated for January 1, 2015, and you would have continuous coverage.
- 11) You testified that you contacted Fidelis Care on several occasions in January 2015 in an attempt to make payment of your first 2015 monthly premium. You further testified that you and/or your wife were told each time that you do not have coverage with Fidelis Care for January 2015 and they cannot accept your premium payment for that month until the Marketplace says you have coverage for that month.
- 12) You testified that you re-enrolled in the Fidelis Care Bronze Plan on December 27, 2014, however your enrollment in the plan was not effective until February 1, 2015. A Marketplace notice issued December 28, 2014, confirms your and your wife's enrollment in this plan on December 27, 2014, with the effective date of February 1, 2015.
- 13) You testified that your wife made the premium payments for February 2015 and March 2015 to Fidelis Care in advance and you had/have coverage or those months.
- 14) You testified that as a result of the Marketplace disenrolling you from your Fidelis Care Bronze Plan, you incurred out-of-pocket expenses for prescription medications during January 2015 and were terrified to go to your doctors for necessary treatment and care for fear of going into bankruptcy.

15) You testified that you want your couple's health insurance plan reinstated effective January 1, 2015, so that you and your wife will not have a gap in health coverage.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a Qualified Health Plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)).

For the benefit year beginning on January 1, 2015, the Marketplace must ensure coverage is effective on January 1, 2015 for QHP selections made on or before December 15, 2014 (45 CFR §155.410(f)(1)). The New York State of Health extended the December 15, 2014 deadline to December 20, 2014, for coverage beginning January 1, 2015 (NY State Department of Health Press Release, December 12, 2014).

The Marketplace must ensure coverage is effective on February 1, 2015, for QHP selections received by the Marketplace from December 16, 2014 through January 15, 2015 (45 CFR §155.410(f)(2)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that the effective date for your and your wife's enrollment in a qualified health plan (QHP) was February 1, 2015.

You testified that you did not receive an email that informed you that there was a new notice waiting to be viewed in your Marketplace account and, as such, you did not view the November 5, 2014 notice that instructed you to update your account before December 15, 2014 for your new plan to be effective January 1, 2015.

On December 26, 2014, the Marketplace sent you a disenrollment notice which stated that your coverage with Fidelis Care Bronze would end effective December 31, 2014. The disenrollment was a result of you being found eligible for Medicaid in the November 4, 2014 notice based on data sources that were made available to the Marketplace at the time of your annual renewal.

On December 27, 2014, you updated the income and other information in your Marketplace account and you and your wife were found newly eligible for an advance

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premium tax credit (APTC) with an eligibility effective date of February 1, 2015. You testified that you reenrolled in the Fidelis Care Bronze Plan on February 6, 2015.

The Marketplace guarantees a coverage effective date of January 1, 2015 for any enrollee who selects a QHP on or before December 15, 2014. The Marketplace extended this deadline to December 20, 2014. For enrollees who select a plan before January 15, 2015, the Marketplace guarantees a coverage effective date of February 1, 2015.

However, you provided evidence that Fidelis Care sent you information in November 2014 that reasonably lead you to believe that you did not need to do anything but pay your January premium in order for your insurance coverage to continue uninterrupted for January. You credibly testified that you relied on this information from Fidelis Care and only when you received a disenrollment notice from the Marketplace did you become alarmed. You testified you became further perplexed when you received CBIC cards in the mail for Medicaid coverage from January 1, 2015 to January 31, 2015 and, even though you thought this was straightened out when you requested that the Marketplace cancel your Medicaid coverage for January 2015, you learned when you attempted to pay your January premium that your disenrollment from Fidelis Care Bronze had not been retroactively reinstated to January 1, 2015, and you and your wife remained disenrolled for that month. Due to this course of events, you were unable to re-enroll in your plan prior to the December 20, 2014 deadline that would have guaranteed you a coverage effective date of January 1, 2015. Therefore, the December 28, 2014 eligibility redetermination is MODIFIED to state that your eligibility for the 2015 coverage year is effective January 1, 2015.

## **Decision**

The December 28, 2014 eligibility determination is MODIFIED to state that your eligibility for the 2015 coverage year is effective January 1, 2015.

**Effective Date of this Decision:** June 16, 2015

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

You 2015 insurance coverage with Fidelis Care Bronze Plan is effective as of January 1, 2015.

## **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 date 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 date 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 28, 2014 eligibility determination is MODIFIED to state that your eligibility for the 2015 coverage year is effective January 1, 2015.

You 2015 insurance coverage with Fidelis Care Bronze Plan is effective as of January 1, 2015.

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## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]