



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

Notice of Decision

Decision Date: July 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001391

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On February 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and January 3, 2015 eligibility determinations.

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).

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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Issues

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

Did the Marketplace properly determine on December 21, 2014 that you were eligible to purchase a qualified health plan at full cost effective January 1, 2015?

Did you have health coverage through Fidelis Care Silver during the month of January?

Procedural History

The Marketplace received your initial application for health insurance on September 11, 2014.

On September 12, 2014, the Marketplace issued a notice that stated you were eligible to receive up to \$287.00 per month in advance premium tax credit (APTC), to receive cost-sharing reductions if you enrolled in silver level health plan, and for the APTC Premium Assistance program, which could reduce your premium to zero if you selected a silver level health plan and used the entire amount of your APTC.

Also on September 12, 2014, you enrolled in Fidelis Care Silver; with the APTC Premium Assistance program, the total cost to you for the premium would be \$0.00. Your coverage with Fidelis Care Silver began October 1, 2014.

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On November 6, 2014 and on November 20, 2014, the Marketplace issued notices that stated it was time to renew your health insurance coverage for 2015. The notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for continuing financial help in paying for your health coverage in 2015. You were directed to update the information in your NY State of Health account by December 15, 2014, or the financial help you were receiving might end.

No updates were made to your account before December 15, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you were newly eligible to purchase a qualified health plan at full cost. You were not eligible to receive APTC because “renewal period and income data [was] not available.” You were not eligible for cost-sharing reductions because you were ineligible to receive APTC. You were not eligible for Medicaid because your household income was in excess of that allowed by that program. This eligibility was effective January 1, 2015.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in Fidelis Care Silver with a premium responsibility of \$383.54. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin. If you do not pay your premium, you may not health coverage.

On January 2, 2015, information in your Marketplace account was updated.

On January 3, 2015, the Marketplace issued an eligibility determination notice that stated you were newly eligible to receive up to \$294.00 in APTC, to receive cost-sharing reductions if you enrolled in a silver level health plan, and for the APTC Premium Assistance program, which could reduce your premium to zero if you selected a silver level health plan and used the entire amount of your APTC. This eligibility was effective February 1, 2015.

Also on January 3, 2015, the Marketplace issued an enrollment confirmation notice that stated as of January 2, 2015 you were enrolled in Healthfirst Silver Leaf Premier, with a premium responsibility of \$0.00. The notice further stated that your health insurance coverage could start as early as February 1, 2015 if you pay your first month’s premium.

On January 8, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the eligibility determinations insofar as they began your financial assistance eligibility on February 1, 2015, and not January 1, 2015.

On January 9, 2015, a disenrollment notice was issued that stated you requested to end your insurance coverage with Fidelis Care Silver on January 2, 2015. The

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notice further stated that you will no longer have coverage with Fidelis Care Silver effective January 31, 2015.

On February 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace'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 originally applied for insurance through the Marketplace in September of 2014 with the help of a certified application counselor. At that time, your certified application counselor gave no indication that you would have to renew your information for 2015.
- 2) You testified that you enrolled with Fidelis Care Silver and that you received billing statements for October, November, and December for \$0.00.
- 3) You testified that the first time you became aware that you needed to update your Marketplace account was when you received the December 23, 2014 notice, which listed your premium responsibility amount as \$383.54.
- 4) You testified, and the Marketplace's records reflect, that you called the Marketplace in the beginning of January and were told that you had not updated your information, so you were being charged for the full premium amount for your Fidelis Care plan. You further testified that none of your information had changed since you applied for insurance in September.
- 5) You testified that you called Fidelis Care in early January and they also told you that you had to pay the full premium for the month of January. You further testified that you cancelled your plan through Fidelis that day because you could not pay the full premium amount, however you were told your coverage with that plan would not end until January 31, 2015.
- 6) You testified that you did not use any insurance in the month of January.

- 7) You testified that Fidelis is sending you bills for the January premium and that you cannot afford to pay the premium amount without financial assistance.
- 8) You testified that you enrolled in Healthfirst Silver in January after you terminated your coverage with Fidelis.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has chosen to do so.

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the information by which the Marketplace will use to determine an individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 6, 2014 and on November 20, 2014, the Marketplace issued annual eligibility redetermination notices in your case. Those notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for financial help paying for your health coverage. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

Although you stated that you had not received the notices, our records indicate that the notices were issued, and that there is no indication that any mail was returned as undeliverable.

On December 15, 2014 the Marketplace had not received any updated information from you. Therefore, the Marketplace was required to use the information that was contained in the November 6, 2014 and the November 20, 2014 notices in order to determine your eligibility for coverage beginning January 1, 2015. On December 22, 2014, the Marketplace issued a notice that stated you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You were not eligible to receive an advance premium tax credit (APTC) because renewal period and income data was not available. This finding

was necessitated by the federal regulations noted above and, therefore, the Marketplace's December 22, 2014 eligibility determination is AFFIRMED.

The second issue is whether you had coverage through Fidelis Care Silver in January.

On December 23, 2015, the Marketplace issued a letter that stated you were enrolled in Fidelis Care Silver with a premium responsibility of \$383.54. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

You testified that you did not pay any premium to Fidelis Care Silver. By not paying your premium, your coverage through Fidelis Care Silver should never have started as stated in the December 23, 2015 notice, and you should not be charged for a premium amount for coverage that never began. You further testified that you called in the beginning of January to verbally terminate your plan with Fidelis Care Silver. Although this was not necessary to end your coverage with Fidelis Care Silver, it further evidences your intent to not have coverage with Fidelis Care Silver for the 2015 insurance year.

Decision

The December 22, 2014 eligibility determination is AFFIRMED.

You did not have coverage with Fidelis Care Silver for the month of January and should not be charged a premium for that month from Fidelis Care Silver.

Effective Date of this Decision: July 22, 2015

How this Decision Affects Your Eligibility

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

You did not have health insurance coverage through Fidelis Care Silver for the month of January.

You are eligible for up to \$294.00 per month in advance premium tax credit (APTC), cost-sharing reductions, and the APTC Premium Assistance Program, effective February 1, 2015.

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).

Effective February 1, 2015, you are enrolled in Healthfirst Silver Leave Premier.

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:
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- By fax: 1-855-900-5557

Summary

The December 22, 2014 eligibility determination is AFFIRMED.

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You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

You did not have health insurance coverage through Fidelis Care Silver for the month of January.

You are eligible for up to \$294.00 per month in advance premium tax credit (APTC), cost-sharing reductions, and the APTC Premium Assistance Program, effective February 1, 2015.

Effective February 1, 2015 you are enrolled in Healthfirst Silver Leave Premier.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]