



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

Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001542

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 9, 2014 eligibility determination and January 9, 2015 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 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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[REDACTED]
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Issues

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

Did the Marketplace properly reenroll you in coverage effective January 1, 2015?

Did the Marketplace properly determine that your coverage through the Marketplace ended effective January 31, 2015?

Procedural History

The Marketplace received your initial non-financial assistance application on October 9, 2013.

On October 20, 2013, the Marketplace issued a notice confirming that you chose to receive all information from the New York Marketplace electronically.

On October 18, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for the next year. The notice stated that the Marketplace would re-enroll you in your current health plan for another year effective January 1, 2015. However, if you wanted to change your health plan or if the information on your application was inaccurate, you would have to update your account between November 16, 2014 and December 15, 2014 in order for any such changes to be effective January 1, 2015.

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On December 9, 2014, the Marketplace issued an enrollment confirmation notice, stating that as of November 18, 2014, you were enrolled in your health insurance plan with a premium responsibility of \$475.90.

On December 25, 2014, the Marketplace issued a notice, which stated that your insurance coverage with Fidelis Care Gold would end effective December 31, 2014, but that you would be automatically renewed in the same plan for 2015.

On January 9, 2015, the Marketplace issued a disenrollment notice, which stated that you requested to end your insurance coverage with Fidelis Care Gold ST INN Pediatric Dental Dep25 on January 5, 2015. The notice further stated that your coverage with the plan would end effective January 31, 2015.

On January 22, 2015, you spoke with the Marketplace's Account Review Unit and appealed the January 9, 2015 disenrollment notice insofar as it did not terminate your coverage with Fidelis Care Gold ST INN Pediatric Dental Dep25 as of January 1, 2015.

On March 5, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

On March 7, 2015, you faxed three copies of your supporting evidence to the Marketplace's Appeals Unit. The evidence included a written statement from you; a copy of a notice issued by UnitedHealthcare Oxford dated December 9, 2014 indicating an enrollment period beginning January 1, 2015; a copy of a letter you wrote to UnitedHealthcare Oxford dated December 13, 2014; a copy of your UnitedHealthcare Oxford invoice summary for coverage beginning January 1, 2015 to January 31, 2015; and a copy of your Consumer Complaint submitted to the New York State Department of Financial Services against the Marketplace. The Marketplace's Appeals Unit received your evidence on March 9, 2015.

On March 9, 2015, the Marketplace's Appeals Unit received another copy of your supporting evidence.

On March 10, 2015, the Marketplace's Appeals Unit received another copy of your supporting evidence.

These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

The record was closed on March 20, 2015.

Findings of Fact

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

- 1) The record reflects that, as of October 20, 2013, you elected to receive all information from the New York Marketplace electronically.
- 2) The record reflects that you enrolled in Fidelis Care Gold for 2014 coverage effective January 1, 2014.
- 3) You testified that you did not remember that you had elected electronic communications from the Marketplace.
- 4) However, you also testified that you had received emails from the Marketplace that indicated you had received notices from the Marketplace in your account, but that you did not access your Marketplace account to review the notices. You testified that you did not wish to renew your coverage with Fidelis and purchased different health insurance coverage outside of the Marketplace, directly through UnitedHealthcare Oxford in December 2014. You testified that you did not change your 2015 coverage through the Marketplace. You further testified that you submitted your application and a check for the January 2015 premium to UnitedHealthcare Oxford on December 2, 2014.
- 5) You testified, and provided evidence, that you paid \$741.81 for your January 2015 premium with UnitedHealthcare Oxford (Appellant's Exhibit 1, March 7, 2015).
- 6) You testified that you called Fidelis at the end of December 2014 to cancel your plan. You testified that Fidelis told you that you must speak with the Marketplace to cancel your plan.
- 7) You testified that you then called the Marketplace to cancel your plan. You further testified that the Marketplace representative informed you that you must access your Marketplace account online to cancel your plan.
- 8) According to Marketplace records, you called the Marketplace on January 22, 2015, and stated that you had called on January 3, 2015 to cancel your coverage through the Marketplace.
- 9) You testified that you did not know that you were enrolled in UnitedHealthcare Oxford, nor did you have your health plan number, until January 3, 2015. You further testified that you ultimately received your UnitedHealthcare Oxford cards on January 10, 2015.

- 10) You testified that you accessed your Marketplace account on January 3, 2015 to cancel your plan. You further testified that you spoke with a Marketplace representative named [REDACTED] who told you that you must manually cancel your Fidelis Care Gold health plan and must wait for the confirmation notice from the Marketplace to file an appeal.
- 11) You testified that you do not want to pay for the January 2015 premium for Fidelis because you already had coverage through UnitedHealthcare Oxford for the month of January 2015.
- 12) You testified that you have also had a hearing with Fidelis regarding the same issue but have not received a decision as of the March 5, 2015 hearing with NY State of Health.
- 13) The record reflects that you canceled your Fidelis Care Gold plan through the Marketplace on January 5, 2015. The record further reflects that your coverage with Fidelis Care Gold terminated effective January 31, 2015.
- 14) You testified that you did not cancel your plan with Fidelis earlier because you did not want a gap in coverage, therefore, you could not cancel one plan until you had a new plan in place.
- 15) You provided evidence that you have also submitted a complaint regarding this issue to the New York State Department of Financial Services (Appellant's Exhibit 1, March 7, 2015).

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 individual's projected eligibility for that year, including any expected eligibility for financial assistance (45 CFR § 155.335(c)(3)). The notice must allow a

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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 within a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice, and any reported changes (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)).

2015 Annual Open Enrollment Period

For changes to qualified health plan selections received by the Marketplace before December 20, 2014, the enrollee's coverage would be effective January 1, 2015 (45 CFR § 155.410(f)(1)(i)), NY State of Health Extends December 15 Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-extends-december-15-enrollment-deadline> [last updated December 12, 2014]).

For changes to qualified health plan selections received by the Marketplace between December 21, 2014 and January 15, 2015, the enrollee's coverage would be effective February 1, 2015 (45 CFR § 155.410(f)(1)(ii)).

Legal Analysis

The first issue is whether the Marketplace properly reenrolled you in your plan for 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 October 18, 2014, the Marketplace issued an annual renewal notice in your case. That notice stated that you would be reenrolled in your current plan automatically for 2015. If you wanted to change your health plan or if the information on your application was inaccurate, you would have to update your account between November 16, 2014 and December 15, 2014 in order for any such changes to be effective January 1, 2015.

On December 9, 2014, the Marketplace issued an enrollment confirmation notice, stating that as of November 18, 2014, you were enrolled in your health insurance plan with a premium responsibility of \$475.90.

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The Marketplace had not received any updated information from you by the extended deadline of December 20, 2014.

You testified that you had received the emails telling you that notices had been posted to your Marketplace account, but that you chose not to respond to those emails.

Therefore, the Marketplace was required to use the information that was contained in the October 18, 2014 notice in order to determine your eligibility for coverage beginning January 1, 2015, and properly reenrolled you in your plan effective January 1, 2015.

Therefore, the renewal notice of October 18, 2014 and the December 9, 2014 enrollment confirmation notice were proper and are AFFIRMED.

The second issue is whether the Marketplace properly determined that your coverage through the Marketplace ended effective January 31, 2015.

You testified that you attempted to cancel your Fidelis Care Gold plan by calling Fidelis directly and the Marketplace in December 2014. However, the Marketplace's records indicate that you did not call until January 3, 2015 to cancel your coverage through the Marketplace.

Additionally, you testified that you did not want to cancel your coverage through the Marketplace until after you received confirmation that your new coverage outside the Marketplace had gone into effect, to avoid a gap in coverage. You stated that you found out on your new coverage had gone into effect on January 3, 2015.

Therefore, your testimony that you had tried to cancel your coverage through the Marketplace in December of 2014 is not credible.

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan with appropriate notice to the Marketplace.

Since you did not try to cancel your coverage through the Marketplace until January 3, 2015, the Marketplace properly found that your enrollment terminated effective February 1, 2015.

Decision

The Marketplace's October 18, 2014 renewal notice, December 9, 2014 enrollment confirmation notice, and January 9, 2015 disenrollment notice were proper and are AFFIRMED.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

Your coverage with Fidelis Care Gold is cancelled effective February 1, 2015.

You do not have health insurance coverage through the Marketplace as of February 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:
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- By fax: 1-855-900-5557

Summary

The Marketplace's October 18, 2014 renewal notice, December 9, 2014 enrollment confirmation notice, and January 9, 2015 disenrollment notice were proper and are AFFIRMED.

Your coverage with Fidelis Care Gold is cancelled effective February 1, 2015.

You do not have health insurance coverage through the Marketplace as of February 1, 2015.

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]