



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

### Notice of Decision

Decision Date: June 12, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001579

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 31, 2014, and January 12, 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 letter.

### Legal Authority

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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001579

[REDACTED]  
[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 determine that, as of December 31, 2015, and January 12, 2015, you were eligible for up to \$271.00 per month in advance premium tax credit and cost-sharing reductions effective February 1, 2015?

## Procedural History

On November 7, 2014, the Marketplace issued an eligibility determination notice stating that you have been re-enrolled in your Fidelis Care health insurance plan with the start date of January 1, 2015. The notice also states that based on federal and state data sources, you no longer qualify for health care coverage under Medicaid, Child Health Plus, tax credits, or cost-sharing reductions to help pay for health coverage. Your daughter was found eligible for Medicaid effective January 1, 2015.

On November 17, 2014, the Marketplace issued a disenrollment notice stating that your coverage with Fidelis Care Silver will end effective December 31, 2014. However you will be automatically renewed in the same plan for 2015.

On December 14, 2014, the Marketplace issued a notice confirming your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep 29 with a premium responsibility of \$418.09.

On December 30, 2014, you updated your Marketplace Account.

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On December 31, 2014, the Marketplace issued an eligibility determination notice stating that you are newly eligible to receive up to \$271.00 per month of advance premium tax credit (APTC) and cost-sharing reductions, if you select a silver-level qualified health plan, effective February 1, 2015.

On that same day the Marketplace issued a notice confirming that you had enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep 29. The notice states that you have a premium responsibility of \$418.09 as early as January 1, 2015.

On January 11, 2015, you updated your Marketplace Account.

On January 12, 2015, the Marketplace issued an eligibility determination notice stating that you are newly eligible to receive up to \$271.00 per month of APTC and cost-sharing reductions, if you select a silver-level qualified health plan, effective February 1, 2015. Your daughter was also found conditionally eligible for Medicaid effective January 1, 2015.

On January 23, 2015, you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the effective date of APTC.

On March 3, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. With the assistance of your authorized representative, [REDACTED], the record was developed during the hearing. The record was left open to allow you to submit additional documentation.

On March 3, 2015, you submitted a six-page fax to the Marketplace Appeals Unit. This fax has collectively been marked as "Appellant Exhibit A." It includes:

- a. A one-page summary (p. 1).
- b. Online confirmation page from when the Appellant enrolled in a health plan (p. 2-3).
- c. Fidelis Care Premium Billing Statement for the month of November 2014 (p. 4).
- d. Page of a NY State Of Health eligibility determination notice showing the effective dates of coverage (p. 5).
- e. Fidelis Care Premium Billing Statement with an invoice date of 2/3/2015 and balance due of \$474.35.

## **Findings of Fact**

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

- 1) You are applying for health insurance through the Marketplace for yourself and your daughter.
- 2) The Marketplace issued an eligibility determination notice stating that you have been re-enrolled in your Fidelis Care health insurance plan

with the start date of January 1, 2015. The notice states that based on federal and state data sources, you no longer qualify for health care coverage under Medicaid, Child Health Plus, tax credits, or cost-sharing reductions to help pay for health coverage. The notice also states if a mistake had been made, to log in your account and make the changes between November 16, 2014, and December 15, 2014, to be effective January 1, 2015 (11/7/2015 Marketplace notice).

- 3) You did not make any changes to your Marketplace Account between November 16, 2014, and December 15, 2014.
- 4) The Marketplace issued a notice stating that you had been enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep 29 with a premium responsibility of \$418.09 effective January 1, 2015 (12/14/2014 Marketplace notice).
- 5) On December 30, 2014, you updated your Marketplace Account and were redetermined eligible to receive up to \$271.00 per month of advance premium tax credit and cost-sharing reductions, if you select a silver-level qualified health plan, effective February 1 (12/31/2014 Marketplace notice).
- 6) You testified that based on the Marketplace notices you believed that your financial assistance would continue in 2015 without updating your Marketplace Account.
- 7) You testified that you want your financial assistance to begin retroactively to January 1, 2015.
- 8) You are no longer working and only receiving \$1,800.00 monthly in Social Security Benefits (Testimony; 1/11/2015 Marketplace Application).
- 9) You received a Premium Billing Statement from Fidelis Care for November 2014 in the amount of \$135.17 (Appellant Exhibit A p. 4).
- 10) Fidelis Care issued a Premium Bill Statement on 2/3/2015 with an account balance of \$474.35 (Appellant Exhibit A p. 6).

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 15<sup>th</sup> 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 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 7, 2014, the Marketplace issued an annual eligibility redetermination notice in your case. This notice stated that you were re-enrolled in your current health plan, Fidelis Care Silver ST INN Pediatric Dental Dep 29, for effective January 1, 2015. The notice states that you no longer qualified for health care coverage under Medicaid, Child health Plus or tax credits or cost-sharing reductions to help you pay for health coverage. However, the notice directs you to update the information in your NY State of Health account, if you believe the Marketplace has made a mistake, by December 15, 2014 or the financial help you were receiving might end.

On December 14, 2014, the Marketplace issued a notice confirming your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep 29, effective January 1, 2015, with a premium responsibility of \$418.09.

The Marketplace had not received any updated information from you by December 15, 2014. Therefore, the Marketplace was required to use the information that was contained in the November 7, 2014 notice in order to determine your eligibility for coverage beginning January 1, 2015.

On December 30, 2014, and January 11, 2015, you updated the information in your Marketplace account. This resulted in December 31, 2014, and January 12, 2015, eligibility determination notices stating that you were newly eligible to receive up to \$271.00 in advance premium tax credit (APTC) and cost-sharing reductions if you enroll in a silver level health plan, with an effective date of February 1, 2015.

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. However, the Marketplace will determine that any change made after the 15<sup>th</sup> of any month will not be effective until the first day of the next following month.

Since you updated your Marketplace Account on December 30, 2014, the Marketplace must make the redetermination that results from that change effective the first day of the next following month, which was 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).

Therefore, the Marketplace's December 31, 2014, and January 12, 2015, eligibility determinations are AFFIRMED.

However, 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 income for that year.

If you should have been entitled to a greater APTC for 2015 than what you actually received, you will be compensated for the difference on your 2015 income tax refund.

## **Decision**

The December 31, 2014 eligibility determination is AFFIRMED.

The January 12, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** June 12, 2015

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

This decision does not change your eligibility.

You are eligible for up to \$271.00 advance premium tax credit and cost-sharing reductions if you enroll in a silver-level health plan, effective February 1, 2015.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

## **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.

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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 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 31, 2014 eligibility determination is AFFIRMED.

The January 12, 2015 eligibility determination is AFFIRMED.

You are eligible for up to \$271.00 in advance premium tax credit and cost-sharing reductions if you enroll in a silver-level health plan, effective February 1, 2015.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

### **Legal Authority**

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

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

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]