



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

## Notice of Decision

Decision Date: June 26, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001594

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 eligibility determination.

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 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 months of January 2015 and February 2015?

## Procedural History

The Marketplace received your initial application for health insurance on December 24, 2013. The Marketplace determined that you were eligible to receive an advance premium tax credit (APTC) of \$193.00 per month and, if you selected a silver-level qualified health plan, eligible for cost-sharing reductions.

You enrolled in Fidelis Care Silver with coverage beginning January 1, 2014.

On November 6, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. The notice also 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.

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On December 22, 2014, the Marketplace issued a notice of eligibility redetermination that stated you were newly eligible to purchase a qualified health plan (QHP) 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 the allowable income limit for that program. This eligibility was effective January 1, 2015.

On December 24, 2014, the Marketplace issued a letter confirming your enrollment as of December 24, 2014, in Fidelis Care Silver with a monthly premium responsibility of \$379.79. 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 have health coverage.

On December 27, 2014, the Marketplace issued a disenrollment notice telling you that your coverage with Fidelis Care Silver will end effective December 31, 2014.

On January 21, 2015, information in your Marketplace account was updated.

That same day, the Marketplace issued a disenrollment notice based on your January 20, 2015 request to end your insurance coverage with Fidelis Care Silver. That notice said coverage will end effective January 31, 2015.

On January 22, 2015, the Marketplace issued a notice of eligibility redetermination that you are newly eligible to receive an APTC up to \$159.00 per month and, if you select a silver-level QHP, for cost-sharing reductions, effective March 1, 2015.

That same day, the Marketplace issued a letter confirming your enrollment in Fidelis Care Silver, with your monthly premium responsibility of \$220.79. The letter further stated that your health insurance coverage will begin after you pay your first month’s premium, which could be as early as March 1, 2015.

On January 26, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the December 22, 2014 notice of eligibility redetermination finding you eligible to purchase a QHP at full cost and the Marketplace enrolling you in Fidelis Care Silver for January 2015 and February 2015.

On February 27, 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 up to 15 days to allow you to submit premium billing statements.

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On March 3, 2015, the Marketplace's Appeals Unit received a two page fax from you. It consisted of (1) A copy of an invoice, dated January 2, 2015, from Fidelis Care; and (2) A copy of your Fidelis Care Account Summary. This two page fax was made part of the record as "Appellant's Exhibit A."

Since the requested evidence was received, the record was closed that same day.

## **Findings of Fact**

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

- 1) You testified that you enrolled with Fidelis Care Silver for 2014, and paid your monthly bills on time online.
- 2) You testified that the first time you became aware that you needed to update your Marketplace account or that you had been enrolled in Fidelis Care at full cost was when you received the January 2, 2015 premium billing statement from Fidelis Care in the mail that said you owed two months premium at \$379.79 for a total of \$759.58, which was due January 31, 2015 (Appellant's Exhibit A, p.1).
- 3) You testified that you did not request or authorize the Marketplace to enroll you in a full pay qualified health plan (QHP) beginning January 1, 2015.
- 4) You testified, and the Marketplace's records reflect that you called the Marketplace on January 20, 2015 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.
- 5) You testified that you changed your income information in your Marketplace account that day or the next to reflect an annual household income of \$36,000.00.
- 6) You further testified that you cancelled your plan through Fidelis Care 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.
- 7) You testified that you did not use any insurance in the month of January 2015 or February 2015, and should not have to pay the premium to Fidelis Care for those months.

- 8) You testified and provided an online account summary that shows your balance with Fidelis Care is at zero, but you want to confirm through the Marketplace that you are not responsible for the premiums for January 2015 and February 2015 (Appellant's Exhibit A, p.2).
- 9) You testified that you are satisfied with being enrolled in Fidelis Care Silver with March 1, 2015 as the effective date of coverage.

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 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 it used 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, the Marketplace issued a notice that told you it was time to renew your health coverage. The notice states that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify 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 notice, your Marketplace account contained the notice as of November 7, 2014 showing it was 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 notice 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

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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 2015 and February 2015.

On December 24, 2015 the Marketplace issued a letter that stated you were enrolled in Fidelis Care Silver with a premium responsibility of \$379.79. 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.

You testified that you did not pay any premium to Fidelis Care. By not paying your premium, your coverage through Fidelis Care Silver did not start. You further testified and the record reflects that you called on January 20, 2015 to verbally terminate your plan with Fidelis Care Silver. This was not necessary since you did not have coverage with Fidelis Care Silver, however it evidences your intent to not have coverage with Fidelis Care Silver for January 2015 and February 2015.

It appears that Fidelis Care realized that you should not have been invoiced for a premium for those two months when it zeroed out your balance due as is reflected in your Fidelis Care online account summary.

## **Decision**

The December 22, 2014 eligibility determination is AFFIRMED.

You did not have coverage with Fidelis Care Silver for the months of January 2015 and February 2015 and should not be charged a premium for those months by Fidelis Care.

**Effective Date of this Decision:** June 26, 2015

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

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015, but you did not elect to have coverage start by paying the first month's premium in either January 2015 or February 2015.

You did not have health insurance coverage through Fidelis Care Silver for the months of January 2015 and February 2015.

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You are eligible for an advance premium tax credit up to \$159.00 per month and eligible for cost-sharing reductions.

Effective March 1, 2015, you are enrolled in Fidelis Care Silver.

### **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

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## **Summary**

The December 22, 2014 eligibility determination is AFFIRMED.

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015, but you did not elect to have coverage start by paying the first month's premium in either January 2015 or February 2015.

You did not have health insurance coverage through Fidelis Care Silver for the months of January 2015 and February 2015.

You are eligible for an advance premium tax credit up to \$159.00 per month and eligible for cost-sharing reductions.

Effective March 1, 2015, you are enrolled in Fidelis Care Silver.

## **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]