



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: AP000000001598

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 4, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 14, 2015 disenrollment 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).

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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[REDACTED]
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Issue

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

Did the Marketplace properly determine on January 14, 2015, that you are disenrolled from a bronze-level qualified health plan, effective January 31, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a renewal notice that stated, if the information on your application is still accurate, you have been re-enrolled in your current bronze-level qualified health plan with up to \$122.14 in advance premium tax credits starting January 1, 2015.

On December 11, 2014, the Marketplace issued a letter confirming your enrollment as of November 21, 2014 in Fidelis Care bronze ST INN Pediatric Dental Dep 25, which could start as early as January 1, 2015 if you pay your first month's premium on time.

On December 27, 2014, the Marketplace issued a notice that said your 2014 coverage will end on December 31, 2014, but you all will be automatically renewed in the same plan for 2015.

On January 14, 2015, the Marketplace issued a disenrollment notice that stated your coverage with Fidelis Care bronze ST INN Pediatric Dental Dep 25, will end effective January 31, 2015 because you are no longer eligible to enroll in health insurance through New York State of Health.

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On January 26, 2015, you appealed the January 31, 2015 disenrollment date because you did not need coverage through the Marketplace as of January 1, 2015.

On March 4, 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 submit proof of third party health insurance and the January 2015 invoice from Fidelis Care.

On March 5, 2015, the Marketplace's Appeals Unit received a three page fax from you consisting of: (1) A cover page; (2) A copy of your Excellus insurance identification card with an effective date of "01/01/2015;" and (3) A copy of a premium billing statement from Fidelis Care, dated January 16, 2015. This three page fax was made part of the record as "Appellant's Exhibit A."

Since the requested evidence was received on March 5, 2015, 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 originally selected coverage with Fidelis Care, a bronze-level qualified health plan, with advance premium tax credits through the Marketplace that ended on December 31, 2014.
- 2) You testified that you started a new job and your new employer provided health coverage as of January 1, 2015. Your Excellus insurance identification card shows the effective date of coverage is "01/01/2015" (Appellant's Exhibit A, p. 2).
- 3) You testified that you contacted Fidelis Care when you received a bill for the January 2015 premium in the amount of \$164.00 (Appellant's Exhibit A, p. 3).
- 4) You testified that a Fidelis Care representative told you it was "easy to fix" and to just call the Marketplace and ask them to backdate your disenrollment to December 31, 2014.
- 5) You testified that the Marketplace told you it could not backdate cancellation of your coverage to December 31, 2014, and that you had to appeal the January 31, 2015 termination date.

- 6) You testified that you did not use the Fidelis Care Bronze plan during January 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

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)).

Termination of Coverage

The Marketplace may initiate termination of an enrollee's coverage in a qualified health plan and must permit a qualified health plan issuer to terminate such coverage: (1) When the enrollee is no longer eligible for coverage in a qualified health plan through the Marketplace; or (2) the enrollee's coverage is cancelled due to non-payment of premiums (45 CFR § 155.430(b)(2)(i) and (ii)).

Minimum Essential Coverage

Generally, an individual will be treated as eligible for minimum essential coverage if the individual may enroll in an eligible employer-sponsored plan that is affordable and provides minimum value (26 CFR §§ 1.36B-2(c)(3)(v)(A) & (C)). A person who has an employer-sponsored health insurance plan that provides minimum essential coverage is not entitled to an advance premium tax credit (26 CFR § 1.36B-2(c)(1)).

"Minimum essential coverage" is defined in section 5000A(f) of the Internal Revenue Code and the regulations issued under that section. As described in that section, eligible employer-sponsored plans are considered minimum essential coverage (26 CFR § 1.36B-2(c)(1)).

Legal Analysis

The Marketplace must redetermine a qualified individual's eligibility for health insurance annually, including individuals who are purchasing a plan with tax credits. 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, the Marketplace issued a notice in your case that you would be automatically re-enrolled in the same health plan for 2015, if your information in your Marketplace account had not changed. Since you did not report any changes, the Marketplace issued the December 11, 2014 letter confirming your enrollment in Fidelis Care Bronze ST INN Pediatric Dental Dep 25 effective January 1, 2015.

However, the Marketplace may initiate termination of coverage and must permit a qualified health plan issuer to terminate coverage when an enrollee is no longer eligible for coverage in a qualified health plan through the Marketplace. Here, you testified that you started a new job and your employer provided health insurance as of January 1, 2015 with Excellus, which you confirmed by providing a copy of your Excellus insurance identification card. Since the record supports that you had minimum essential coverage outside the Marketplace as of January 1, 2015, you were no longer eligible for coverage in a qualified health plan as of that date.

In addition, you credibly testified that you did not use the Fidelis Care Bronze plan during January 2015 because you had coverage with Excellus, your employer's group health plan. Since you did not need nor use the Fidelis Care Bronze plan in January 2015, you do not want to be responsible for paying the January 2015 premium to Fidelis Care.

Since you had health insurance coverage through your employer's group health plan for January 2015 and, therefore, had minimum essential coverage outside the Marketplace, and did use the 2015 Fidelis Care Bronze plan through the Marketplace that month, coverage under that bronze plan should be cancelled effective December 31, 2014.

For this reason, the January 14, 2015 disenrollment determination is MODIFIED to state that your coverage with Fidelis Care Bronze ST INN Pediatric Dental Dep 25, is cancelled effective December 31, 2014.

Decision

The Marketplace's February 8, 2015 disenrollment notice is MODIFIED to state that your coverage with Fidelis Care Bronze ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

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 Date of this Decision: June 26, 2015

How this Decision Affects Your Eligibility

Your coverage with Fidelis Care Bronze ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

You do not owe any premium payment to Fidelis Care for January 2015.

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

Summary

The Marketplace's February 8, 2015 disenrollment notice is MODIFIED to state that your coverage with Fidelis Care Bronze ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

Your coverage with Fidelis Care Bronze ST INN Pediatric Dental Dep 25 through the Marketplace is cancelled effective December 31, 2014.

You do not owe any premium payment to Fidelis Care for January 2015.

You do not have health insurance coverage through the Marketplace as of January 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]