



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

## Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001705

[REDACTED]

Dear [REDACTED],

On April 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 26, 2014 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 letter.

### Legal Authority

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

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## Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001705

[REDACTED]

## Issue

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

Did the Marketplace properly determine on December 26, 2014, that you and your daughter are disenrolled from a silver-level qualified health plan with advance premium tax credits and cost-sharing reductions, effective December 31, 2014?

## Procedural History

You and your 20-year-old daughter had 2014 medical health insurance through New York State of Health with Fidelis Care Silver and dental coverage with Delta Dental through December 31, 2014.

On December 26, 2014, the Marketplace issued a disenrollment notice that said you and your 20-year-old daughter's insurance plans through Fidelis Care Silver and Delta Dental will end effective December 31, 2014.

On January 23, 2015, a December 17, 2014 Certificate of Group Health Plan Coverage from Emblem Health was uploaded to your Marketplace account. It indicated, in part, that both you and your daughter had medical, hospital, and dental coverage from October 1, 2014 to January 1, 2015, through your employer's group health plan.

On February 5, 2015, you spoke with the Marketplace's Account Review Unit and appealed the disenrollment date of December 31, 2014 from health and dental insurance plans for you and your daughter insofar as you wanted the disenrollment effective for all to be October 1, 2014.

On April 6, 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, in 2014, you originally purchased a silver-level qualified health plan for you and your daughter through the Marketplace and applied the monthly advance premium tax credit to your premiums.
- 2) You testified that you thought your insurance through the Marketplace for you and your daughter with Fidelis Care Silver and Delta Dental would end once you gained coverage on your employer's group health plan with Emblem Health beginning October 1, 2014.
- 3) You testified that you assumed the employer or its group health plan would process the transfer, including cancelling the 2014 plans that you and your daughter had through the Marketplace.
- 4) On January 23, 2015, you uploaded a Certificate of Group Health Plan Coverage from Emblem Health, which indicated that both you and your daughter had medical, hospital, and dental coverage from October 1, 2014 to January 1, 2015, through your employer.
- 5) You testified that, in January and February 2015, you received bills from Fidelis Care and Delta Dental for coverage for the months of October 2014, November 2014, and December 2014 stating you owed premiums for these months for each of the health plans you and your daughter shared through the Marketplace.
- 6) You testified that neither you nor your daughter used the Fidelis Care or Delta Dental plans in October 2014, November 2014, and December 2014.
- 7) You would like the termination of coverage for your and your daughter's health and dental plans to be effective as of October 1, 2014, and you would like the premiums for those months reversed to a zero balance.

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

## **Applicable Law and Regulations**

### Advance Premium Tax Credit

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2013 federal poverty level (FPL); (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan (QHP); and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

To be eligible to claim APTC, a taxpayer must meet the eligibility requirements to enroll in a QHP and not be eligible for minimum essential coverage, except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

### 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 APTC (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)).

### Termination of coverage

The Marketplace may initiate termination of an enrollee’s coverage in a QHP and must permit a QHP 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)).

The Marketplace must permit an enrollee to terminate his or her coverage with a QHP, including when an enrollee obtains minimum essential coverage, with appropriate notice to the Marketplace or QHP with appropriate notice to the Marketplace or QHP (45 CFR § 155.430(b)(1)).

For enrollee-initiated terminations, the last day of coverage is either:

- The termination date specified by the enrollee, if they provide notice at least 14 days before the requested termination becomes effective;
- Fourteen days after the enrollee requests the termination, if they do not provide 14 days' notice; or
- On a date on or after the date the enrollee requests the termination, subject to the determination of the enrollee's QHP issuer, if the enrollee's QHP issuer agrees to effectuate termination in fewer than 14 days, and the enrollee requests and earlier termination effective date

(45 CFR § 155.430(d)(2)(i)-(iii)).

## Legal Analysis

Initially, to be eligible for advance premium tax credit (APTC), individuals must meet the eligibility requirements to enroll or stay enrolled in a qualified health plan (QHP) and cannot be eligible for minimum essential coverage, such as employer-sponsored coverage.

According to the record, you and your daughter had health insurance coverage through Fidelis Care Silver and shared in the monthly APTC of \$485.00 during 2014. The credible evidence shows, however, that you and your daughter were later covered under an employer-sponsored health plan effective October 1, 2014 to December 31, 2014, such that neither of you remained eligible to receive financial assistance toward a QHP during that period.

You credibly testified that you were not aware nor told that you had to inform any entity of becoming covered under an employer-sponsored plan and you just assumed it would be handled amongst the insurance plans. The certificate of insurance coverage issued on December 17, 2014, was not uploaded to your account until January 23, 2014, such that this information was not timely conveyed to the Marketplace to effectuate a termination of your coverage prior to December 31, 2014.

An enrollee must be allowed to terminate their coverage with a QHP if they provide appropriate notice to the Marketplace or to their health plan. The record reflects that you did not request to terminate your health insurance coverage through the Marketplace or provide reasonable notice to effectuate a termination until January 23, 2015. You would have been required to provide notice on or before September 17, 2014 to have a

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disenrollment date of October 1, 2014. You may request that Fidelis Care agree to effectuate an earlier termination date than December 31, 2014 at their discretion based upon this decision. However, Fidelis Care would have to agree to provide you an earlier termination date.

Therefore, the Marketplace properly terminated your insurance coverage with Fidelis Care Silver and Delta Dental effective December 31, 2014, which is the last day of the month following the disenrollment notice of December 26, 2014 by the Marketplace.

The Marketplace's December 26, 2014 disenrollment notice is **AFFIRMED**.

## **Decision**

The Marketplace's December 26, 2014 disenrollment notice is **AFFIRMED**.

**Effective Date of this Decision:** August 14, 2015

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

The disenrollment date for you and your daughter's medical plan with Fidelis Care Silver and dental plan with Delta Dental is December 31, 2014. You may request that Fidelis Care agree to effectuate an earlier termination date at their discretion based upon this decision.

This decision does not impact your family's current 2015 medical and dental health insurance coverages through the Marketplace.

## **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 Marketplace's December 26, 2014 disenrollment notice is **AFFIRMED**.

The disenrollment date for you and your daughter's medical plan with Fidelis Care Silver and dental plan with Delta Dental is December 31, 2014. You may request that Fidelis Care agree to effectuate an earlier termination date at their discretion based upon this decision.

This decision does not impact your family's current 2015 medical and dental health insurance coverages through the Marketplace.



## **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:**

