



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

Notice of Decision

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002507

[REDACTED]

Dear [REDACTED]

On June 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 26, 2014 disenrollment notice, December 27, 2014 eligibility determination, December 27, 2014 cancellation notice, December 28, 2014 eligibility determination, December 28, 2014 cancellation notice, and December 28, 2014 enrollment 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 Code of Federal Regulation (CFR) 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).

This page intentionally left blank.

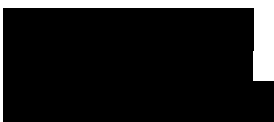


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002507



Issues

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

Did the Marketplace properly determine, in the December 26, 2014 disenrollment notice and pursuant to the December 27, 2014 notice of eligibility determination, that you, [REDACTED] were disenrolled from coverage under the Fidelis Care Silver plan, effective December 31, 2014?

Did the Marketplace properly determine that reenrollment in the Fidelis Care Silver plan for you, [REDACTED] was effective no earlier than February 1, 2015?

Did the Marketplace properly determine, in the December 26, 2014 disenrollment notice, that your then 26-year-old son was disenrolled from coverage under the Fidelis Care Silver plan, effective December 31, 2014, and reenrolled no earlier than February 1, 2015?

Procedural History

On November 18, 2013, the Marketplace issued a notice stating that you had elected to receive information electronically.

On November 6, 2014, the Marketplace issued a notice stating that it was time for you to renew your health insurance for 2015. That notice stated that, based on information from federal and state sources, the Marketplace could not make a decision about whether you and your son qualified for financial help paying for

your health coverage, and that you needed to update your account by December 15, 2014 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice stating that you and your son were newly eligible to purchase a qualified health plan (QHP) at full cost through NY State of Health, effective January 1, 2015.

On December 24, 2014, the Marketplace issued a letter confirming enrollment in a Fidelis Care Silver plan for you and your son, with a monthly premium responsibility of \$606.73. The letter also informed you that coverage could start as early as January 1, 2015 if you paid your first month's premium.

On December 26, 2014, the Marketplace received an updated application for health insurance in which you attested that you would be filing as head of household, with a qualifying individual, and expected annual income of \$10,708.00 during 2015 for yourself, and \$28,700.00 during 2015 for your son.

In response to this application, the Marketplace prepared a preliminary eligibility determination finding that you, [REDACTED] were eligible for Medicaid beginning December 1, 2014 and that your son was eligible for an advance premium tax credit (APTC) of up to \$141.00 per month and cost-sharing reductions (CSR) beginning February 1, 2015.

As a result of the change in eligibility status, on December 26, 2014 the Marketplace issued a disenrollment notice confirming that coverage under the Fidelis Care Silver plan for you and your son would end effective December 31, 2014.

On December 27, 2014, the Marketplace issued an eligibility redetermination based on your December 26, 2014 application. It stated that you, [REDACTED] were eligible for Medicaid effective December 1, 2014 and that your son was eligible to receive up to \$141.00 per month in APTC, and, if he enrolled in a silver-level plan, CSR, effective February 1, 2015.

Also on December 27, 2014, the Marketplace issued a cancellation notice stating that your son's coverage under the Fidelis Care Silver plan would end effective January 1, 2015, because he was no longer eligible to enroll in his current insurance plan, in which he had been enrolled with you.

Separately on December 27, 2014, the Marketplace issued an enrollment notice confirming that Medicaid coverage for you, [REDACTED] would be effective December 1, 2014, but that you needed to choose a health plan (a Medicaid managed care plan) soon or one would be chosen for you.

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).

The Marketplace received your further revised application on December 27, 2014 in which you again attested that you would be filing as head of household, with a qualifying individual, but you did not identify who that qualifying individual would be, and you did not identify any dependents you would be claiming on your tax return. You also attested that your son would be filing a separate tax returns for 2015. You expected to receive \$16,708.00 (not \$10,708.00) during 2015, and again indicated that your son expected to receive \$28,700.00 during 2015.

On December 28, 2014, the Marketplace issued a cancellation notice confirming “your request to cancel insurance coverage” under the Fidelis Care Silver plan. This notice stated that your “request” had been processed and that you would no longer have coverage under that plan. This notice was related to your December 26, 2014 application.

Also on December 28, 2014, the Marketplace issued a further eligibility redetermination notice based on your December 27, 2014 application. It found that you, [REDACTED] were newly eligible to receive up to \$281.00 per month in APTC and for CSR. It also found that your son was eligible to receive an APTC of up to \$141.00 per month and eligible for CSR. This eligibility determination was effective February 1, 2015.

As a result of this determination, the Marketplace issued a disenrollment notice confirming that your Medicaid fee-for-service coverage would be discontinued as of January 31, 2015.

After the December 28, 2014 eligibility determination, on December 28, 2014 and February 27, 2015 the Marketplace issued enrollment notices confirming that you and your son had each been reenrolled in a Fidelis Care Silver plan at a total premium rate responsibility to you of \$215.06. The letter also informed you that coverage could start as early as February 1, 2015 provided you paid your first month’s premium.

On or about March 2, 2015, the Marketplace received your letter enclosing a copy of the notice issued by the Marketplace on December 24, 2014, which advised you that an e-mail sent to you had been returned to the Marketplace as undeliverable, and requesting that you update your account.

On April 20, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the December 28, 2014 and on February 27, 2015 enrollment notices insofar as they referred to your coverage under the Fidelis Care Silver plan for you and your son as becoming effective February 1, 2015, rather than January 1, 2015.

On June 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the hearing and

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).

remained open as the Hearing Officer directed you to provide additional evidence to corroborate your testimony as follows: a redacted credit card statement and/or a screenshot of a Fidelis Care payment history reflecting payment of the \$606.73 premium amount on December 31, 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On June 10, 2015, the Appeals Unit received via facsimile a transaction report issued by Fidelis Care reflecting that \$606.73 was received from you on December 31, 2015.

On June 11, 2015, the Appeals Unit received via facsimile (1) a Capital One credit card statement issued to you reflecting that you charged \$606.73 by Fidelis Care New York on December 31, 2015 and (2) a screenshot of a Marketplace overview screen stating both you and your son had been reenrolled in QHP with an eligibility effective date of January 1, 2015.

The record was closed on June 11, 2015.

Findings of Fact

- 1) In your December 15, 2013 application for health insurance, you attested to income of \$18,996.00 for yourself, and \$28,300.00 in income for your son. Your application indicated that you and your son would be filing your tax returns separately.
- 2) You testified that you has been receiving e-mail notifications from the Marketplace up until December 27, 2014; however, you received no further notifications from the Marketplace through either e-mail or U.S. Mail after that date. You provided a notice from the Marketplace issued on December 24, 2014 stating that an e-mail sent to you was returned to the Marketplace as undeliverable and “bounced back.”
- 3) The Marketplace account indicates that you initially elected to receive notifications via electronic mail. Your account now indicates that you receive notices by regular mail.
- 4) On November 6, 2014, the Marketplace advised you that if you failed to update your account by December 15, 2014, you might lose your financial assistance.
- 5) You failed to timely update your account, and as a result, on December 22, 2014, the Marketplace issued an eligibility redetermination notice stating that you and your son were newly eligible to purchase a qualified health plan at full cost through NY State of Health, effective January 1, 2015.

- 6) A notice was issued by the Marketplace on December 24, 2014 stating that both you and your son had been reenrolled in the Fidelis Care Silver plan at full cost effective January 1, 2015. The notice further stated that the premium cost for this plan was \$606.73, and that coverage would begin only after the first month's premium was received, as early as January 1, 2015.
- 7) You testified and provided documentation reflecting that you paid \$606.72 on December 31, 2014 for your first premium payment for coverage during January 2015.
- 8) However, before you made this purported premium payment on December 31, 2014 and before coverage in the Fidelis Care Silver plan went into effect, you modified your account to reflect a significantly lower income for yourself than the income to which you had previously attested. This lower income you provided led to you, [REDACTED] being found eligible for Medicaid effective December 1, 2014; your son's eligibility to enroll in a qualified health plan was not affected by the change in your income.
- 9) Coverage under the Fidelis Care Silver plan for you and your son was terminated effective December 31, 2014 after the change in your eligibility.
- 10) You testified that you never requested a cancellation of coverage under the Fidelis Care Silver plan for you or your son.
- 11) You attested in your December 27, 2014 application that you and your son still expected to file separate tax returns for 2015 but that you expected to earn \$16,708.00 during 2015, and that your son still expected to receive \$28,700.00.
- 12) Your Medicaid coverage was terminated as of January 31, 2015 after this next change in your eligibility.
- 13) You and your son were then reenrolled in the Fidelis Care Silver plan effective February 1, 2015 in an individual subscriber and child plan, at a premium rate responsibility to you of \$215.06 per month.
- 14) You testified that you were seeking your coverage in the Fidelis Care Silver plan for you and your son to be backdated to January 1, 2015, in order to cover medical expenses incurred during the month of 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

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 projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). 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 projected eligibility determination for the following year listed in the renewal notice (45 CFR § 155.335(g), (h)).

The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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 her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

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 its policy will be that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

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).

Eligibility for Medicaid or APTC

People who receive or are eligible for Medicaid are not eligible for advance premium tax credits (45 CFR § 155.305(f)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, §1115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

Legal Analysis

The first issue is whether the Marketplace properly determined, in the December 26, 2014 disenrollment notice and pursuant to the December 27, 2014 eligibility determination, that you, [REDACTED] were disenrolled from coverage under the Fidelis Care Silver plan, effective December 31, 2014

You testified that you received electronic alerts from the Marketplace up to December 27, 2014; therefore, there is no evidence to show that the proper alerts were not sent by the Marketplace as required up to and including that date or that you did not receive them.

Because you failed to respond to the annual renewal notice by the relevant deadline, on December 22, 2014, the Marketplace properly issued an eligibility redetermination notice stating that you and your son were newly eligible to purchase a qualified health plan (QHP) at full cost through NY State of Health, effective January 1, 2015, a finding that is consistent with the renewal notice you had been sent.

Also in accordance with the renewal notice, on December 24, 2014 the Marketplace issued a letter that stated you and your son were reenrolled in the Fidelis Care Silver plan, with a total premium responsibility to you of \$606.73. The notice also stated that if you paid your first month's premium, your coverage could begin as early as January 1, 2015; however, if you did not pay your premium, you might not have health coverage.

You testified, and provided documentation showing, that you paid the \$606.73 on December 31, 2014 to secure coverage for both you and your son under the

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).

Fidelis Care Silver plan. You testified that you never received a bill from Fidelis Care for January 2015, but rather paid the \$606.73 amount per the Marketplace's enrollment notice in order to secure coverage for that month.

However, before you attempted to pay this premium, and before this coverage went into effect, you revised your application on December 26, 2014 to indicate that you and your son would be filing separate tax returns and that your expected incomes for 2015 would be \$10,708.00 and \$28,700.00, respectively. Based on this application, which included a significant decrease in your income, you, [REDACTED] were found eligible for Medicaid, effective December 1, 2014, and your son was found eligible for up to \$141.00 per month in advance premium tax credits and, if he enrolled in a silver-level plan, cost-sharing reductions.

Because your eligibility changed before you paid the first month's premium for insurance and before your coverage went into effect on January 1, 2015, your enrollment was properly cancelled before it began, because having qualified for Medicaid as of December 26, 2014, effective December 1, 2014, you were no longer eligible to enroll in a qualified health plan through the Marketplace. Your son's coverage was terminated because the two of you were enrolled in a "parent and child" plan; once you were ineligible, your son needed to be enrolled in a different plan.

Therefore, the December 27, 2014 eligibility determination, the December 26, 2014 disenrollment notice, and the December 27, 2014 cancellation notice are AFFIRMED.

However, the December 28, 2014 cancellation notice is MODIFIED to reflect that the cancellation was not made at your request, but rather because your eligibility had changed based on your December 26, 2014 modified application.

The second issue is whether the Marketplace properly determine that reenrollment in the Fidelis Care Silver plan for you, [REDACTED] was effective no earlier than February 1, 2015.

When you failed to timely update your account, the Marketplace properly found you were eligible to enroll in a QHP, but without financial assistance. When you updated your account on December 26, 2014, you were found eligible for Medicaid, which became effective December 1, 2014, pursuant to 42 CFR § 435.915(b). When you modified your application the next day, the Marketplace allowed your eligibility to change. However, pursuant to 45 CFR § 155.330(f), since you modified your application and your eligibility changed on December 27, 2014, the Marketplace properly found that the change would not go into effect until February 1, 2015, the first of the next following month.

Your coverage with Medicaid fee-for-service remained in effect until January 31, 2015, after which you were reenrolled in your QHP. There was no gap in coverage for you.

Because no errors were made by the Marketplace, there is no basis for backdating your reenrollment in a QHP.

The third issue under review is whether your then 26-year-old son was properly disenrolled from coverage under the Fidelis Care Silver plan, effective December 31, 2014, and reenrolled no earlier than February 1, 2015.

Although your eligibility changed, your son's did not. Therefore, at whatever time his enrollment from the parent and child plan was terminated, he should have been provided with an opportunity to reenroll in a plan, without any gap in coverage.

Accordingly, the December 28, 2014 eligibility determination and the December 28, 2014 enrollment notice are MODIFIED to reflect that your son was eligible to reenroll in a plan effective January 1, 2015, and to receive up to \$141.00 per month in advance premium tax credits for the month of January 1, 2015.

The case is returned to the Marketplace to facilitate providing coverage for your son effective January 1, 2015.

Decision

The December 27, 2014 eligibility determination, the December 26, 2014 disenrollment notice, and the December 27, 2014 cancellation notice are AFFIRMED.

The December 28, 2014 cancellation notice is MODIFIED to reflect that the cancellation was not made at your request, but rather because your eligibility had changed based on your December 26, 2014 modified application.

The December 28, 2014 eligibility determination and the December 28, 2014 enrollment notice are MODIFIED to reflect that your son was eligible to reenroll in a plan effective January 1, 2015, and to receive up to \$141.00 per month in advance premium tax credits for the month of January 1, 2015.

The case is returned to the Marketplace to facilitate providing coverage for your son effective January 1, 2015.

Effective Date of this Decision: November 16, 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).

How this Decision Affects Your Eligibility

Your eligibility will not be affected by this decision.

However, your son will be given the opportunity to enroll in a plan for January 2015, and to receive up to \$141.00 per month in APTC for that month.

The Marketplace will facilitate your son's enrollment in the appropriate coverage.

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

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).

Summary

The December 27, 2014 eligibility determination, the December 26, 2014 disenrollment notice, and the December 27, 2014 cancellation notice are **AFFIRMED**.

The December 28, 2014 cancellation notice is **MODIFIED** to reflect that the cancellation was not made at your request, but rather because your eligibility had changed based on your December 26, 2014 modified application.

The December 28, 2014 eligibility determination and the December 28, 2014 enrollment notice are **MODIFIED** to reflect that your son was eligible to reenroll in a plan effective January 1, 2015, and to receive up to \$141.00 per month in advance premium tax credits for the month of January 1, 2015.

The case is returned to the Marketplace to facilitate providing coverage for your son effective January 1, 2015.

Your eligibility will not be affected by this decision.

However, your son will be given the opportunity to enroll in a plan for January 2015, and to receive up to \$141.00 per month in APTC for that month.

The Marketplace will facilitate your son's enrollment in the appropriate coverage.

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:

