



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

## Notice of Decision

Decision Date: September 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002599

[REDACTED]

Dear [REDACTED],

On June 18, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 6, 2014 renewal 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).

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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## Decision

Decision Date: September 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002599

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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 November 6, 2014 that you were automatically re-enrolled in your current health plan effective January 1, 2015?

Did you have health coverage through Fidelis Care Silver during the month of January 2015?

## Procedural History

On November 6, 2014, the Marketplace issued a renewal notice that, if you want to keep your present health plan for the next year and the information on your application is still accurate, you have been re-enrolled in your current health plan and do not need to do anything more. Your insurance details on that notice indicated that you are re-enrolled in Fidelis Care Silver with a start date of January 1, 2015. The notice also indicated that you qualify for a tax credit up to \$117.88 per month and you will receive a bill directly from your plan for the monthly premium you owe.

On December 11, 2014, your accountant faxed in a letter, dated December 9, 2014, that stated you were self-employed and provided your gross earnings for September, October, and November 2014.

That same day, the Marketplace issued an enrollment notice that you have coverage with Fidelis Care Silver and a monthly premium responsibility of \$265.66 after the APTC of \$177.88 is deducted. The notice further stated that your insurance coverage will begin after you have paid your first month's premium and could start as early as January 1, 2015 provided you paid your premium on time.

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On December 24, 2014, the December 9, 2014 letter was uploaded to your account.

On December 25, 2014, the Marketplace issued a disenrollment notice that your coverage under Fidelis Care Silver will end effective January 31, 2015 because you were no longer eligible to remain enrolled in your current health insurance.

On March 12, 2015, you updated your Marketplace application and the Marketplace prepared a preliminary eligibility redetermination that you are eligible to receive up to \$123.00 per month of advance premium tax credits.

On March 13, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the March 12, 2015 preliminary determination. The notice also stated that you are ineligible for cost sharing reductions and Medicaid because the income you provided of \$33,000.00 is over the maximum allowable income limit for these programs.

That same day, the Marketplace issued an enrollment notice confirming your enrollment in Fidelis Care Silver with a monthly premium responsibility of \$260.54 after the APTC amount of \$123.00 is deducted.

On April 24, 2015, you spoke to the Marketplace's Account Review Unit and appealed the November 6, 2014 notice insofar as it automatically re-enrolled you in your current plan.

On June 18, 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 are single, have no dependents, and plan on filing your 2015 tax return as Single.
- 2.) You testified that you are self-employed, work part time as an accountant, and are a student.
- 3.) You testified that you provided the Marketplace with the December 9, 2014 letter in an effort to be redetermined eligible for Medicaid and believed that letter was sufficient proof.

- 4.) According to your Marketplace account, the Marketplace did not accept your accountant's letter as valid proof of income as a self-employed individual.
- 5.) You testified that you did not think you had coverage in January 2015 because you did not want nor pay for coverage in order for it to start that month.
- 6.) You updated your application in March 2015 because you were not determined Medicaid eligible and needed insurance.
- 7.) You testified that Fidelis Care informed you that, in order for your health insurance to begin April 1, 2015, you had to pay the premium due for January 2015.
- 8.) You paid the January 2015 premium because you needed your health insurance to start April 1, 2015.
- 9.) You testified that a Fidelis Care representative told you that, if it was determined that you were not responsible for the January 2015 premium, the premium amount for that month could be applied to upcoming premiums.

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)).

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## Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan with advance premium tax credits 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's information is accurate according to federal and state data sources and has not changed from the information currently in their account, the Marketplace can issue an eligibility determination for the upcoming coverage year based on that information and as 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, if your information is still accurate, the Marketplace has re-enrolled you in your current health plan, Fidelis Care Silver, effective January 1, 2015. Since the information was accurate at the time, the Marketplace's November 6, 2014 renewal notice is correct and is AFFIRMED.

On December 11, 2014, the Marketplace had not received any updated information from you to indicate that the information in your account was no longer accurate. Therefore, the Marketplace used the information that was contained in the November 6, 2014 notice in order to re-enroll you in the Fidelis Care Silver plan beginning January 1, 2015. That same day, the Marketplace issued an enrollment notice confirming that you were enrolled in Fidelis Care Silver with a monthly premium responsibility of \$265.66 after your APTC was deducted.

The second issue is whether you had coverage through Fidelis Care Silver in January 2015 and were responsible for paying premium for coverage for that month.

The December 11, 2014 enrollment notice stated, in relevant part, that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin and it can start as early as January 1, 2015. It further stated that if you do not pay your premium, you may not have health coverage.

You testified that you did not pay any premium in January 2015 to Fidelis Care Silver for coverage to start as of January 1, 2015 because you did not want nor expect to have coverage with Fidelis Care Silver that month. By not paying your premium, your coverage through Fidelis Care Silver should never have started as stated in the December 11, 2014 notice and you should not be charged for a premium amount for coverage that never began.

## **Decision**

The November 6, 2014 renewal notice containing an eligibility determination for 2015 is AFFIRMED.

The December 11, 2014 enrollment notice is AFFIRMED.

You did not have coverage with Fidelis Care Silver for the month of January 2015 and are not responsible for any premium for that month.

This Decision does not affect any subsequent Marketplace decisions issued after January 31, 2015.

**Effective Date of this Decision:** September 8, 2015

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

You were eligible to enroll in a qualified health plan and receive advance premium tax credits effective January 1, 2015, but did not elect to have coverage start on January 1, 2015 by paying the first month's premium for that month.

You did not have health insurance coverage with Fidelis Care Silver for the month of January 2015 and are not responsible for any premium that month.

## **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.

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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):**

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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The November 6, 2014 renewal notice containing an eligibility determination for 2015 is AFFIRMED.

The December 11, 2014 enrollment notice is AFFIRMED.

You were eligible to enroll in a qualified health plan and receive advance premium tax credits effective January 1, 2015, but did not elect to have coverage start on January 1, 2015 by paying the first month's premium that month.

You did not have coverage with Fidelis Care Silver for the month of January 2015 and are not responsible for any premium that month.

This Decision does not affect any subsequent Marketplace decisions issued after January 31, 2015.

## **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:**

