



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

## Notice of Decision

Decision Date: February 4, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004976

[REDACTED]

Dear [REDACTED],

On January 11, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 23, 2015 enrollment confirmation 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 and NY State of Health number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulations 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: February 4, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004976



## Issue

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

Did the Marketplace properly determine that your enrollment in Affinity Access Silver ST INN Dep 25, was effective April 1, 2015?

## Procedural History

On February 12, 2015 the Marketplace issued an eligibility determination notice stating that you were eligible to receive up to \$235.00 per month in advance payments of the premium tax credit (APTC) and, if you enrolled in a silver-level health plan, cost-sharing reductions. This eligibility was effective March 1, 2015.

On February 13, 2015 the Marketplace issued an enrollment confirmation notice stating that you were enrolled in Fidelis Care Bronze ST INN Pediatric Dental Dep25 (Fidelis) and your coverage could begin as soon as March 1, 2015 if you paid your first month's premium.

On February 22, 2015 your Marketplace account was updated to add your spouse as seeking insurance.

On February 23, 2015 the Marketplace issued a cancellation notice stating you had requested to cancel your insurance coverage with Fidelis on February 22, 2015.

Also on February 23, 2015 the Marketplace issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$622.00 per

month in APTC and, if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective as of April 1, 2015.

Finally on February 23, 2015, the Marketplace issued an enrollment confirmation notice stating that you and your spouse were enrolled in Affinity Access Silver ST INN Dep 25 (Affinity) and your coverage could begin as soon as April 1, 2015 if you paid your first month's premium.

On October 21, 2015 you spoke to the Marketplace's Account Review Unit and appealed the effective date of your enrollment in the Affinity health plan and because it was taking too long for the Marketplace to respond to your request to backdate the coverage.

On January 11, 2016, 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 support the following findings of fact:

- 1) The record reflects that on February 11, 2015 a Marketplace representative enrolled you into a Fidelis Bronze plan.
- 2) You testified that you spoke to the Marketplace in February and requested to be enrolled into an Affinity health plan.
- 3) You testified that in February you received a package from Fidelis in the mail at which time you called the Marketplace because you were confused as to why you received information regarding a Fidelis plan when you had wanted to be enrolled in Affinity.
- 4) The record reflects that on February 22, 2015 your spouse was added to your application as seeking insurance and a Marketplace representative terminated your enrollment in the Fidelis Bronze plan and enrolled you and your spouse into an Affinity Silver plan.
- 5) During the hearing, you gave the Hearing Officer permission to listen to the phone calls you placed to the Marketplace in February 2015. The Hearing Officer then incorporated those phone calls into the record.
- 6) The record reflects that during the phone call you placed to the Marketplace on February 11, 2015 you requested that you be enrolled in the lowest cost bronze plan available to you. A Marketplace representative asked if you if you wanted to select Fidelis with a \$73.00 per month

premium as your plan. You confirmed that you wanted the lowest cost plan and if that was Fidelis then that is the plan you wanted to activate. The representative confirmed that you were enrolled in Fidelis with a \$73.00 per month premium and you were provided with Fidelis' phone number and website.

- 7) The record reflects that during the phone call you placed to the Marketplace on February 22, 2015 you requested that your husband be added to your health coverage because you thought during the previous phone call you were enrolling both of you into a plan. A Marketplace representative added your husband to your Marketplace account. You requested that you both be enrolled into the lowest cost health plan available. A Marketplace representative asked you if you wanted to select Affinity with an \$81.00 per month premium as your and your spouse's health plan since that was the lowest cost silver plan available. The representative also stated that the plan would not be effective until April 1, 2015. You confirmed you and your spouse wanted to be enrolled in Affinity and you were fine with the April 1, 2015 start date of that plan.
- 8) You testified that you did not pay a premium to Fidelis.
- 9) You testified that you want your Affinity health plan to be active for the month of March 2015 because you have unpaid medical bills from that month.

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

## **Applicable Law and Regulations**

### Enrollment in a Qualified Health Plan

The Marketplace must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)); however, the open enrollment period was further extended to February 28, 2015 for individuals who took steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health->

implements-%E2%80%98waiting-line%E2%80% 99-provision-ahead-february-15-open).

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan (45 CFR § 155.420(d)).

For individuals who are eligible for a special enrollment period, the Marketplace must ensure coverage is effective the first day of the following month, for QHP selections received by the Marketplace between the first and the fifteenth of any month (45 CFR § 155.420(b)(1)(i)). The Marketplace must ensure coverage is effective the first day of the second following month, for QHP selections received by the Marketplace between the sixteenth and the last day of any month (45 CFR § 155.420(b)(1)(ii)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that your enrollment in Affinity Access Silver ST INN Dep 25, was effective April 1, 2015.

The record reflects that on February 11, 2015 you contacted the Marketplace to enroll into a qualified health plan. You testified that you spoke to the Marketplace in February and requested to be enrolled into an Affinity health plan. However, the record reflects that on February 11, 2015 a Marketplace representative enrolled you into a Fidelis Bronze plan.

You testified that in February you received a package from Fidelis in the mail at which time you called the Marketplace because you were confused as to why you received information regarding a Fidelis plan when you had wanted to be enrolled in Affinity.

A review of the telephone recording that was made on February 11, 2015 confirms that you spoke to a Marketplace representative and requested to be enrolled in the lowest cost bronze plan available to you. In the recording, a Marketplace representative tells you several times that the lowest cost plan available to you is Fidelis and you confirm several times that Fidelis is the plan you would like to be enrolled in. Therefore, your testimony that you requested Affinity as your health plan is not credible.

The record reflects that on February 22, 2015 your spouse was added to your application as seeking insurance and a Marketplace representative terminated your enrollment in the Fidelis Bronze plan and enrolled you and your spouse into an Affinity Silver plan.

A review of the telephone recording made on February 22, 2015 provides no evidence that you had an issue with being enrolled into the Fidelis plan. Instead, your main contention during that phone call is that you requested that your husband be added to your health coverage because you thought during the previous phone call you were enrolling both of you into a plan. During this call you again requested that you be enrolled into the lowest cost health plan available. It was at this time that a Marketplace representative asked you if you wanted to select Affinity as your health plan and advised you this plan would not be effective until April 1, 2015. You confirmed you and your spouse wanted to be enrolled in Affinity and you were fine with the April 1, 2015 start date of that plan.

Therefore, the record supports a finding that you did not request to be enrolled into Affinity as your qualified health plan until February 22, 2015.

The date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the fifteenth day and last day of a month goes into effect on the first day of the next following month.

Therefore, the Marketplace's February 23, 2015 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your qualified health plan on April 1, 2015.

## **Decision**

The February 23, 2015 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** February 4, 2016

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

Your enrollment in your qualified health plan was effective April 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

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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

### **Summary**

The February 23, 2015 enrollment confirmation notice is **AFFIRMED**.

Your enrollment in your qualified health plan was effective April 1, 2015.

### **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

