



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

Notice of Decision

Decision Date: February 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005464

[REDACTED]

Dear [REDACTED],

On February 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 20, 2015 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 and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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

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NY State of Health Number: [REDACTED]
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Issue

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

Whether you were automatically enrolled in a Fidelis Care bronze-level qualified health plan effective December 1, 2015 to December 31, 2015?

Procedural History

According to your Marketplace account, you were enrolled in a bronze-level qualified health plan with Health Republic Insurance of NY, Inc. (Health Republic), effective March 1, 2015 through December 31, 2015.

On October 30, 2015, the Marketplace issued a notice that immediate action was needed because Health Republic would no longer be able to offer health care coverage beginning December 1, 2015. The notice instructed you to log onto your Marketplace account and follow certain steps between November 1, 2015 and November 15, 2015 in order to select plan through the Marketplace for coverage to begin on December 1, 2015.

On November 4, 2015, the Marketplace issued a disenrollment notice confirming in part that your medical health plan with Health Republic would end effective November 30, 2015.

On November 20, 2015, the Marketplace issued a letter stating that it had not received your plan selection for December 2015 and to help ensure that you did not have an unexpected gap in coverage, your information had been forwarded

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to Fidelis Care to allow them to enroll you in a health plan effective December 1, 2015. The notice stated that you would receive a premium invoice from Fidelis Care for the month of December 2015 and, if you wanted to enroll in their plan as of that date, you could just make a payment to Fidelis Care within 10 days of the premium invoice.

On November 22, 2015, the Marketplace issued a year-end notice confirming that your 2015 coverage in Fidelis Care Bronze Plan would end effective December 31, 2015.

On November 25, 2015, the Marketplace issued a notice confirming your enrollment with an enrollment start date of December 1, 2015.

On December 8, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as you did not elect and did not want or need health insurance coverage through the Marketplace with Fidelis Care for the month of December 2015.

On February 23, 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) You testified that you received the notices referenced above and opted to secure health insurance coverage outside the Marketplace for December 2015. You further testified this was because your specialist did not participate with any of the plans being offered and you had important annual medical appointments to attend that month.
- 2) You testified that you received a premium invoice from Fidelis Care for December 2015 coverage, but elected not to pay the premium because you had secured health insurance coverage outside the Marketplace for that month and did not want nor need coverage with Fidelis Care.
- 3) You testified that you contacted the Marketplace on December 8, 2015, and were told you were responsible for the December 2015 monthly premium amount stated on the Fidelis Care invoice and had to pay it.
- 4) You testified that you did not file any claims with Fidelis Care for medical treatment and services you received in December 2015.

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- 5) According to your Marketplace enrollment history, your coverage with Fidelis Care Bronze has an effective and termination date of December 1, 2015, but there is no corresponding cancellation notice in your Marketplace account to this effect.

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

Applicable Law and Regulations

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)).

Additionally, an enrollee may initiate the termination of her own coverage (45 CFR § 155.430(b)(1)).

Legal Analysis

The only matter at issue is whether you had coverage through the Marketplace with Fidelis Care Bronze as of December 1, 2015 to December 31, 2015.

The record indicates that you were enrolled into a bronze-level qualified health plan effective March 1, 2015 with Health Republic through the Marketplace. Since Health Republic was no longer being offered through the Marketplace as of December 1, 2015, the Marketplace sent notices and made efforts to ensure that consumers insured through Health Republic did not have an unexpected gap in coverage during December 2015, which in part included automatically enrolling consumers in like-kind health coverage plans. In your case, the Marketplace informed you that it had sent your information to Fidelis Care and that you had to pay the monthly premium amount within 10 days of receiving the premium invoice for coverage to start.

You credibly testified that you secured health insurance outside the Marketplace for December 2015. You also credibly testified that you had not paid the premium to Fidelis Care intentionally so that coverage would not begin December 1, 2015.

You testified that you contacted the Marketplace in December 2015 to ensure that you did not have coverage with Fidelis Care Bronze and were told by a

Marketplace representative that you were responsible for the December 2015 premium and had to pay it.

However, by not paying that monthly premium in the first instance, your coverage in the Fidelis Care Bronze plan should never have started and you should not be charged for a premium amount for coverage that never began. We note the, while your Marketplace account reflects that the effective and termination date for the Fidelis Care Bronze plan are both December 1, 2015, the Marketplace did not issue a written cancellation notice to this effect.

Therefore, we find that you were never enrolled in Fidelis Care Bronze through the Marketplace effective December 1, 2015, such that the November 25, 2015 enrollment notice stating that you were is RESCINDED.

We also find that the November 22, 2015 disenrollment notice stating that your 2015 coverage with Fidelis Care Bronze through the Marketplace was generated in error and, therefore, is RESCINDED.

Decision

We find that you were never enrolled in Fidelis Care Bronze through the Marketplace effective December 1, 2015, such that the November 25, 2015 enrollment notice stating that you were is RESCINDED.

We also find that the November 22, 2015 disenrollment notice stating that your 2015 coverage with Fidelis Care Bronze through the Marketplace was generated in error and, therefore, is RESCINDED.

Effective Date of this Decision: February 24, 2016

How this Decision Affects Your Eligibility

You did not and do not have health insurance coverage with Fidelis Care Bronze through the Marketplace from December 1, 2015 through December 31, 2015, and are not responsible for the premium invoiced for 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.

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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

Summary

We find that you were never enrolled in Fidelis Care Bronze through the Marketplace effective December 1, 2015, such that the November 25, 2015 enrollment notice stating that you were is RESCINDED.

We also find that the November 22, 2015 disenrollment notice stating that your 2015 coverage with Fidelis Care Bronze through the Marketplace was generated in error and, therefore, is RESCINDED.

You did not and do not have health insurance coverage with Fidelis Care Bronze through the Marketplace from December 1, 2015 through December 31, 2015, and are not responsible for the premium invoiced for that month.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

