



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

Notice of Decision

Decision Date: June 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005521

[REDACTED]

Dear [REDACTED],

On April 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 23, 2015 disenrollment notice, December 9, 2015 eligibility determination notice, and December 12, 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 the Account ID 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 Date: June 17, 2016

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[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were disenrolled from your qualified health plan, effective December 31, 2015?

Did NYSOH properly determine that you and your daughter were eligible for Medicaid as of December 1, 2015?

Did NYSOH properly determine that your daughter's coverage through Child Health Plus properly began effective January 1, 2016?

Procedural History

NYSOH received a revised application for health insurance on November 10, 2015.

On November 11, 2015, NYSOH issued an eligibility determination notice based on the information contained in your November 10, 2015 application, stating that you and your spouse were found eligible to enroll in a qualified health plan and receive advance payments of the premium tax credit (APTC) of up to \$244.00 per month, effective December 1, 2015. The notice also stated that your daughter was eligible to enroll in coverage through Child Health Plus (CHP) for a cost of \$30.00 per month, effective December 1, 2015.

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Also on November 11, 2015, NYSOH issued an enrollment confirmation notice stating that you and your spouse had enrolled in Fidelis Care as your qualified health plan (QHP) on November 10, 2015, with a monthly premium responsibility of \$297.52 per month after applying the maximum APTC of \$244.00. The notice also stated that coverage for you and your spouse could begin on December 1, 2015. Finally, the notice also advised that your daughter's CHP coverage could not begin until you picked a plan.

Finally, on November 11, 2015, NYSOH issued a disenrollment notice confirming that your daughter's CHP coverage with Fidelis Care would end effective November 30, 2015 since she was no longer eligible to remain enroll in her current health insurance.

On November 17, 2015, NYSOH issued a notice, stating that it was time for you to renew your coverage for the upcoming year. It directed you to update your account between November 16, 2015 and December 15, 2015; if you did not, you would be re-enrolled in your current health plan.

On November 23, 2015, NYSOH issued a disenrollment notice confirming that your and your spouse's QHP coverage with Fidelis Care would end effective December 31, 2015, but that coverage for both of you would be renewed in the same plan for 2016.

Your account was updated on November 27, 2015.

On December 8, 2015, NYSOH received a revised application which included you and your daughter, but your spouse had been removed from that application entirely. You indicated that you were married, but would be filing your tax return separately.

On December 9, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the December 8, 2015 application, stating that you and your daughter were eligible for Medicaid, effective December 1, 2015.

On December 11, 2015, NYSOH received a revised application in which you included yourself, your spouse and daughter. This application indicated that you and your spouse were no longer seeking health insurance through NYSOH.

Also on December 11, 2015, you contacted NYSOH's Account Review Unit and requested an appeal the disenrollment of your family from your respective health insurance plans effective December 1, 2015.

On December 12, 2015, NYSOH issued an eligibility redetermination notice based on the information contain in the December 11, 2015 application, stating that you individually were newly eligible to receive an APTC of up to \$121.00 per month and, if you enrolled in a silver-level plan, cost-sharing reductions (CSR),

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effective January 1, 2016. The notice also stated that your daughter was newly eligible to enroll in coverage through CHP at a cost of \$9.00 per month, effective January 1, 2016.

Also on December 12, 2015, NYSOH issued an enrollment confirmation notice stating, in relevant part, that your daughter's CHP coverage with Fidelis Care at \$9.00 per month would begin January 1, 2016.

As of January 4, 2016, your NYSOH account reflects that the start date of your daughter's CHP coverage was revised to begin as of December 1, 2015.

On April 5, 2016, you had a telephone hearing with a Hearing Officer from NYSOH'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 on or about November 10, 2015, you and your spouse had enrolled in a QHP with Fidelis Care as a result of having been disenrolled from your Health Republic plan effective November 30, 2015. Your coverage under the Fidelis care plan was scheduled to begin December 1, 2015 and continue until December 31, 2015.
- 2) You testified that you paid the \$297.52 premium amount for coverage with Fidelis Care for both you and your spouse beginning December 1, 2015.
- 3) You testified that on or about December 8, 2015, you contacted NYSOH to advise them that your spouse would begin to receive employer-sponsored health coverage outside of NYSOH effective January 1, 2016.
- 4) A revised application was submitted by a NYSOH representative reflecting that your spouse was no longer part of your household.
- 5) On December 9, 2015, you and your daughter were found eligible for Medicaid, effective December 1, 2015.
- 6) A further revised application was submitted to NYSOH on December 11, 2015 reflecting that your spouse remained part of your household, and that that she was merely not seeking insurance through NYSOH.
- 7) On December 12, 2015, the Marketplace issued a disenrollment notice reflect that coverage for you and your daughter through Medicaid Fee-For-Service would be discontinued as of December 31, 2015.

- 8) You testified that Fidelis Care's records reflects that you and your spouse's coverage was terminated as of December 1, 2015, and they have steadfastly refused to cover any of your medical costs incurred during the month of December 2015. You further testified that this caused you great hardship as a [REDACTED], and forced you to incur some out of pocket costs, and being forced to purchase cheaper alternative medications, such as [REDACTED]
- 9) You testified that at this point were seeking reimbursement of your premium amount paid for December 2015, rather than a reinstatement of coverage with Fidelis Care for that month.
- 10) Your daughter was reenrolled in her CHP plan with Fidelis Care as of January 1, 2016, and that you were seeking for her coverage to be backdated to December 2015.
- 11) As of January 4, 2016, NYSOH backdated your daughter's CHP coverage to December 1, 2015.

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

Applicable Law and Regulations

Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

Child Health Plus

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the CHP premiums are not timely paid, or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

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“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue under review whether NYSOH properly determined that you and your spouse were disenrolled from your qualified health plan (QHP), effective December 31, 2015.

You testified that you and your spouse enrolled in a QHP with Fidelis Care for coverage during the month of December 2015 since you coverage with Health Republic had been cancelled as of November 30, 2015. You further testified that you paid your \$297.52 premium amount for coverage with Fidelis Care for both you and your spouse beginning December 1, 2015.

You further testified that you revised your application on December 8, 2015 to inform NYSOH that your spouse would not be seeking insurance through NYSOH since she would enroll in employer-sponsored insurance beginning January 1, 2016.

However, the credible record reflects that a NYSOH representative mistakenly revised your account to reflect that your spouse was no longer part of your household, rather than simply not seeking insurance under your account. As a result of this erroneous revision to your application, you and your daughter were found eligible for Medicaid effective December 1, 2015. It is unclear, however, what effect (if any) this Medicaid eligibility had on you and your spouse’s QHP coverage during December 2015. In any event, you stated that Fidelis Care refused to acknowledge the coverage of you and your spouse during December 2015.

On November 23, 2015, NYSOH issued a notice confirming that you and your spouse's QHP coverage with Fidelis Care would continue until December 31, 2015, and that your coverage would automatically be renewed for 2016.

Because there is nothing in the record to justify the termination of coverage for you and your spouse with Fidelis Care at any time prior to December 31, 2015, the November 23, 2015 disenrollment notice is AFFIRMED.

Furthermore, your case is RETURNED to NYSOH to facilitate with Fidelis Care the reimbursement of premium amounts paid, if any, for coverage during December 2015 for which no coverage has been provided.

The second issue under review is whether the Marketplace correctly found you and your daughter eligible for Medicaid, effective December 1, 2015.

As noted above, since the credible evidence of record reflects that the application submitted by a NYSOH representative on December 8, 2015 was erroneous insofar as your spouse was excluded from your household, artificially lowering your annual household income. Accordingly, we find there is enough evidence that the December 9, 2015 eligibility determination notice finding you and your daughter eligible for Medicaid is no longer supported by the record and must be RESCINDED.

The third issue under review is whether NYSOH properly determined that your daughter's coverage Child Health Plus coverage began effective January 1, 2016, rather than December 1, 2015.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

The record reflects that you selected your daughter's CHP coverage with Fidelis Care on December 12, 2015, which would have properly begun your daughter's eligibility for and enrollment in CHP on January 1, 2016.

However, the record reflects also that your request to backdate your daughter's CHP coverage with Fidelis Care to December 1, 2015 was approved on or about January 4, 2016.

Since your requested start date of your daughter's CHP coverage to December 1, 2015 was approved, this issue has been resolved and will not be addressed by the NYSOH Appeals Unit.

Decision

The November 23, 2015 disenrollment notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to facilitate with Fidelis Care the reimbursement of premium amounts paid, if any, for coverage during December 2015 for which no coverage has been provided.

The December 9, 2015 eligibility determination notice is **RESCINDED**.

The NYSOH Appeals Unit will not address the December 12, 2015 enrollment confirmation notice since your request to backdate your daughter's CHP coverage to December 1, 2015 had been approved.

Effective Date of this Decision: June 17, 2016

How this Decision Affects Your Eligibility

You and your spouse were covered by your qualified health plan with Fidelis Care during December 2015.

However, because Fidelis allegedly refused to cover your claims for that month, your case is being returned to NYSOH to facilitate with Fidelis Care the reimbursement of premium amounts paid, if any, for coverage during December 2015 for which no coverage has been provided.

You and your daughter are no longer eligible for Medicaid during December 2015.

Your daughter's CHP coverage with Fidelis Care is effective December 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 must be done within four months 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 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 November 23, 2015 disenrollment notice is **AFFIRMED**.

The December 9, 2015 eligibility determination notice is **RESCINDED**.

The NYSOH Appeals Unit will not address the December 12, 2015 enrollment confirmation notice since your request to backdate your daughter's CHP coverage to December 1, 2015 had been approved.

You and your spouse were covered by your qualified health plan with Fidelis Care during December 2015.

Your case is being returned to NYSOH to facilitate with Fidelis Care the reimbursement of premium amounts paid, if any, for coverage during December 2015 for which no coverage has been provided.

You and your daughter are no longer eligible for Medicaid during December 2015.

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Your daughter's CHP coverage with Fidelis Care is effective December 1, 2015.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

