



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

Notice of Decision

Decision Date: April 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006003

[REDACTED]

Dear [REDACTED],

On April 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 22, 2015 and November 25, 2015 disenrollment notices.

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).

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Decision

Decision Date: April 11, 2016

NY State of Health Account ID: [REDACTED]
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Issue

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

Did the Marketplace properly determine that your, your spouse's, and your daughter's 2015 enrollment in Fidelis qualified health plans ended effective December 31, 2015?

Procedural History

On October 30, 2015, the Marketplace issued notices to you, your spouse, and your daughter stating that Health Republic would no longer be able to offer health care coverage to you as of December 1, 2015. You were instructed that your family would need to select a new health plan by November 15, 2015 to maintain health care coverage for the month of December 2015.

On November 19, 2015, an application for 2016 coverage was submitted to the Marketplace on your family's behalf. That day, you also selected to enroll in Fidelis for the 2016 coverage year.

On November 20, 2015, the Marketplace issued a notice stating that they had not received a plan selection for your family for the month of December 2015. As a result, your information was forwarded to Fidelis to allow them the opportunity to offer you coverage as of December 1, 2015. The notice further stated that you would receive a premium invoice from Fidelis for the month of December 2015 and if you want to enroll effective December 1, 2015 you must make the premium payment within 10 days of the date of the premium invoice.

On November 22, 2015, the Marketplace issued a notice of eligibility determination based on the November 19, 2015 application stating that you, your spouse, and your daughter were eligible to purchase a qualified health plan at full cost, effective January 1, 2016.

Also on November 22, 2015, the Marketplace issued a notice of enrollment confirming your family's enrollment in Fidelis qualified health plans effective January 1, 2016.

Finally on November 22, 2015 the Marketplace issued a notice stating that your daughter's coverage through her Fidelis qualified health plan would end December 31, 2015.

On November 25, 2015, the Marketplace issued a notice stating that you and your spouse were enrolled in a Fidelis qualified health plan effective December 1, 2015.

Also on November 25, 2015 the Marketplace issued a notice stating that your and your spouse's coverage through a Fidelis qualified health plan would end December 31, 2015.

On December 24, 2015, the Marketplace issued cancellation notices stating that you had requested that your, your spouse's, and your daughter's coverage through Fidelis be cancelled. The notices stated that your family would not have coverage effective January 1, 2016.

On January 6, 2016, the Marketplace issued a notice of enrollment stating that your, your spouse, and your daughter's coverage through a Fidelis qualified health plan was effective February 1, 2016.

Also on January 6, 2016, you spoke to the Marketplace's Account Review Unit and appealed the disenrollment notice insofar as it terminated your family's coverage on December 31, 2015 and not on December 1, 2015 as well as the enrollment confirmation notice insofar as it began your family's coverage on February 1, 2016 and not on January 1, 2016.

On April 6, 2016, you had your scheduled telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, your appeal was amended to only discuss your family's coverage through a qualified health plan in December 2015. 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:

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- 1) The record indicates that you, your spouse, and your daughter were enrolled in qualified health plans through Health Republic. The coverage through Health Republic ended effective November 30, 2015.
- 2) You testified that on November 19, 2015 a Fidelis representative assisted you with enrolling your family into a Fidelis qualified health plan for January 1, 2016. You further testified that you had informed the representative that your family had decided to forgo health insurance coverage for the month of December 2015.
- 3) You testified that you received the November 20, 2015 notice stating that your information had been forwarded to Fidelis for December coverage.
- 4) You testified that you spoke to your Fidelis representative and you were instructed that you should wait to pay your January premium until after December 10, 2015 so that you would not be mistakenly enrolled for December coverage.
- 5) You testified that you paid your premiums for January 2016 coverage on December 11, 2015. You testified that later when you received your plan cards the effective date was listed as December 1, 2015 and you were told that the premium you had paid was applied to your December coverage.
- 6) You testified that you called the Marketplace to cancel your family's enrollment for the month of December 2015, however the Marketplace representative instead cancelled your family's coverage for January 1, 2016 instead.
- 7) The record indicates that your family was reenrolled into a Fidelis qualified health plan for February 1, 2016. You testified that your family had no medical bills from the month of January so you are now satisfied with the February 1, 2016 start date for your Fidelis insurance.
- 8) You testified that through the appeal you are only seeking your family's coverage for the month of December 2015 to be cancelled.

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

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The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, the Marketplace must generally ensure that coverage is effective the first day of the following month for selections received by the Marketplace from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by the Marketplace from the sixteenth to the last day of any month, the Marketplace must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to the Marketplace or qualified health plan (45 CFR § 155.430(b)(1), (d)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your, your spouse's, and your daughter's 2015 coverage through a Fidelis qualified health plan was properly terminated on December 31, 2015.

The record indicates that you, your spouse, and your daughter were enrolled in qualified health plans through Health Republic. On October 30, 2015, the Marketplace issued notices stating that Health Republic would no longer be able to offer health care coverage to you as of December 1, 2015 and that you had to select a new plan by November 15, 2015 in order to have coverage for December 2015. You testified that in reliance on this notice your family decided not to enroll in coverage for the month of December.

You testified that on November 19, 2015 you had informed a Fidelis representative that your family had decided to forgo health insurance coverage for the month of December 2015 but you did want to enroll in coverage through Fidelis for January 1, 2016.

On November 20, 2015, the Marketplace issued a notice stating that your information was forwarded to Fidelis to offer you coverage as of December 1, 2015 and that you must make the premium payment within 10 days if you want that coverage to be effective. You testified as a result of this notice and because you previously stated that you did not want coverage in December, you were instructed to wait to pay your January premium until after December 10, 2015 so that you would not be mistakenly enrolled for December coverage.

You testified that you paid your premiums for January 2016 coverage on December 11, 2015. You testified that later when you received your plan cards the effective date was listed as December 1, 2015 and you were told that the premium you had paid was applied to December.

The record supports a finding that you never elected a Fidelis qualified health plan for the month of December 2015 and that your family's enrollment in that plan was done so by the Marketplace without your express permission. Furthermore, you reasonably relied on statements made by the Marketplace and Fidelis that as long as you waited to pay your January premium your family would not be enrolled in coverage for December 2015.

Therefore, the November 22, 2015 disenrollment notice is MODIFIED to state that your daughter's 2015 coverage in a Fidelis qualified health plan was terminated effective November 30, 2015 and the November 25, 2015 disenrollment notice is MODIFIED to state that your and your spouse's 2015 coverage in a Fidelis qualified health plan was terminated effective November 30, 2015.

Your case is RETURNED to the Marketplace to terminate your family's coverage in Fidelis for the month of December 2015. This decision will have no effect on your family's February 1, 2016 enrollment in a Fidelis qualified health plan.

Decision

The November 22, 2015 disenrollment notice is MODIFIED to state that your daughter's 2015 coverage in a Fidelis qualified health plan was terminated effective November 30, 2015.

The November 25, 2015 disenrollment notice is MODIFIED to state that your and your spouse's 2015 coverage in a Fidelis qualified health plan was terminated effective November 30, 2015.

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Your case is RETURNED to the Marketplace to terminate your family's coverage in Fidelis for the month of December 2015. This decision will have no effect on your family's February 1, 2016 enrollment in a Fidelis qualified health plan.

Effective Date of this Decision: April 11, 2016

How this Decision Affects Your Eligibility

You family should not have been enrolled into coverage through Fidelis for the month of December 2015.

Your case is being sent back to the Marketplace to update your account accordingly.

Your family's enrollment in coverage for 2016 is effective as of February 1, 2016.

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):

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You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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- By fax: 1-855-900-5557

Summary

The November 22, 2015 disenrollment notice is MODIFIED to state that your daughter's 2015 coverage in a Fidelis qualified health plan was terminated effective November 30, 2015.

The November 25, 2015 disenrollment notice is MODIFIED to state that your and your spouse's 2015 coverage in a Fidelis qualified health plan was terminated effective November 30, 2015.

You family should not have been enrolled into coverage through Fidelis for the month of December 2015.

Your case is being sent back to the Marketplace to update your account accordingly.

You family's enrollment in coverage for 2016 is effective as of February 1, 2016.

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:

