



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

Notice of Decision

Decision Date: May 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006103

[REDACTED]

Dear [REDACTED],

On April 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's determination to deny your request to be retroactively disenrolled from your qualified health plan effective December 1, 2015.

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 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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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 New York State of Health (NYSOH) properly deny your request to be retroactively disenrolled from your qualified health plan to December 1, 2015?

Procedural History

On December 4, 2015 the NYSOH issued an eligibility determination notice that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH effective as of January 1, 2016.

Also on December 4, 2015 the NYSOH issued an enrollment notice confirming that as of December 3, 2015 you were enrolled in Fidelis Care Bronze ST INN Pediatric Dental Dep25 (Fidelis Care) and the plan enrollment start date was January 1, 2016.

On December 12, 2015 the NYSOH issued an eligibility determination notice that you and your spouse were eligible to enroll in the Essential Plan effective as of January 1, 2016. The notice also stated that you and your spouse no longer qualify to enroll in a qualified health plan as of December 31, 2015.

On December 12, 2015 the NYSOH issued an enrollment notice confirming that as of December 11, 2015 you and your spouse were enrolled in Essential Plan 1 Plus Vision and Dental, with a plan enrollment start date of January 1, 2016.

On December 17, 2015 the NYSOH issued a cancellation notice that you and your spouse's Fidelis Care qualified health plan would end effective January 1, 2016.

On January 9, 2016 the NYSOH issued a notice confirming that on January 8, 2016 you requested a telephone hearing to review, "wants to retro[actively] disenroll for December 2015."

On April 21, 2016, you had a telephone hearing with a Hearing Officer from the 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 supports the following findings of fact:

- 1) According to your NYSOH account, you and your spouse were enrolled in a qualified health plan through Fidelis Care from December 1, 2015 through December 31, 2015.
- 2) On December 4, 2015 the NYSOH issued an enrollment notice confirming that as of December 3, 2015 you were enrolled in Fidelis Care Bronze ST INN Pediatric Dental Dep25 (Fidelis Care) and the plan enrollment start date was January 1, 2016 [REDACTED].
- 3) You testified that you were notified by NYSOH on December 17, 2015, that you and your spouse's qualified health plan coverage would be effective December 1, 2015.
- 4) You testified that your health insurance premium for December 2015 coverage was processed on December 19, 2015.
- 5) You testified that you contacted Fidelis Care on January 5, 2016 to retroactively disenroll from your coverage effective December 1, 2015.
- 6) You testified you contacted the NYSOH on January 6, 2016 to retroactively disenroll from your Fidelis Care coverage effective December 1, 2015.
- 7) You testified you did not receive your health insurance cards from Fidelis Care until January 2016.
- 8) You testified you and your spouse did use the Fidelis Care coverage in December 2015.

- 9) You testified you are seeking to be reimbursed for the December 2015 health insurance premium.

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

Applicable Law and Regulations

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

QHP Termination Effective date:

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 with appropriate notice to the Marketplace or qualified health plan (45 CFR §155.430(b)(1)).

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

- The termination date specified by the enrollee, if they provide notice at least 14 days before the requested termination becomes effective;
- Fourteen days after the enrollee requests the termination, if they do not provide 14 days’ notice; or
- On a date on or after the date the enrollee requests the termination, subject to the determination of the enrollee’s qualified health plan issuer, if the enrollee’s qualified health plan issuer agrees to effectuate termination in fewer than 14 days, and the enrollee requests an earlier termination effective date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

The issue under review is whether the NYSOH properly denied your request to be retroactively disenrolled from your qualified health plan to December 1, 2015.

The record does not contain any notice in response to your request, however, it does contain a January 9, 2016 notice in which the Marketplace acknowledges

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receipt of an appeal request and identifies the issues on appeal as “wants to retro[actively] dis-enroll for December 2015.”

In this particular case, the lack a notice on the issue of your request to change health plans does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. The text of the January 9, 2016 notice, which acknowledges your request to be retroactively disenrolled from your qualified health plan effective December 1, 2015, permits the inference that the NYSOH did not provided timely and proper notice of its denial of your request to be retroactively disenrolled. Since the Appeals Unit’s review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to a formal denial of your request to be retroactively disenrolled had a notice been issued. Therefore, the Appeals Unit issues this decision on the merits.

On December 4, 2015, the NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in a qualified health plan (Fidelis Care) and your coverage was effective January 1, 2016.

The record reflects that you were notified by NYSOH on December 17, 2015, that you and your spouse’s qualified health plan coverage would be effective December 1, 2015, and your health insurance premium for December 2015 coverage was processed on December 19, 2015.

An enrollee must be allowed to terminate their coverage with a qualified health plan if they provide appropriate notice to the Marketplace or to their health plan. Reasonable notice is at least fourteen days before the requested effective date of termination.

The record reflects that you did not request to terminate your Fidelis Care coverage through the NYSOH until January 5, 2016. Therefore, the NYSOH properly denied your request to retroactively disenroll you from your qualified health plan effective December 1, 2015.

However, an earlier termination date may be granted if the enrollee requests an earlier termination date, and the health plan issuer agrees to effectuate the termination of the qualified health plan at the earlier date.

You may contact the qualified health plan directly to inquire if they are willing to effectuate your termination at an earlier date.

Decision

The NYSOH determination to deny your request to retroactively disenroll you and your spouse from your qualified health plan is **AFFIRMED**.

Effective Date of this Decision: May 24, 2016

How this Decision Affects Your Eligibility

You and your spouse are not eligible to be retroactively disenrolled from your qualified health plan effective December 1, 2015.

You may contact Fidelis Care to inquire if they are willing to effectuate your termination at an earlier date.

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):

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 NYSOH determination to deny your request to retroactively disenroll you and your spouse from your qualified health plan is **AFFIRMED**.

You and your spouse are not eligible to be retroactively disenrolled from your qualified health plan effective December 1, 2015.

You may contact Fidelis Care to inquire if they are willing to effectuate your termination at an earlier date.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

