



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

## Notice of Decision

Decision Date: June 16, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006326

[REDACTED]

Dear [REDACTED]

On May 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 2015 disenrollment and January 5, 2016 enrollment 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 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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## Decision

Decision Date: June 16, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006326

[REDACTED]

## Issues

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

Did NYSOH properly determine that your plan enrollment start date in the Essential Plan 1 Plus Vision and Dental (Healthfirst) should be February 1, 2016?

Did NYSOH properly terminate your Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) effective December 31, 2015?

## Procedural History

On November 5, 2015, NYSOH issued an enrollment notice confirming that as of November 4, 2015 you were enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) with a plan enrollment start date of December 1, 2015.

On December 5, 2015, NYSOH issued a notice that it was time to renew your health insurance for 2016. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you are currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015 NYSOH issued an eligibility determination that you were newly eligible to purchase a qualified health plan at full cost through NY State of Health, effective January 1, 2016.

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On December 22, 2015 NYSOH issued an enrollment notice confirming that as of December 21, 2015 you were enrolled in Fidelis Care with a plan enrollment start date of January 1, 2016.

On January 4, 2016 your NYSOH account was updated.

On January 5, 2016 NYSOH issued three notices:

- (1) An eligibility determination that you were eligible to enroll in the Essential Plan for a limited time, effective February 1, 2016. The notice directed you to confirm your citizenship status by providing documentation before April 3, 2016.
- (2) A disenrollment notice that your Fidelis Care plan would end effective January 31, 2016.
- (3) An enrollment notice confirming that as of January 4, 2016, you were enrolled in Essential Plan 1 Plus Vision and Dental (Healthfirst) with a plan enrollment start date of February 1, 2016.

On January 20, 2016 you spoke with the NYSOH Account Review Unit and requested an appeal.

On May 10, 2016, you had a scheduled telephone hearing with a Hearing Officer from the NYSOH Appeals Unit. Testimony was taken during the hearing. The record was left open until May 13, 2016 for you to submit your outstanding medical bills.

No additional documentation was received within the allotted time. The record is now complete and closed.

## **Findings of Fact**

A review of the record supports the following findings of facts:

- 1) According to your NYSOH account, you were enrolled in a qualified health plan, Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care), from December 1, 2015 until December 31, 2015.
- 2) On December 5, 2015 NYSOH issued a notice that it was time to renew your health insurance for 2016. That notice stated that you needed to update your account by December 15, 2015 or you might lose the financial assistance that is currently be received.

- 3) Your NYSOH account indicates that you receive notices from the NYSOH via electronically.
- 4) You testified that the email currently listed in your NYSOH account is correct.
- 5) You testified that you did not receive an email from NYSOH alerting you that notices were uploaded to your account.
- 6) According to your NYSOH account, on January 4, 2016 you updated your account and enrolled Essential Plan 1 Plus Vision and Dental (Healthfirst) with a plan enrollment start date of February 1, 2016.
- 7) According to the "Appeals Summary" in the evidence packet that was created in anticipation for your hearing with the NYSOH Appeals Unit, you requested to "appeal the failure of the exchange to provide a timely notice of eligibility determination; requesting his coverage be backdated to 01/01/2016" (██████████ 1/20/2016).
- 8) You testified that you are seeking to be enrolled in Fidelis Care for December 2015 and January 2016.
- 9) You testified that you have outstanding medical bills, of approximately \$500.00, for the month of December 2015 or January 2016.
- 10) You were directed at the hearing to provide a medical bill to assist in determining what month you incurred the medical bills. However, you did not submit the requested documentation to the NYSOH Appeals Unit.
- 11) According to your January 4, 2016 NYSOH application, you plan on filing a 2016 federal income tax return with the tax status of Head of Household (with qualifying individual) and will be claiming one dependent on that return.
- 12) According to your January 4, 2016 NYSOH application, your 2016 expected annual household income is \$24,280.00.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH required to request that the qualified individual

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provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

However, the enrollment period was further extended to December 19, 2015 for individuals to have coverage effective January 1, 2016 (Press Release: NY State of Health Extends Enrollment Deadline for January 1 Coverage: [https://www.health.ny.gov/press/releases/2015/2015-12-15\\_enrollment\\_deadline\\_extension.htm](https://www.health.ny.gov/press/releases/2015/2015-12-15_enrollment_deadline_extension.htm))

### Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR § 435.918, (45 CFR § 155.230(d)).

### Essential Plan Eligibility:

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

An individual who is eligible to enroll in an Essential Health Plan is prohibited from enrolling in a qualified health plan through NYSOH (42 CFR § 600.300(a)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your plan enrollment start date in your Essential Health Plan should be February 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually.

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NYSOH must issue a renewal notice that contains the individual's eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On December 5, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015, or the financial help you were receiving might end.

Your NYSOH account was not updated by December 15, 2015 and your eligibility for financial assistance was terminated December 31, 2015.

However, you testified and the record reflects that you elected to receive alerts regarding notices from the NYSOH electronically. You credibly testified that you did not receive an electronic alert that a notice had been uploaded to your account directing you to update your NYSOH account. There is no evidence in your account documenting that any email alert was sent to you regarding any notices uploaded to your account.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

You first renewed your eligibility for financial assistance and enrolled in a plan through the Marketplace for 2016 on January 4, 2016, and therefore the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the January 5, 2016, notice of enrollment is MODIFIED to state that your enrollment in Essential Plan 1 Plus Vision and Dental (Healthfirst) will have a plan enrollment start date of January 1, 2016, if elect to have your coverage backdated.

The second issue is whether the NYSOH properly disenrolled you from your qualified health plan (Fidelis Care), effective December 31, 2015.

According to the record, you expect to file your 2016 federal income tax return with the tax filing status of Head of Household (with qualifying individual) and claim one dependent on that return. Therefore, you are household of two.

A two-person household may qualify for coverage in an Essential Health Plan if their annual household income is below \$31,860.00 (200% 2015 FPL).



According to your January 4, 2016 NYSOH application, your 2016 expected income is \$24,280.00. Therefore, because your 2016 expected yearly income is below the income threshold, you are eligible for coverage in an Essential Plan.

An individual who is eligible to enroll in an Essential Health Plan is prohibited from enrolling in a qualified health plan through NYSOH. Therefore NYSOH disenrolled you from your qualified health plan (Fidelis Care) effective December 31, 2015.

The December 22, 2015 disenrollment notice stating that your Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) will end December 31, 2015 is AFFIRMED.

The January 5, 2016 disenrollment notice stating that your Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) will end January 31, 2016 is RESCINDED.

## **Decision**

The January 5, 2016, notice of enrollment is MODIFIED to state that your enrollment in Essential Plan 1 Plus Vision and Dental (Healthfirst) will have a plan enrollment start date of January 1, 2016, if elect to have your coverage backdated.

The December 22, 2015, disenrollment notice that your Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) will end December 31, 2015 is AFFIRMED.

The January 5, 2016 disenrollment notice stating that your Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) will end January 31, 2016 is RESCINDED.

**Effective Date of this Decision:** June 16, 2016

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

Your Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) is terminated effective December 31, 2015.

You are currently enrolled in Essential Plan 1 Plus Vision and Dental (Healthfirst) with a plan enrollment start date of February 1, 2016. However, you are eligible to have your Healthfirst plan backdated to January 1, 2016.

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).

If you choose to backdate your Healthfirst coverage to January 1, 2016, you will be responsible for the additional health insurance premium in order to effectuate this coverage.

### **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

Your Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) is terminated effective December 31, 2015.

You are currently enrolled in Essential Plan 1 Plus Vision and Dental (Healthfirst) with a plan enrollment start date of February 1, 2016. However, you are eligible to have your Healthfirst plan backdated to January 1, 2016.

If you choose to backdate your Healthfirst coverage to January 1, 2016, you will be responsible for the additional health insurance premium in order to effectuate this coverage.

## **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:**

