



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

Notice of Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007271

[REDACTED]

Dear [REDACTED]

On August 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 2015 disenrollment 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 Code of Federal Regulation (CFR) 45 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007271

[REDACTED]

Issue

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

Did you and your spouse have coverage in a silver level qualified health plan through Fidelis Care in December 2015?

Procedural History

On December 15, 2014 NY State of Health (NYSOH) issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2015.

Also on December 15, 2014 NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a silver level qualified health plan through Health Republic as of January 1, 2015.

On October 30, 2015 notices were issued to you and your spouse stating that immediate action was needed because Health Republic would no longer be able to offer health care coverage beginning December 1, 2015 and that you and your spouse would need to select a new health plan by November 15, 2015 for December 2015 coverage.

On November 4, 2015 NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in Health Republic would end effective November 30, 2015.

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On November 17, 2015 you and your spouse were enrolled into a silver level qualified health plan through Fidelis Care. On November 25, 2015 NYSOH issued an enrollment confirmation notice that your plan would start December 1, 2015.

On November 20, 2015 NYSOH issued a notice stating that NYSOH had not received a plan selection for December 2015 from you but your information was forwarded to Fidelis Care to allow them the opportunity to offer you enrollment. The notice stated that if you would like to select a different health plan, you should call NYSOH.

On November 22, 2015, a disenrollment notice was issued terminating your and your spouse's coverage with your silver level health plan with Fidelis effective December 31, 2015.

On December 16, 2015, NYSOH received your request to enroll into the Affinity Access silver level qualified health plan.

On December 17, 2015, an enrollment confirmation letter was issued based on your December 16, 2015, enrollment confirming you and your spouse's enrollment in a Silver level health plan through Affinity with a premium responsibility of \$743.50 per month starting December 1, 2015.

Also on December 17, 2015, a disenrollment notice was issued terminating you and your spouse's Affinity Access Silver level health plan. You and your spouse were subsequently disenrolled from your Affinity Silver level health plan effective December 31, 2015.

On February 22, 2016, you contacted NYSOH's Account Review Unit and appealed your and your spouse's disenrollment from Fidelis Care Silver for the month of December 2015.

On August 2, 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 proceeding.

Findings of Fact

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

- 1) You and your spouse were enrolled in a Health Republic Silver level health plan from January 1, 2015 to November 30, 2015.

- 2) You are seeking insurance for yourself and your spouse for the month of December 2015 or a refund of your premium payment made to Fidelis in the amount of \$767.08.
- 3) You testified that you had made a payment to Fidelis in the amount of \$767.08, however they will not honor the payment, or consider you or your spouse enrolled with them as of December 1, 2015, and will not provide you a reimbursement of your premium payment. You further testified that you did not make a payment to Affinity, and that Affinity does not show any enrollment or payments being received.
- 4) Your NYSOH account events tab shows that the SYSTEM disenrolled you from your Fidelis Care Silver level health plan on November 22, 2015.
- 5) You testified you had medical costs for the month of December 2015.
- 6) An incident number [REDACTED] is on file with NYSOH in which a defect is referred to for the December 2015 enrollment with Fidelis. The defect is also referred to by [REDACTED]

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

Applicable Law and Regulations

Termination of a Qualified Health Plan; Enrollee Initiated

The NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

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)).

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Termination of a Qualified Health Plan; Exchange Initiated

The NYSOH 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 NYSOH; or (2) The enrollee's coverage is cancelled due to non-payment of premiums (45 CFR § 155.430(b)(2)(i) and (ii)).

Legal Analysis

The issue under review is whether you and your spouse had coverage in a silver level qualified health plan through Fidelis Care in December 2015

You and your spouse were enrolled in Health Republic Silver level health plan from January 1, 2015 to November 30, 2015.

On October 30, 2015 notices were issued to you and your spouse stating that immediate action was needed because Health Republic would no longer be able to offer health care coverage beginning December 1, 2015 and that you and your spouse would need to select a new health plan by November 15, 2015 for December 2015 coverage. The record indicates that you did not select a qualified health plan before the November 15, 2015 deadline.

As a result, on November 17, 2016 you and your spouse were automatically enrolled into a Fidelis Care silver qualified health plan.

On November 20, 2015 NYSOH issued a notice advising you that you and your spouse had not selected a plan for December 2015 but that your information was forwarded to Fidelis Care to allow them the opportunity to offer your enrollment and your plan would be effective when you paid your December premium. The notice stated that if you would like to select a different health plan, you should call NYSOH.

You testified that you had made a payment to Fidelis in the amount of \$767.08, however they will not honor the payment, or consider you or your spouse enrolled with them as of December 1, 2015, and will not provide you a reimbursement of your premium payment.

Your NYSOH account shows that the SYSTEM disenrolled you from your Fidelis Care Silver level health plan on November 21, 2015. On November 22, 2015, a disenrollment notice was issued terminating your and your spouse's coverage with their Silver level health plan with Fidelis effective December 31, 2015.

There is no notice from NYSOH terminating you and your spouse's enrollment with Fidelis for the month of December, 2015. The November 22, 2015, disenrollment notice states that you and your spouse's coverage would end December 31, 2015, not December 1, 2015. Furthermore, an incident number [REDACTED] is on file with NYSOH in which a defect is referred to for the December, 2015 enrollment with Fidelis. The defect is also referred to by [REDACTED]

Although the Appeals Unit of NYSOH cannot reach the issue of reimbursement for any premium payments that you made for the month of December 2015, that does not preclude a determination based upon the notification and actions of NYSOH for your automatic enrollment with Fidelis per the November 20, 2015 notice and the defect that terminated your enrollment prior to December 31, 2015. Since you testified that you made a premium payment to Fidelis for the month of December 2015 in which you were to be automatically enrolled, and a month in which none of your information was forwarded by NYSOH to Fidelis despite the notice stating you would be enrolled if you paid a premium your eligibility for enrollment must be honored.

Therefore, based on the credible evidence in the record the November 22, 2015 disenrollment notice is AFFIRMED. Your and your spouse's enrollment in your Fidelis Care silver plan should have ended as of December 31, 2015.

We are RETURNING your case to NYSOH's Plan Management Unit to further investigate whether a premium payment was properly made and received by Fidelis Care and to assist you in obtaining a reimbursement from Fidelis for December 2015 or reinstate your coverage for that month, whatever you may choose.

Decision

NYSOH's November 22, 2015 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH's Plan Management Unit to further investigate whether a premium payment was properly made and received by Fidelis Care and to assist you in obtaining a reimbursement from Fidelis for December 2015 or reinstate your coverage for that month, whatever you may choose.

Effective Date of this Decision: August 19, 2016

How this Decision Affects Your Eligibility

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).

You and your spouse's coverage in your Fidelis Silver level health plan ended effective December 31, 2015.

Your case is being sent back to investigate whether a proper premium payment was received by Fidelis Care and to offer you reinstatement in the plan for December, or a reimbursement.

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.

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

NYSOH's November 22, 2015 disenrollment notice is **AFFIRMED**.

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Your case is RETURNED to NYSOH's Plan Management Unit to further investigate whether a premium payment was properly made and received by Fidelis Care and to assist you in obtaining a reimbursement from Fidelis for December 2015 or reinstate your coverage for that month, whatever you may choose.

You and your spouse's coverage in your Fidelis Silver level health plan ended effective December 31, 2015.

Your case is being sent back to investigate whether a proper premium payment was received by Fidelis Care and to offer you reinstatement in the plan for December, or a reimbursement.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

