



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

## Notice of Decision

Decision Date: September 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007607

[REDACTED]

Dear [REDACTED],

On August 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 1, 2015 cancellation notice and the November 7, 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

Decision Date: September 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007607

[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 your enrollment through a Health Republic qualified health plan was terminated as of November 1, 2015?

Did NYSOH properly determine that your enrollment through a Fidelis Care qualified health plan was effective December 1, 2015?

## Procedural History

On October 10, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost. This eligibility was effective November 1, 2015.

Also on October 10, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Health Republic bronze level qualified health plan and that your coverage would start November 1, 2015.

On October 30, 2015, a notice was issued 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 would need to select a new health plan to maintain coverage for the month of December 2015.

On November 1, 2015 NYSOH issued a cancellation notice stating that your enrollment in a Health Republic bronze level qualified health plan ended November 1, 2015.

On November 7, 2015 NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Fidelis Care platinum level qualified health plan and that your coverage would start December 1, 2015.

On December 18, 2015 NYSOH issued a cancellation notice stating that your request to end your coverage through the Fidelis Care platinum level qualified health plan was received on December 1, 2015 and you would not have coverage effective January 1, 2016.

On March 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the November 1, 2015 cancellation notice insofar as it ended your coverage in Health Republic as of November 1, 2015, and the November 7, 2015 enrollment confirmation notice insofar as it began your coverage in Fidelis Care as of December 1, 2015.

On August 15, 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 submitted an application to NYSOH and enrolled into a Health Republic Bronze level qualified health plan on October 9, 2015.
- 2) You testified that when you selected Health Republic you were not informed that they would no longer be providing coverage through NYSOH as of December 1, 2015.
- 3) You testified that you made a payment for November 2015 coverage to Health Republic but the payment was never processed.
- 4) The events tab in your NYSOH account indicates that the system deleted your enrollment in your Health Republic plan on October 31, 2015.
- 5) You testified that in November you called to select a Fidelis Care platinum level plan.
- 6) You testified that you paid Fidelis Care a premium payment for December coverage.

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- 7) You testified that you later contacted NYSOH to request that your coverage in Fidelis Care be cancelled for the month of December 2015 because you had obtained coverage through your employer.
- 8) Complaint [REDACTED] states, and the enrollment history tab in your NYSOH account confirms, that you were cancelled from your Fidelis Care plan for the month of December 2015.
- 9) You testified that you are seeking enrollment in either the Health Republic plan or the Fidelis Care plan for the month of November 2015 only because you have unpaid medical bills.

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

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)).

### Enrollment in a Qualified Health Plan

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, 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)). 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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in a Health Republic qualified health plan was terminated as of November 1, 2015.

You submitted an application to NYSOH and enrolled into a Health Republic Bronze level qualified health plan on October 9, 2015.

On October 30, 2015 a notice was issued 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 would need to select a new health plan to maintain coverage for the month of December 2015.

The events tab in your NYSOH account indicates that the system deleted your enrollment in your Health Republic plan on October 31, 2015. A cancellation notice issued on November 1, 2015 confirms that you had been terminated from your Health Republic plan for the month of November 2015.

NYSOH is permitted to terminate coverage through a qualified health plan if (1) the enrollee is no longer eligible for coverage through the plan, or (2) a premium payment is not timely made.

You testified that you made a payment for November 2015 coverage to Health Republic and the October 30, 2015 notice states that you would no longer be able to have coverage through Health Republic as of December 1, 2015, not November 1, 2015.

Therefore, there was no valid reason for NYSOH's system to terminate your coverage through Health Republic for the month of November 2015. The November 1, 2015 cancellation notice is MODIFIED to state that your coverage through Health Republic was terminated as of November 30, 2015.

The second issue is whether NYSOH properly determined that your enrollment through a Fidelis Care qualified health plan was effective December 1, 2015

The record shows that on November 6, 2015, you updated the information in your NYSOH account and submitted a request to enroll in a Fidelis Care qualified health plan. On November 7, 2015, NYSOH issued an enrollment confirmation notice stating that your enrollment in your Fidelis Care qualified health plan was effective December 1, 2015.

The date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's November 7, 2015 enrollment confirmation notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to reinstate your enrollment in Health Republic for the month of November 2015. Please note, that Health Republic has

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dissolved but because you should have had coverage through them in November 2015 NYSOH is directed to instruct you as to the proper actions you need to take to file a claim to have your medical bills from November 2015 covered.

## **Decision**

The November 1, 2105 cancellation notice is MODIFIED to state that your coverage through Health Republic was terminated as of November 30, 2015.

The November 7, 2015 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate your enrollment in Health Republic for the month of November 2015. Please note, that Health Republic has dissolved but because you should have had coverage through them in November 2015 NYSOH is directed to instruct you as to the proper actions you need to take to file a claim to have your medical bills from November 2015 covered.

**Effective Date of this Decision:** September 1, 2016

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

You should have been covered by Health Republic for November 2015.

You do not have coverage through Fidelis Care for November 2015.

Your case is being sent back to NYSOH to reinstate your coverage and to provide you further instructions on how to file a claim for your unpaid medical bills.

## **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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The November 1, 2105 cancellation notice is MODIFIED to state that your coverage through Health Republic was terminated as of November 30, 2015.

You should have been covered by Health Republic for November 2015.

The November 7, 2015 enrollment confirmation notice is AFFIRMED.

You do not have coverage through Fidelis Care for November 2015.

Your case is RETURNED to NYSOH to reinstate your enrollment in Health Republic for the month of November 2015. Please note, that Health Republic has dissolved but because you should have had coverage through them in November 2015 NYSOH is directed to instruct you as to the proper actions you need to take to file a claim to have your medical bills from November 2015 covered.

### **Legal Authority**

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

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**A Copy of this Decision Has Been Provided To:**

