



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

Notice of Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]

Appeal Identification Number: AP000000007820

[REDACTED]

Dear [REDACTED]

On September 1, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 eligibility determination and December 22, 2015 enrollment notices through account [REDACTED]

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]

Appeal Identification Number: AP000000007820

[REDACTED]

Issue

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

Did New York State of Health (NYSOH) properly determine you eligible to enroll in a qualified health plan at full cost and re-enroll you in a qualified health plan, effective January 1, 2016?

Procedural History

[REDACTED]

On February 20, 2015, NYSOH issued an eligibility determination notice, in relevant part, that you were eligible to receive up to \$316.00 of advance premium tax credit per month, cost-sharing reductions and for the Advance Premium Tax Credit Premium Assistance Program, effective as of April 1, 2015.

Also on February 20, 2015, NYSOH issued an enrollment notice confirming that as of February 19, 2015, you were enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care) and your enrollment would begin April 1, 2015.

On October 25, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. 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 were currently receiving.

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██████████

On November 24, 2015, you applied for health insurance through NYSOH.

On November 25, 2015, NYSOH issued an eligibility determination notice stating, in relevant part, that you were eligible to enroll in the Essential Plan, effective as of January 1, 2016.

Also on November 25, 2015, NYSOH issued an enrollment notice confirming that you were enrolled in Essential Plan 1 (Excellus BlueCross BlueShield) with a plan enrollment start date of January 1, 2016.

██████████

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

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

On February 3, 2016, NYSOH issued a disenrollment notice stating that you requested to end your insurance coverage with Fidelis Care on February 2, 2016, and your coverage would end effective February 29, 2016.

██████████

On March 9, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as being re-enrolled in a qualified health plan in 2016 under account ██████████.

On September 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH Appeals Unit. Testimony was taken during the hearing, and the record was closed at the conclusion of the proceeding. The record is now complete and closed.

Findings of Fact

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

- 1) You testified and your ██████████ account reflects that you were enrolled in a Fidelis Care qualified health plan in 2015.
- 2) On October 25, 2015, NYSOH issued you a notice that it was time to renew your health insurance for the upcoming coverage year. That notice

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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 were currently receiving [REDACTED].

- 3) On November 24, 2015, you reapplied for health insurance coverage using NYSOH account [REDACTED].
- 4) Based on your November 24, 2015 application, NYSOH issued two notices on November 25, 2015:
 - (a) an eligibility determination notice stating, in relevant part, that you were eligible to enroll in the Essential Plan, effective as of January 1, 2016 [REDACTED]
 - (b) an enrollment notice confirming that you were enrolled in Essential Plan 1 (Excellus BlueCross BlueShield) with a plan enrollment start date of January 1, 2016 [REDACTED].
- 5) According to your [REDACTED] account, no updates were made before December 15, 2015.
- 6) 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 through account [REDACTED].
- 7) You testified that you received correspondence from Fidelis Care requesting that you pay for the premiums for the months of January, February and March 2016.
- 8) On February 2, 2016, your [REDACTED] account was updated, and NYSOH issued a disenrollment notice of February 3, 2016 stating that your Fidelis Care coverage would end February 29, 2016 [REDACTED].
- 9) You testified that you have not paid any premiums to Fidelis Care in 2016.
- 10) You testified that you are seeking to have your Fidelis Care coverage terminated effective December 31, 2015.

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

Applicable Law and Regulations

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Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual 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)). NYSOH must ensure this redetermination is effective on the first day of the coverage year following the year in which NYSOH provided the redetermination notice, or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

If an enrollee remains eligible for enrollment in a QHP through NYSOH upon annual redetermination and the QHP in which they are enrolled in remains available through the NYSOH, such enrollee will have their enrollment through the QHP renewed, unless the enrollee terminates their coverage or selects a different QHP (45 CFR § 155.335(j)(1)).

QHP Eligibility

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

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to enroll in health insurance coverage at full cost through NYSOH and re-enrolled you in a qualified health plan, effective January 1, 2016.

The record reflects that you were enrolled in a Fidelis Care qualified health plan in 2015, under NYSOH account [REDACTED]

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the information it used to determine an 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.

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On October 25, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you would 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.

On November 24, 2015, you submitted a financial assistance application, through NYSOH, using account [REDACTED]. Based on that application, you were found eligible to enroll in an Essential Plan and enrolled in the Essential Plan 1 (Excellus BlueCross BlueShield) with a plan enrollment start date of January 1, 2016.

If an enrollee remains eligible for enrollment in a QHP through NYSOH upon an annual redetermination and the QHP in which they are enrolled in remains available through the NYSOH, such enrollee will have their enrollment through the QHP renewed, unless the enrollee terminates their coverage or selects a different QHP.

An individual who is eligible to enroll in an Essential Plan is prohibited from enrolling in a qualified health plan through NYSOH. The record supports that you were enrolled in an Essential Plan as of January 1, 2016 under account [REDACTED]. Therefore, NYSOH improperly found you eligible to enroll in a qualified health plan and re-enrolled you a qualified health, effective January 1, 2016 under account [REDACTED].

Decision

The December 21, 2015, eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH effective as of January 1, 2016 is RESCINDED.

The December 22, 2015, 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 is RESCINDED.

Effective Date of this Decision: October 4, 2016

How this Decision Affects Your Eligibility

You were not eligible to enroll in a qualified health plan as of December 31, 2015.

Your enrollment in the qualified health plan, Fidelis Care, ended effective December 31, 2015.

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 remain eligible for coverage in an Essential Plan effective January 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):

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

The December 21, 2015, eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH effective as of January 1, 2016 is RESCINDED.

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The December 22, 2015, 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 is RESCINDED.

You were not eligible to enroll in a qualified health plan as of December 31, 2015.

Your enrollment in the qualified health plan, Fidelis Care, ended effective December 31, 2015.

You remain eligible for coverage in an Essential Health Plan effective January 1, 2016.

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:

