



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

## Notice of Decision

Decision Date: October 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008447

[REDACTED]

Dear [REDACTED],

On October 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 2015 eligibility and enrollment confirmation, December 23, 2015 cancellation, and March 22, 2016 enrollment confirmation 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 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: October 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008447



## Issues

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

Did NY State of Health (NYSOH) properly cancel your coverage in your silver-level qualified health plan (QHP), effective January 1, 2016?

Did NYSOH properly determine that your eligibility for, and enrollment in, an Essential Plan was effective February 1, 2016?

Did NYSOH properly determine that your enrollment in an Essential Plan was effective May 1, 2016?

## Procedural History

On October 24, 2015, NYSOH issued a renewal notice stating that it was time to renew your health insurance for 2016. The notice further stated that, based on information available from state and federal data sources, you qualified for advance payments of the premium tax credit (APTC) of up to \$190.16 per month, effective January 1, 2016. The notice also stated that you had been re-enrolled into your current Fidelis silver-level QHP, beginning January 1, 2016. Lastly, the notice stated that if any of the information in the notice was incorrect, or if you needed to make any changes to your application, you should update your account between November 16, 2015 and December 15, 2015.

On November 25, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment in your silver-level QHP with a monthly premium of \$187.49, after the application of your tax credit, beginning 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).

On December 21, 2015, you updated your NYSOH account.

On December 22, 2015, NYSOH issued a notice of eligibility determination, based on your December 21, 2015 application, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2016. The notice also stated that you were no longer eligible for a tax credit as of January 31, 2016.

Also on December 22, 2015, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan through United Healthcare, effective February 1, 2016.

That same day, NYSOH also issued a cancellation notice, informing you that your coverage in your silver-level QHP would end effective January 1, 2016, because you were no longer eligible to remain in your current health insurance.

On March 21, 2016, you updated your NYSOH account.

On March 22, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan through Excellus, effective May 1, 2016.

Also on March 22, 2016, NYSOH issued a notice of disenrollment, stating that your enrollment in your United Healthcare Essential Plan would end effective April 30, 2016.

On March 29, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your eligibility for the Essential Plan, in that it did not begin on January 1, 2016, and the start date of your enrollment in the Excellus Essential Plan, insofar as it did not begin April 1, 2016.

On October 21, 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) The record reflects that NYSOH found you eligible for up to \$190.16 in APTC, effective January 1, 2016, and re-enrolled you into your silver-level Fidelis QHP, beginning January 1, 2016.
- 2) You testified that you did not receive the October 24, 2015 renewal notice.

- 3) You testified that you contacted NYSOH on December 21, 2015 because you received the November enrollment confirmation notice, which showed a higher premium than what you paid in 2015. You updated your application for financial assistance on December 21, 2015.
- 4) You testified that, when you spoke with a NYSOH representative on December 21, 2015, you were very confused about your eligibility going forward.
- 5) You testified that you understood from your conversation on December 21, 2015 that your new plan coverage would begin on January 1, 2016, and that you would not have your QHP coverage in January.
- 6) You testified that you first tried to contact NYSOH to change to a new Essential Plan in February 2016 because you were having problems finding providers who would take your plan.
- 7) You testified that you spoke with someone from NYSOH on February 22, 2016 and selected a new plan, and were told that this plan would start on April 1, 2016.
- 8) There is no record of any updates being made to your NYSOH account in February 2016.
- 9) The record reflects that you changed your enrollment to an Excellus Essential Plan on March 21, 2016. You testified that you did speak to a NYSOH representative on that date who informed you that your enrollment was not completed in February 2016, and who completed your enrollment that day.
- 10) You testified that you had an outpatient procedure in January 2016 under the belief that you had coverage.
- 11) You testified that you would like to either have your Essential Plan coverage backdated to January 1, 2016, or to be reinstated into your Fidelis silver-level QHP for the month of January 2016. You testified that you were also seeking to have your Excellus coverage backdated to April 1, 2016.
- 12) You testified that you paid your United Healthcare Essential Plan premium for April 2016.

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

## **Applicable Law and Regulations**

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

### 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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly cancelled your enrollment in your Fidelis silver-level QHP effective January 1, 2016.

When NYSOH issues a redetermination as a result of a change in an applicant's information, that redetermination must generally be made effective on the first day of the month following the date NYSOH is notified of the change. However, NYSOH changes made after the fifteenth of the month will not go into effect until the first day of the second following month.

NYSOH issued a renewal notice and re-enrolled you into your Fidelis silver-level QHP beginning January 1, 2016. Likewise, NYSOH issued an enrollment confirmation notice on November 25, 2016 confirming this enrollment and

notifying you that your monthly premium would be \$187.49 after the application of your APTC, beginning January 1, 2016.

On December 21, 2015, you updated your application for financial assistance, which resulted in a determination that you were eligible for the Essential Plan as of February 1, 2016. However, since the updates to your application were made after the fifteenth of December, any changes resulting from them should not have been made effective until the first date of the second following month; that is, until February 1, 2016.

Therefore, your enrollment in your Fidelis silver-level QHP should not have been terminated until January 31, 2016. The December 23, 2015 cancellation notice is therefore MODIFIED to state that your enrollment in your Fidelis silver-level QHP was terminated effective January 31, 2016. Your case is RETURNED to NYSOH to facilitate your enrollment into your Fidelis QHP for the month of January 2016, should you choose to do so. You are responsible for any premium payment for that month, after the application of the \$190.16 in APTC.

The second issue under review is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective February 1, 2016.

You testified, and the record indicates, that you updated your NYSOH application on December 21, 2015. As a result, you were found eligible for the Essential Plan as of February 1, 2016. You also selected an Essential Plan for enrollment on December 21, 2015.

The date on which enrollment in an Essential 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. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On December 21, 2015, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following December; that is, on February 1, 2016.

Therefore, the December 22, 2015 eligibility determination and enrollment confirmation notices stating that your eligibility for and enrollment in the Essential Plan were effective February 1, 2016 are correct and must be AFFIRMED.

The third issue under review is whether NYSOH properly determined that your enrollment in your Excellus Essential Plan was effective May 1, 2016.

The record reflects that you updated your account and selected a new Essential Plan for enrollment on March 21, 2016. Though you testified that you called in February 2016 and selected a new plan, there is no record of this in your NYSOH account. Therefore, you are considered to have selected your new plan on March 21, 2016.

As stated above, the date on which enrollment in an Essential Plan can take effect depends on the day a person selects that plan for enrollment. Since you selected your plan on March 21, 2016, which was after the fifteenth of the month, your enrollment in that plan properly began on the first day of the second following month; that is, on May 1, 2016.

Therefore, the March 22, 2016 enrollment confirmation notice, confirming your enrollment in an Excellus Essential Plan beginning May 1, 2016, was correct and is AFFIRMED.

## **Decision**

The December 22, 2015 eligibility determination is AFFIRMED.

The December 22, 2015 enrollment confirmation notice is AFFIRMED.

The December 23, 2015 cancellation notice is MODIFIED to state that your enrollment in your Fidelis silver-level QHP terminated effective January 31, 2016.

The March 22, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to facilitate your enrollment in your Fidelis silver-level QHP, with the application of your \$190.16 APTC, for the month of January 2016.

**Effective Date of this Decision:** October 27, 2016

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

You were eligible for the Essential Plan effective February 1, 2016.

Your enrollment in your Excellus Essential Plan properly began on May 1, 2016.

Your enrollment in your Fidelis silver-level QHP should not have been terminated until January 31, 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).



Your case is being returned to NYSOH to assist you with re-enrolling in your Fidelis silver-level QHP for the month of January 2016.

Should you choose to re-enroll in your Fidelis silver-level QHP for the month of January 2016, you will be responsible for the premium payment, after the application of your \$190.16 APTC.

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

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## **Summary**

The December 22, 2015 eligibility determination is AFFIRMED.

The December 22, 2015 enrollment confirmation notice is AFFIRMED.

The December 23, 2015 cancellation notice is MODIFIED to state that your enrollment in your Fidelis silver-level QHP terminated effective January 31, 2016.

The March 22, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to facilitate your enrollment in your Fidelis silver-level QHP, with the application of your \$190.16 APTC, for the month of January 2016.

You were eligible for the Essential Plan effective February 1, 2016.

Your enrollment in your Excellus Essential Plan properly began on May 1, 2016.

Your enrollment in your Fidelis silver-level QHP should not have been terminated until January 31, 2016.

Your case is being returned to NYSOH to assist you with re-enrolling in your Fidelis silver-level QHP for the month of January 2016.

Should you choose to re-enroll in your Fidelis silver-level QHP for the month of January 2016, you will be responsible for the premium payment, after the application of your \$190.16 APTC.

## **Legal Authority**

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

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

