



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

Notice of Decision

Decision Date: October 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008813

[REDACTED]

Dear [REDACTED],

On October 14, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's March 31, 2016, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008813

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that your enrollment in a qualified health plan, was effective May 1, 2016?

Procedural History

On December 15, 2015, NYSOH received your updated application for financial assistance.

On December 17, 2015, an eligibility determination notice was issued finding you eligible to receive advance premium tax credits up to \$116.00 per month starting January 1, 2016.

Also on December 17, 2015 an enrollment confirmation notice was issued confirming your enrollment in a Gold level qualified health plan with Excellus BlueCross BlueShield with a premium responsibility of \$541.13 per month starting January 1, 2016.

On December 19, 2015 you requested to be disenrolled from your health plan through Excellus BlueCross BlueShield. That day, you also enrolled into a Fidelis Care Gold plan.

On January 15, 2016, an enrollment confirmation notice was issued confirming your enrollment in a Fidelis Care Gold level qualified health plan as of December

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19, 2015, with a premium responsibility of \$346.61 per month starting February 1, 2016.

Also on January 15, 2016 a disenrollment notice was issued terminating your Excellus BlueCross BlueShield Gold level health plan effective January 31, 2016.

On February 3, 2016, NYSOH received your updated application for health insurance.

On February 4, 2016, NYSOH issued a notice of eligibility redetermination stating that you were newly eligible to receive up to \$179.00 per month in advance payment of the premium tax credit and, if you selected a silver-level qualified health plan, for cost-sharing reductions. This eligibility was effective March 1, 2016.

Also on February 4, 2016, NYSOH issued a letter confirming your enrollment in the Fidelis Care Gold qualified health plan, effective January 1, 2016.

On February 9, 2016, a cancellation notice was issued stating your Fidelis Care Gold level health plan was cancelled effective January 1, 2016. The notice stated this was because a premium payment was not received by your health plan.

On March 31, 2016, an enrollment confirmation notice was issued confirming your enrollment on March 30, 2016 in a Gold level qualified health plan with Fidelis Care with a premium responsibility of \$283.61 per month starting May 1, 2016.

On April 11, 2016 you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your qualified health plan through Fidelis Care as of May 1, 2016, and not February 1, 2016.

On October 14, 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 are seeking insurance for yourself.
- 2) On May 18, 2016, NYSOH filed an incident regarding your appeal request which reads, "Consumer has been dealing with some enrollment issues since January 2016. She was enrolled improperly and backdated to 01/01/2016. Then she requested the backdate be reversed to 02/01/2016

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([REDACTED]). While this was being dealt with, the consumer had issues with Fidelis properly applying the tax credit. In the midst of this confusion, the consumer was disenrolled for non-payment. Consumer states she has paid all bills for January, February, and March. When she spoke to Fidelis this morning they informed her she had active coverage in their system. Please research this issue with Fidelis and correct enrollment in the marketplace system. Consumer was re-enrolled for 05/01/2016 by a previous representative, so she is actually seeking a reinstatement of her initial coverage effective 02/01/2016.” [REDACTED].

- 3) You testified that you had made your premium payments on time to your Fidelis care Gold health plan in the amount of \$346.61 for January, and February, 2016.
- 4) You testified that you did request the backdate in coverage initially to January 1, 2016 for your Fidelis Care gold plan after you learned you had been disenrolled for non-payment of premium. However, you did not receive communication from NYSOH in time for you to use any coverage for January, 2016, so you requested a reversal of the start date of your Gold level health plan back to February 1, 2016.
- 5) You testified you received a credit on your account from Fidelis for overpaying premium payments in the amount of \$346.61 per month. Your new premium payment is currently \$283.61 per month.
- 6) You testified you are now seeking the start date of February 1, 2016 for your Gold level qualified health plan with Fidelis.

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 an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not made) on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

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 issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan was effective May 1, 2016.

The record shows that on December 15, 2015, you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. You were subsequently found eligible to receive APTC up to \$116.00 per month and enrolled in a Gold level qualified health plan with Excellus BlueCross BlueShield effective January 1, 2016.

On December 19, 2015 you contacted NYSOH and disenrolled from the Excellus qualified health plan. You then enrolled into a Gold level qualified health plan with Fidelis Care. On January 14, 2016 you confirmed your Gold level qualified health plan with Fidelis Care.

On May 18, 2016, NYSOH filed an incident stating in part that you were having enrollment issues. To correct these issues, NYSOH backdated your coverage in your Fidelis Care qualified health plan to January 1, 2016 but you were not notified in a timely manner of the backdate. [REDACTED].

You testified that you did request the backdate in coverage initially to January 1, 2016 for your Fidelis Care gold plan after you learned you had been disenrolled for non-payment of premium. However, you did not receive communication from NYSOH in time for you to use any coverage for January, 2016, so you requested

a reversal of the start date of your Gold level health plan back to February 1, 2016.

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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your Fidelis Care Gold plan on December 19, 2016 and confirmed the enrollment again on January 15, 2016, it should begin the second following month after December, which is February 2016.

Therefore, NYSOH's March 31, 2016, enrollment confirmation notice is MODIFIED to reflect your enrollment in a Gold level Fidelis Care health plan beginning February 1, 2016.

Your correct level of advance premium tax credits will be determined at the end of a tax year. This is because a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability

Your case is RETURNED to NYSOH to ensure this enrollment is reflected in your NYSOH account and with Fidelis Care.

Decision

The March 31, 2016, enrollment confirmation notice is MODIFIED.

Your case is RETURNED to NYSOH to ensure this enrollment is reflected in your NYSOH account and with Fidelis Care.

Effective Date of this Decision: October 24, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility for advance premium tax credits and cost-sharing reductions.

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 enrollment in your Gold level Fidelis Care health plan began February 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 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

The March 31, 2016, enrollment confirmation notice is MODIFIED.

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Your case is RETURNED to NYSOH to ensure this enrollment is reflected in your NYSOH account and with Fidelis Care.

This decision does not change your eligibility for advance premium tax credits and cost-sharing reductions.

Your enrollment in your Gold level Fidelis Care health plan began February 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

