

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

Notice of Decision

Decision Date: January 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP0000000010845

[REDACTED]

[REDACTED]

On November 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 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).

This page intentionally left blank.



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

Decision

Decision Date: January 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP0000000010845



Issues

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

Was your appeal of the NY State of Health's (NYSOH) January 23, 2016 enrollment confirmation notice timely?

Did NYSOH properly terminate your coverages in various qualified health plans, when you changed plans during the open enrollment period for 2016?

Did NYSOH properly determine that your enrollment in the AffinityAccess Gold ST INN Dep25 health plan was effective no earlier than March 1, 2016?

Procedural History

On December 5, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016.

Also on December 5, 2015, NYSOH issued a notice confirming your enrollment in the AffinityAccess 2.0 Gold NS INN Dep25 plan effective January 1, 2016.

On January 13, 2016, you requested to be disenrolled from your AffinityAccess 2.0 Gold NS INN Dep25 plan. That same day, you selected and enrolled into a Fidelis Care gold-level health plan.

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 January 14, 2016, NYSOH issued a disenrollment notice confirming your January 13, 2016 request to be disenrolled from your AffinityAccess 2.0 Gold NS INN Dep25 health plan. Your coverage with Affinity Health Plan ended effective December 31, 2015.

Also on January 14, 2016, NYSOH issued a notice confirming your January 13, 2016 enrollment in Fidelis Care Gold health plan effective February 1, 2016.

Also on January 14, 2016 you requested to be disenrolled from your Fidelis Care Gold health plan. That same day, you also selected and enrolled into a CareConnect EPO Gold health plan.

On January 15, 2016, NYSOH issued a cancellation notice confirming your January 14, 2016 request to cancel your Fidelis Care Gold health plan. Your coverage with Fidelis Care ended effective February 1, 2016.

Also on January 15, 2016, NYSOH issued a notice confirming your January 14, 2016 enrollment in CareConnect EPO Gold health plan effective February 1, 2016.

On January 22, 2016, you requested to cancel your CareConnect EPO Gold health plan. That same day, you also selected and enrolled into an AffinityAccess Gold ST INN Dep25 health plan.

On January 23, 2016, NYSOH issued a cancellation notice confirming your January 22, 2016 request to cancel your CareConnect EPO Gold health plan. Your coverage with CareConnect ended effective February 1, 2016.

Also on January 23, 2016, NYSOH issued a notice confirming your January 22, 2016 enrollment in AffinityAccess Gold ST INN Dep25 health plan effective March 1, 2016.

On May 18, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016. The notice further stated that you qualified to select a health plan outside of the open enrollment period for 2016. You were asked to review your health plan option and confirm your selection no later than June 30, 2016.

On May 21, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost effective July 1, 2016. The notice further stated that you qualified to select a health plan outside of the open enrollment period for 2016. You were asked to review your health plan option and confirm your selection no later than July 30, 2016.

Also on May 21, 2016, NYSOH issued a disenrollment notice confirming your May 20, 2016 request to cancel your AffinityAccess Gold ST INN Dep25 health plan. Your coverage with Affinity Health Plan ended effective May 31, 2016.

Also on May 21, 2016, NYSOH issued a notice confirming your May 20, 2016 enrollment in Oscar Market Secure, Catastrophic, ST, INN, Dep25 health plan effective June 1, 2016.

On July 14, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 23, 2016 enrollment confirmation notice insofar as it began your AffinityAccess Gold ST INN Dep25 plan on March 1, 2016, and not February 1, 2016.

On November 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for 14 days for you to submit a copy of the Affinity Health Plan ID card. On November 29, you uploaded that one-page document and it was made part of the record as Appellant's Exhibit # 1. The record is now closed.

Findings of Fact

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

- 1) You submitted an application to NYSOH for financial assistance on November 30, 2015, and you were found eligible to purchase a full cost qualified health plan effective January 1, 2016. You enrolled in the AffinityAccess 2.0 Gold NS INN Dep25 health plan on December 5, 2015.
- 2) According to your NYSOH account, you contacted NYSOH on January 13, 2016 and requested to change health plans from Affinity Access 2.0 Gold NS INN Dep25 to a Fidelis Care Gold health plan.
- 3) According to your NYSOH account, you next contacted NYSOH on January 14, 2016 and requested to change health plans from Fidelis Care Gold health plan to a CareConnect EPO Gold health plan.
- 4) According to your NYSOH account, you contacted NYSOH on January 22, 2016 and requested to change health plans from CareConnect EPO Gold health plan to AffinityAccess Gold ST INN Dep25 health plan.
- 5) You testified that you needed a health insurance plan that covered certain specialized procedures and that had physicians in the network that provided the specialized care you needed.

- 6) You testified that while the various health plans purported on their websites to have in-network physicians with the required specialty, when you checked with the actual physician offices, you were informed otherwise.
- 7) You testified that, one of the times when you spoke with an Affinity Health Plan representative about changing health plans, you were told you would be covered in the month of February 2016.
- 8) You testified that you made a premium payment to Affinity Health Plan sometime in January 2016 and you thought that was for coverage for a February 1, 2016 start date.
- 9) On November 29, 2016, you uploaded to your NYSOH account a document with a top line titled "Temporary ID Card" with a date of 2/2/16, 1:15 PM. (See Document [REDACTED]). That document is an ID card for Affinity Health Plan, AffinityAccess Gold ST INN Dep25, with your name, Plan ID [REDACTED] your member ID and is marked "TEMPORARY".
- 10) You testified that you made an appointment with a medical specialist for the early part of February 2016 because you were under the impression that you had coverage through Affinity starting February 1, 2016. You testified that, had you been aware that you were not covered in February 2016, you could have easily made that appointment for some time in March 2016.
- 11) You testified that several months, specifically in July 2016, you started receiving bills for this February 2016 specialist visit and related tests that indicated you did not have health coverage.
- 12) You testified that you made numerous calls to Affinity Health Plan and to NYSOH and that is when you were informed that your health coverage with Affinity began on March 1, 2016.
- 13) According to your NYSOH account, on May 18, 2016 and again on May 20, 2016, you were granted a special enrollment period because you received misinformation from the health plan about a covered specialty services.
- 14) According to your NYSOH account, on May 20, 2016, you cancelled your AffinityAccess Gold ST INN Dep25 plan and selected the Oscar Market Secure, Catastrophic, ST, INN, Dep25 health plan.
- 15) You testified that you have spoken to representatives at both Affinity and NYSOH and neither entity could assist you in changing the start date of your AffinityAccess Gold ST INN Dep25 health plan so you requested this appeal.

16) You testified that you have unpaid medical bills for the month of February 2016 which you paid so you could keep seeing the specialist.

17) You testified that you did not file the appeal until several months had passed because you were trying to resolve the issue with Affinity and NYSOH.

18) You are seeking to have your coverage with Affinity backdated to February 1, 2016 to cover the medical bills that you incurred during that month.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

Enrollment in a Qualified Health Plan

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees **may change** QHPs (45 CFR §155.410(a)(1); emphasis added).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

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

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).

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)).

Termination of Coverage by an Enrollee

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains other minimum essential coverage, with appropriate notice to the Marketplace or the qualified health plan (45 CFR § 155.430(b)(1)).

Reasonable notice is defined as at least fourteen days before the requested effective date of termination (45 CFR § 155.430(d)(1)(i)).

When an enrollee initiates termination of coverage with a qualified health plan, the last date of coverage is ---

- (i) The termination date specified by the enrollee, if the enrollee provides reasonable notice;
- (ii) Fourteen days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice; or
- (iii) On a date on or after the date on which the termination is requested by the enrollee, subject to the determination of the enrollee's QHP issuer, if the enrollee's QHP issuer agrees to effectuate termination fewer than fourteen days, and the enrollee requests an earlier termination date.

Legal Analysis

The initial issue under review is whether your appeal of NYSOH's January 23, 2016 enrollment confirmation notice was timely.

The record reflects that you first contacted NYSOH to file a complaint about the start date of your AffinityAccess Gold ST INN Dep25 health plan on July 14, 2016. The record indicates that a formal appeal was also filed that day.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the effective date of your AffinityAccess Gold ST INN Dep25 health plan as stated in the January 23, 2016 enrollment confirmation notice, an appeal should have been filed by March 23,

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).

2016. The record reflects that you filed your appeal on July 14, 2016, which is well beyond the 60-day deadline.

However, you credibly testified that you received an enrollment card from Affinity Health Plan for your AffinityAccess Gold ST INN Dep25 (see Document [REDACTED]) and you believed this plan started February 1, 2016.

According to your NYSOH account, on May 18, 2016 and again on May 21, 2016, NYSOH granted you a special enrollment period because of the misinformation that the health plans provided and upon which you relied in selecting a plan.

According to your NYSOH account and your testimony, you selected the Oscar Market Secure, Catastrophic, ST, INN, Dep25 health plan during the open enrollment period you were granted.

You testified that you thought the issues with your health plan was resolved.

You credibly testified that you first learned that Affinity Health Plan was not covering your February 2016 specialty medical services when you received a bill from your doctor in July 2016. You testified that you then made numerous calls to Affinity Health Plan and to NYSOH to find out why you were receiving these bills and that is when you were informed that your health coverage with Affinity began on March 1, 2016. Therefore, it is reasonable to conclude that your amended appeal, dated July 15, 2016, was timely, as it was received within 60 days of first learning you did not have health insurance coverage with Affinity Health Plan starting February 1, 2016.

The second issue under review is whether NYSOH properly terminated your qualified health plan coverages in accordance with the various cancellation requests you made in January 2016 and thereafter properly enrolled you in the AffinityAccess Gold ST INN Dep25 plan effective March 1, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application for financial assistance on November 30, 2015 and were determined eligible to purchase a qualified health plan at full cost effective January 1, 2016.

On December 5, 2015, you selected the AffinityAccess 2.0 Gold NS INN Dep25 health plan with a start date of January 1, 2016.

On January 13, 2016, you cancelled the AffinityAccess 2.0 Gold NS INN Dep25 plan and enrolled in the Fidelis Gold plan. Since this was within the open enrollment period for 2016, NYSOH properly allowed you to cancel the AffinityAccess 2.0 Gold NS INN plan prior to its January 1, 2016 inception date.

Therefore, the January 14, 2016 disenrollment notice stating that your coverage in your AffinityAccess 2.0 Gold NS INN Dep25 plan would end effective December 31, 2015 is AFFIRMED.

The record reflects that, on January 14, 2016, you cancelled the Fidelis Care Gold plan and enrolled in CareConnect Gold plan. Again, since this was within the open enrollment period for 2016, NYSOH properly allowed you to cancel the Fidelis Gold plan prior to the February 1, 2016 inception date.

Therefore, the January 15, 2016 disenrollment notice stating that your coverage in your Fidelis Care Gold plan would end effective February 1, 2016 is AFFIRMED.

The record reflects that on January 22, 2016, you cancelled the CareConnect Gold plan and enrolled in the AffinityAccess Gold ST INN Dep25 plan. Again, since this was within the open enrollment period for 2016, NYSOH properly allowed you to cancel the CareConnect Gold plan prior to the February 1, 2016 inception date.

Therefore, the January 23, 2016 disenrollment notice stating that your coverage in your CareConnect Gold plan would end effective February 1, 2016 is AFFIRMED.

You testified that someone at Affinity Health Plan told you on the phone that coverage with them would start February 1, 2016. You submitted a copy of the temporary health insurance ID card issued by Affinity. You testified you believe this temporary ID card showed a February 1, 2016 effective coverage start date. Based on these representations, you made the appointment with the specialist for early February 2016.

It is noted that you believed the temporary ID for health coverage issued to you on February 2, 2016 by Affinity for the AffinityAccess Gold ST INN Dep25 plan indicates a February 1, 2016 start date. A review of this card (See Document [REDACTED]) indicates the Plan ID is [REDACTED]. The last digits of the Plan ID number i.e. "02-01" does not indicate a plan start date, it is part of the plan code that is on file with NYSOH. Nowhere on the card is there listed an effective start date.

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 January 22, 2016, you selected the AffinityAccess Gold ST INN Dep25 plan, so your enrollment properly took effect on the first day of the second month following January 2016; that is, on March 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).

Therefore, NYSOH's January 23, 2016 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in the AffinityAccess Gold ST INN Dep25 health plan on March 1, 2016.

It is further noted you testified that Affinity misrepresented on their website and related plan literature that they had specialists in their network which you required. However, after selecting Affinity you learned after extensive phone calls with numerous providers that no one with the specialty you required was in the Affinity network you selected.

As a result of your complaints to NYSOH, on May 18, 2016, NYSOH granted you a special enrollment period so you could change plans because of the misinformation the plan gave you about coverage for a specialty service. Therefore, NYSOH properly determined that you qualified to enroll in another health plan through a special enrollment period.

You testified and the record reflects that on May 20, 2016 you cancelled the AffinityAccess Gold ST INN Dep25 plan and enrolled in Oscar Market Secure, Catastrophic, ST, INN, Dep25 health plan effective June 1, 2016. There was no gap in your insurance coverage during this cancellation and enrollment in health insurance plans.

Decision

The January 14, 2016 disenrollment notice stating that your coverage in your AffinityAccess 2.0 Gold NS INN Dep25 plan would end effective December 31, 2015 is AFFIRMED.

The January 15, 2016 disenrollment notice stating that your coverage in your Fidelis Care Gold plan would end effective February 1, 2016 is AFFIRMED.

The January 23, 2016 disenrollment notice stating that your coverage in your CareConnect Gold plan would end effective February 1, 2016 is AFFIRMED.

The January 23, 2016 enrollment confirmation notice is AFFIRMED as it properly stated that your enrollment in the AffinityAccess Gold ST INN Dep25 plan began March 1, 2016.

Effective Date of this Decision: January 19, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your enrollment in your AffinityAccess Gold ST INN Dep25 plan began March 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

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).

Summary

The January 14, 2016 disenrollment notice stating that your coverage in your AffinityAccess 2.0 Gold NS INN Dep25 plan would end effective December 31, 2015 is AFFIRMED.

The January 15, 2016 disenrollment notice stating that your coverage in your Fidelis Care Gold plan would end effective February 1, 2016 is AFFIRMED.

The January 23, 2016 disenrollment notice stating that your coverage in your CareConnect Gold plan would end effective February 1, 2016 is AFFIRMED.

The January 23, 2016 enrollment confirmation notice is AFFIRMED as it properly stated that your enrollment in the AffinityAccess Gold ST INN Dep25 plan began March 1, 2016.

This decision does not change your eligibility.

Your enrollment in your AffinityAccess Gold ST INN Dep25 plan began March 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:

