



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

## Notice of Amended Decision

Decision Date: March 08, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016328

[REDACTED]

*The March 7, 2017 Decision is amended by this March 8, 2017 Amended Decision to reflect that Fidelis Care has agreed to allow your health insurance coverage to be backdated to March 1, 2017. All changes appear herein in italics.*

Dear [REDACTED],

On March 7, 2017, you appeared by telephone at an expedited hearing on your appeal of NY State of Health's February 23, 2017 eligibility determination and 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

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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## Amended Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016328

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### 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 (QHP) and the application of advance payments of the premium tax credit (APTC) were effective no earlier than April 1, 2017?

### Procedural History

On December 27, 2016, you updated your NYSOH account.

On December 28, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH. This eligibility was effective February 1, 2017.

Also on December 28, 2016, NYSOH issued a letter confirming your enrollment in a QHP with a monthly premium responsibility of \$419.88, effective February 1, 2017.

On February 17, 2017, NYSOH issued a notice stating that your enrollment in your Fidelis QHP was terminated, effective February 1, 2017, because you did not pay your insurance bill by the payment deadline.

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On February 22, 2017, you updated your NYSOH account.

On February 23, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$45.00 per month in APTC, effective April 1, 2017. The notice also stated that you needed to select a QHP by April 23, 2017.

Also on February 23, 2017, NYSOH issued a notice of enrollment confirmation confirming your enrollment in a Fidelis QHP with a \$374.88 monthly premium, after the application of your APTC, with an enrollment start date of April 1, 2017.

On February 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment confirmation notices insofar as they began your financial assistance eligibility and enrollment in a qualified health plan on April 1, 2017, and not on March 1, 2017. You also requested that your appeal be expedited.

On February 28, 2017 and March 1, 2017, you uploaded documentation to your NYSOH account in support of your request for an expedited appeal, and your request was granted by NYSOH on March 1, 2017.

On March 7, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, while under oath, you waived your right to fifteen days' written notice of the hearing. The record was developed during the hearing and closed at the end of the hearing.

## **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 December 27, 2016, and were found eligible to purchase a full cost QHP. You enrolled in a Fidelis QHP that same day, with coverage beginning on February 1, 2017.
- 2) You testified that you thought that you would receive an invoice from your health plan for your first month's premium payment, but did not.
- 3) You testified that, when you received the notice stating that your coverage was cancelled for nonpayment, you called Fidelis and were told that you were supposed to make your first payment online.
- 4) You testified that you asked Fidelis if you could be reenrolled in your plan, but were told by Fidelis that, since your coverage had been terminated for nonpayment, you would have to contact NYSOH and reapply.

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- 5) You testified, and the record reflects, that you updated your application again on February 22, 2017, and re-enrolled into a Fidelis QHP, with an April 1, 2017 start date.
- 6) You testified that you need your enrollment in your QHP to begin on March 1, 2017 because you are having health issues that require expensive medical testing to be done as soon as possible, and that testing cannot be scheduled until you have active insurance coverage.

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

## **Applicable Law and Regulations**

### Appealable Issues

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, 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)).

### 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 second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already 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 that benefit year (45 CFR § 155.330(g)).

## Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP 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**

*Generally*, NYSOH's Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of APTC and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of APTC 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 and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for nonpayment of premiums. Likewise, we therefore lack the authority to make a determination that you should be placed back into the plan from which you were terminated for nonpayment of premiums.

*However, health plans have the authority to agree to allow their insureds to backdate coverage and, in this case, Fidelis Care has agreed to backdate your health insurance coverage in your silver-level QHP to March 1, 2017. The backdate transaction of your health insurance coverage to March 1, 2017 has already been effectuated in your NYSOH account, but can take up to 48 hours to be processed electronically with Fidelis Care.*

*On March 8, 2017, you spoke with a Supervising Hearing Officer from NYSOH's Appeals Unit and were informed of this information. You were also informed to contact your Fidelis Care QHP to confirm the March 1, 2017 backdate occurred and to make timely payment of your March 2017 monthly premium in order for your health insurance coverage to resume this month.*

*Based on the foregoing information, the March 7, 2017 Decision is rendered moot and is superseded (replaced) by this Amended Decision.*

## **Decision**

*The March 7, 2017 Decision is rendered moot and is superseded (replaced) by this Amended Decision.*

**Effective Date of this Decision:** *March 8, 2017*

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

*This Amended Decision memorializes the change in your enrollment start date of your silver-level QHP with Fidelis Care from April 1, 2017 to March 1, 2017.*

*You are responsible to timely pay the March 2017 insurance premium to your health plan in order for coverage to resume this month and were informed to contact your health plan directly to do so.*

## **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 7, 2017 Decision is rendered moot and is superseded (replaced) by this Amended Decision.*

*This Amended Decision memorializes the change in your enrollment start date of your silver-level QHP with Fidelis Care from April 1, 2017 to March 1, 2017.*

*You are responsible to timely pay the March 2017 insurance premium to your health plan in order for coverage to resume this month and were informed to contact your health plan directly to do so.*

## **Legal Authority**

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

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

