



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

Notice of Decision

Decision Date: March 28, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027179

[REDACTED]

Dear [REDACTED],

On March 14, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 3, 2017 disenrollment notice and October 6, 2017 eligibility determination 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: March 28, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027179

[REDACTED]

Issues

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

Was your appeal of NY State of Health's October 3, 2017 disenrollment notice and October 6, 2017 eligibility determination notice timely?

Did NY State of Health (NYSOH) properly determine that you were enrolled in a Medicaid Managed Care plan for the months of October 2017 and November 2017?

Did NYSOH properly determine that your eligibility for Medicaid reimbursement for your Medicare Part B premiums began December 1, 2017?

Procedural History

On September 1, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective September 1, 2017.

On September 1, 2017, NYSOH issued a notice of enrollment confirming that you were enrolled in a Medicaid Managed Care plan with a plan enrollment start date of October 1, 2017.

On October 2, 2017, NYSOH issued a notice of eligibility determination stating that you would remain eligible for Medicaid, effective December 1, 2017. However, NYSOH records show that you have other health insurance or

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Medicare and individuals who have other health insurance or Medicare cannot be enrolled in a Medicaid Managed Care plan.

On October 3, 2017, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care plan would end on November 30, 2017. This was because NYSOH records showed that you have other health insurance or Medicare and individuals who have other health insurance or Medicare cannot be enrolled in a Medicaid Managed Care plan.

On October 6, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to have Medicaid reimburse your Medicare Part B premiums, effective December 1, 2017.

On November 6, 2017, you contacted NYSOH and requested Medicare Part B premium reimbursement beginning October 1, 2017. As a result, incident # [REDACTED] was created. This incident reflects that on November 7, 2017, NYSOH determined that you were enrolled in the Medicaid Premium Assistance Program and your payment was being processed. NYSOH attempted to reach you to advise of this, however, the notes indicate that they were unable to reach you.

On December 28, 2017, you contacted NYSOH and requested Medicare Part B premium reimbursement. As a result, incident [REDACTED] was created. This incident reflects that you called NYSOH on September 19, 2017 to update the application to show that you were enrolled into Medicare effective October 1, 2017; however, the application was never updated. This incident also reflects that you were requesting to be enrolled in the Medicaid Premium Assistance Program effective October 1, 2017 but could not do so because you were still enrolled in a Medicaid Managed Care plan. This incident was referred to NYSOH's Account Review Unit to backdate your dis-enrollment in your Medicaid Managed Care plan due to agent error. The notes reflect that your plan was never backdated.

On January 12, 2018, you contacted NYSOH to check on the status of your request for Medicare Part B premium reimbursement beginning October 1, 2017. As a result, incident [REDACTED] was created. This incident reflects that you called the NYSOH Third Party Unit who informed you that they had no paperwork on file regarding your request. The notes reflect that NYSOH was unable to resolve your issue on that day.

Also on January 12, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not found eligible for Medicaid reimbursement of your Medicare Part B premiums for October 2017 and November 2017 due to your enrollment in a Medicaid Managed Care plan for those months.

On March 14, 2018, 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 supports the following findings of fact:

- 1) You were found fully eligible for Medicaid, effective September 1, 2017.
- 2) You elected to be auto-enrolled into a Medicaid Managed Care plan, which began on October 1, 2017.
- 3) You testified that in June 2017, you received correspondence from the Social Security Administration stating that you would be eligible for Medicare.
- 4) You testified that you have Medicare Parts A and B, which began on October 1, 2017.
- 5) You testified that each month, beginning in October 2017, \$134.00 is deducted from your Social Security Disability payment for your Medicare premiums.
- 6) Your July 19, 2017, August 23, 2017, August 31, 2017, and October 1, 2017 applications for health insurance through NYSOH indicated that you were eligible for Medicare beginning October 1, 2017.
- 7) You testified that you are seeking Medicaid reimbursement of your Medicare Part B premium for October 2017 and November 2017.
- 8) There are no notes or notices contained within your NYSOH account that indicate that you were reimbursed for your October and November 2017 Medicare premium.
- 9) The NY State Department of Health, Third Party Liability Unit, created a summary, dated March 8, 2018, stating that at the time you became eligible for Medicare, you were enrolled into a Medicaid Managed Care plan and it was the position of the NY State Department of Health, Third Party Liability Unit that it is not cost effective for Medicaid to pay the monthly Medicaid Managed Care premium and the Medicare Part B premium for the same months. The summary indicates that this policy changed as of January 1, 2018, however, the department will not issue any retroactive reimbursement for Medicaid Managed Care plan enrolled individuals. This summary also indicates that reimbursement of your

Medicare Part B premiums of \$134.00 per month began as of December 1, 2017.

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)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) Are age 19 or older and under age 65; (2) Are not pregnant; (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) Have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (79 Fed. Reg. 3593, 3593).

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Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Medicaid Premium Reimbursement

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services (see NYS Social Services Law § 367a(b), 18 NYCRR § 360-7.5, GIS 02 MA/019). Cost-effectiveness may be determined by comparing what it would cost Medicaid to provide coverage to the cost of the premiums for the health insurance policy.

Medicaid Managed Care Plans

Generally, with regard to enrollment in a Medicaid Managed Care plan, Medicaid recipients, except for those who are eligible for an exemption or an exclusion, must enroll in a Medicaid Managed Care plan (18 NYCRR § 360-10.4(a)).

An individual dually eligible for Medicaid and benefits under the federal Medicare program may be required to enroll into a Medicaid Managed Care plan (NY Soc. Serv. Law § 364-j(3)(e)(i)).

The Medicaid Managed Care program excludes from enrollment consumers who receive Medicare benefits. Once Medicare coverage is gained the recipient must be disenrolled from their Medicaid Managed Care plan as soon as possible (GIS 11 MA/025).

Legal Analysis

The first issue is whether your appeal of NYSOH's October 3, 2017 disenrollment notice and October 6, 2017 eligibility determination notice was timely.

On October 3, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Medicaid Managed Care plan would end effective November 30, 2017.

On October 6, 2017, NYSOH issued a notice of eligibility determination stating that Medicaid would reimburse your Medicare Part B premiums, effective December 1, 2017.

The record reflects that you first contacted NYSOH to file a formal appeal regarding the October 3, 2017 disenrollment notice and October 6, 2017 eligibility determination notice on January 12, 2018.

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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 end date of your Medicaid Managed Care plan, an appeal should have been filed by December 2, 2017.

For an appeal to have been valid on the issue of the start date of Medicaid reimbursing your Medicare Part B Premiums, an appeal should have been filed by December 5, 2017.

Although your appeal was untimely on its face, you contacted the NYSOH Account Review Unit on November 6, 2017 to request Medicare premium reimbursements beginning October 1, 2017. As a result of this contact, incident # [REDACTED] was created. There is no indication that any resolution was issued in response to your request for Medicare premium reimbursements beginning October 1, 2017 at that time.

Thereafter, on December 28, 2017, you contacted NYSOH. As a result, incident # [REDACTED] was created. This incident reflects that you called NYSOH on September 19, 2017 to update the application to show that you were enrolled into Medicare effective October 1, 2017; however, the application was never updated. This incident also reflects that you were requesting to be enrolled in the Medicaid Premium Assistance Program effective October 1, 2017 but could not do so because you were still enrolled in a Medicaid Managed Care plan. This incident was referred to NYSOH's Account Review Unit to backdate your dis-enrollment in your Medicaid Managed Care plan due to agent error. The notes reflect that your plan was never backdated.

Thereafter, you filed a formal request for an appeal on January 12, 2018.

As you contacted NYSOH on November 6, 2017, to request Medicaid reimbursement of your Medicare Part B premiums beginning October 1, 2017, which was within 60-days of the October 3, 2017 disenrollment notice and October 6, 2017 eligibility determination notice, you continued to follow-up with NYSOH regarding this incident, NYSOH never resolved your request for October and November 2017, and you filed your formal request for an appeal within 60-days of this decision, your appeal was timely and will be addressed.

The second issue is whether NYSOH properly determined that you were enrolled in a Medicaid Managed Care plan for the months of October 2017 and November 2017.

The record reflects that you were eligible for Medicare as of October 1, 2017.

A person who is Medicaid eligible generally must enroll in a Medicaid Managed Care plan. However, the Medicaid Managed Care program excludes from enrollment consumers who receive Medicare benefits. Once Medicare coverage

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is gained the recipient must be disenrolled from their Medicaid Managed Care plan as soon as possible.

The record indicates that as early as July 19, 2017, NYSOH was aware that your Medicare would begin October 1, 2017.

Since you were eligible for Medicare benefits as of October 1, 2017, and NYSOH was aware of this as early as July 19, 2017, NYSOH should have disenrolled you from your Medicaid Managed Care plan effective September 30, 2017.

Therefore, the October 3, 2017 disenrollment notice is MODIFIED to state that you are disenrolled from your Medicaid Managed Care plan effective September 30, 2017.

The third issue is whether NYSOH properly determined that your eligibility for Medicaid reimbursement for your Medicare Part B premiums began December 1, 2017.

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services.

NYSOH determined that your eligibility for Medicaid reimbursement of your Medicare Part B premiums began December 1, 2017 as you were enrolled in a Medicaid Managed Care plan for October and November of 2017.

However, as discussed above NYSOH should have disenrolled you from your Medicaid Managed Care plan as of September 30, 2017 because your application contained information showing that you had active Medicare coverage as of October 1, 2017 prior to that date.

As NYSOH relied upon your enrollment in a Medicaid Managed Care plan for the months of October 2017 and November 2017 in their determination your Medicaid reimbursement of your Medicare Part B premiums began December 1, 2017, your case is RETURNED to NYSOH to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2017 and November 2017 now that you have been disenrolled from your Medicaid Managed Care plan for those month.

Decision

The October 3, 2017 disenrollment notice is MODIFIED to state that you are disenrolled from your Medicaid Managed Care plan, effective September 30, 2017.

Your case is RETURNED to NYSOH to disenroll you from your Medicaid Managed Care plan effective September 30, 2017 and to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2017 and November 2017 now that you have been disenrolled from your Medicaid Managed Care plan for those month.

Effective Date of this Decision: March 28, 2018

How this Decision Affects Your Eligibility

You are disenrolled from your Medicaid Managed Care plan as of September 30, 2017.

Your case is being sent back to NYSOH to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2017 and November 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.

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).

London, KY 40750-0061

- By fax: 1-877-369-0129

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 October 3, 2017 disenrollment notice is MODIFIED to state that you are disenrolled from your Medicaid Managed Care plan, effective September 30, 2017.

You are disenrolled from your Medicaid Managed Care plan as of September 30, 2017.

Your case is RETURNED to NYSOH to disenroll you from your Medicaid Managed Care plan effective September 30, 2017 and to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2017 and November 2017.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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