



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002374

[REDACTED]

Dear [REDACTED],

On May 15, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's determination as to your July 2014 coverage.

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 at the top of this notice.

Legal Authority

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

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: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002374



Issue

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

Should the Marketplace have enrolled you and your spouse in the WellCare of New York, Inc. Medicaid Managed Care plan for the month of July 2014?

Procedural History

On June 5, 2014, the Marketplace issued an eligibility determination notice stating, in relevant part, that you and your spouse were eligible for Medicaid. The notice further stated that “[y]our insurance coverage through Medicaid will begin March 1, 2014 but you must choose a health plan soon or one will be chosen for you.”

On or about June 6, 2014, your Marketplace account details reflect that you and your spouse selected WellCare of New York, Inc. as your Medicaid Managed Care (MMC) plan for coverage beginning July 1, 2014. No written enrollment notification was issued to you by the Marketplace reflecting enrollment in this MMC plan for you and your spouse.

Your Marketplace account details indicate that on or about June 26, 2014, you and your spouse requested to disenroll from the WellCare of New York, Inc. MMC plan. Your account indicated that the coverage end date would be June 30, 2014. No written disenrollment notice was issued to you by the Marketplace reflecting any disenrollment from this MMC plan for you and your spouse.

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 July 5, 2014, the Marketplace issued a notice confirming you and your spouse's selection, as of June 26, 2014, of New York State Catholic Health Plan, Inc. as your MMC plan. This notice confirmed that "insurance coverage through Medicaid [for you and your spouse] will begin June 1, 2014 and enrollment with New York State Catholic Health Plan, Inc. will begin August 1, 2014."

On April 10, 2015, you spoke with the Marketplace's Account Review Unit and appealed your and your spouse's non-enrollment in the WellCare of New York, Inc. MMC plan for the month of July 2014.

On May 15, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, at the Hearing Officer's request, you provided copies of insurance cards issued to you and your spouse by WellCare of New York, Inc., in each case reflecting a July 1, 2015 effective date. 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 and your spouse were found eligible for fee-for-service Medicaid beginning March 1, 2014, as reflected in the June 5, 2014 eligibility determination notice.
- 2) You testified that on or about June 6, 2014, you selected for you and your spouse's coverage the WellCare of New York, Inc. MMC plan.
- 3) You testified that after you became aware that one of your physicians did not accept the WellCare of New York, Inc. MMC plan, you requested to switch to the New York State Catholic Health Plan, Inc. MMC plan on or about June 26, 2014.
- 4) Your and your spouse's coverage under the New York State Catholic Health Plan, Inc. MMC plan began on August 1, 2014.
- 5) You testified that it was not made clear to you that by switching out of the WellCare of New York, Inc. MMC plan prior to the end of June 2014, the plan would not take effect for the month of July 2014. You further testified that you would not have elected to switch plans had you known it would have extended your fee-for-service Medicaid until July 31, 2014.
- 6) You provided copies of insurance cards issued to you and your spouse by WellCare of New York, Inc., in each case reflecting a July 1, 2015 effective date.

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

Applicable Law and Regulations

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H - 6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see § 1115 Soc. Sec. Act; N.Y. Soc. Serv. Law § 364-j(1)(c); 18 NYCRR 360-10.3(h)).

Similarly, routine disenrollment requests will take effect on the first day of the following month if the request is made before the fifteenth day of the month (Medicaid Managed Care Model Contract Appendix H - 7(a)(iii)). Once you have selected an MMC plan, you have a 90-day grace period in which to disenroll without cause and enroll in another MMC plan, if one is available (Medicaid Managed Care Model Contract (7.1)).

Finally, the Marketplace is responsible for informing you of your rights relative to changing MMC plans (Medicaid Managed Care Model Contract (7(a)(v))).

Legal Analysis

The only issue under appeal is whether you and your spouse should have been enrolled in the WellCare of New York, Inc. Medicaid Managed Care (MMC) plan for the month of July 2014, before your coverage with New York State Catholic Health Plan, Inc. MMC plan began on August 1, 2014.

You and your spouse were found eligible for Medicaid on June 19, 2014, with such coverage to take effect on March 1, 2014.

Your account details reflect that on June 6, 2014, you selected for you and your spouse's coverage the WellCare of New York, Inc. MMC plan for coverage to begin on July 1, 2014.

You testified that upon realizing that your provider did not accept this MMC plan, you contacted the Marketplace to switch enrollment for you and your spouse to the New York State Catholic Health Plan, Inc. MMC plan. You testified that you

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).

were not informed by a Marketplace representative that a change in coverage taking effect August 1, 2014, would have resulted in your non-enrollment in the WellCare of New York, Inc. MMC plan for the month of July 2014. In support of your argument that you reasonably believed you and your spouse had coverage under the WellCare of New York, Inc. MMC plan during July 2014, you provided copies of insurance cards issued to you with an effective date of July 1, 2014.

When you called to change your MMC plan within the grace period, you should have been informed, pursuant to the Medicaid Managed Care Model Contract, of your rights under the contract and the ramification of any change that you made. This would include the information that your disenrollment with WellCare would be effective immediately, apparently because it had not yet begun, but that your enrollment with New York State Catholic Health Plan would not begin until August 1, 2014, thereby leaving a gap of no MMC coverage for July 2014.

In the absence of any such disclosure, your change in enrollment should have proceeded in accordance with the general terms of the contract; that is, a request taking place after the 15th of the month would not take effect until the first day of the second month following your change in enrollment. In other words, your enrollment in WellCare should have ended July 31, 2014 and your new enrolment in New York State Catholic Health Plan should have begun on August 1, 2014.

Accordingly, we find there is sufficient evidence that you and your spouse should have been enrolled WellCare of New York, Inc. MMC plan during the month of July 2014.

Decision

Your and your spouse coverage under the WellCare of New York, Inc. MMC plan was effective July 1, 2014 through July 31, 2014.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You and your spouse's fee-for-service Medicaid began March 1, 2014.

You and your spouse's MMC coverage under the WellCare of New York, Inc. MMC plan began July 1, 2014.

You and your spouse's MMC coverage under the New York State Catholic Health Plan, Inc. MMC plan began August 1, 2014.

If You Disagree with this Decision (Appeal Rights)

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 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 after the date 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 date 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

Coverage for you and your spouse under Medicaid fee-for-service began March 1, 2014.

Coverage under the WellCare of New York, Inc. MMC plan for you and your spouse was effective July 1, 2014 through July 31, 2014.

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).

You and your spouse's MMC coverage under the New York State Catholic Health Plan, Inc. MMC plan began August 1, 2014.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

