



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

## Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003526

[REDACTED]

Dear [REDACTED],

On September 1, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 9, 2015 enrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 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: November 09, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003526

[REDACTED]

## Issue

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

Whether New York State of Health properly determined that your Medicaid Managed Care coverage through Excellus BCBS should be effective July 1, 2015?

## Procedural History

On April 21, 2015, the Marketplace issued you an eligibility determination notice that you are conditionally eligible for Medicaid effective as of February 1, 2015. By that notice, the Marketplace directed you to confirm "your Benefit information for Third Party Health Insurance...before May 5, 2015."

On the same day, the Marketplace issued an enrollment notice confirming that "[y]ou do not need to pick a health plan."

On April 26, 2015, you faxed to the Marketplace information regarding your Benefit Information for Third Party Health Insurance.

On May 6, 2015 and May 14, 2015, the Marketplace issued enrollment notices confirming that "you do not need to pick a health plan."

On June 9, 2015, the Marketplace issued an enrollment notice confirming that you selected Excellus BCBS and enrollment is effective July 1, 2015.

On June 17, 2015, you spoke with the Marketplace Account Review Unit and appealed whether New York State of Health properly determined that your Medicaid Managed Care coverage through Excellus BCBS should be effective July 1, 2015.

On September 1, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during that hearing and left open until September 4, 2015 to allow you to submit additional information.

On September 4, 2015 you faxed a six-page document to the Marketplace Appeals Unit. That fax was made part of the record as "Appellant Exhibit A." The record is now closed.

## **Findings of Fact**

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

1. You are applying for health insurance through the Marketplace for yourself.
2. On April 21, 2015, the Marketplace issued an eligibility determination notice that you are conditionally eligible for Medicaid effective as of February 1, 2015. The Marketplace directed you to confirm "your Benefit information for Third Party Health Insurance...before May 5, 2015."
3. On April 26, 2015, you faxed a letter to the Marketplace from Lifetime Benefits Solutions stating that the end date of your coverage is May 31, 2015.
4. On May 6, 2015 and May 14, 2015, the Marketplace issued enrollment notices confirming that "you do not need to pick a health plan."
5. On June 9, 2015, the Marketplace issued an enrollment notice confirming that you selected Excellus BCBS and enrollment is effective July 1, 2015.
6. You testified that your physician does not accept Medicaid Fee-For-Service.
7. You testified that you are looking to have your Excellus BCBS to be backdated to June 1, 2015.

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

## **Applicable Law and Regulations**

### Medicaid Eligibility: Third Party Health Insurance:

As a condition of eligibility, the agency must require legally able applicants and beneficiaries to assign rights to the Medicaid agency to medical support and to payment for medical care from any third party. The applicant or beneficiary must cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan, unless the individual establishes good cause for not cooperating (42 CFR § 435.610(a)(3)).

### Medicaid Managed Care (MMC):

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

A “Managed Care Program” is a program in a social services district in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c)).

The Partnership Plan Medicaid Section 1115 Demonstration, awarded to the New York State Department of Health by Centers for Medicare and Medicaid Services (CMS), contains Special Terms and Conditions, setting forth the state’s obligations to CMS during the term of the demonstration.

The Partnership Plan provides that certain individuals cannot receive benefits through an MMC. Table 4 sets forth the individuals excluded from MMC, including individuals with access to comprehensive private health insurance if cost-effective.

### MMC Start Date:

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)).

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).

## Legal Analysis

Currently at issue is whether New York State of Health properly determined that your Medicaid Managed Care coverage through Excellus BCBS should be effective July 1, 2015.

On April 20, 2015, you reapplied for health insurance through the Marketplace. On that application you indicated that you had coverage under an eligible employer-sponsored health plan with an end date of May 31, 2015. The Marketplace prepared an eligibility determination stating that you are conditionally eligible for Medicaid effective as of February 1, 2015, and directed you to confirm “your Benefit information for Third Party Health Insurance...before May 5, 2015.”

Generally, individuals who are determined Medicaid eligible are required to be enrolled in a Medicaid Managed Care Program, either by choosing a plan or being assigned an available plan. However, certain individuals are excluded from enrolling in a MMC. Individuals with access to comprehensive private health insurance, if cost effective, are excluded from enrolling in a MMC.

As a condition of eligibility of Medicaid, the agency must require applicants to assign rights to the Medicaid agency to medical support and to payment for medical care from any third party. The applicant must cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan.

On April 26, 2015, you faxed a letter to the Marketplace from Lifetime Benefits Solutions stating that the end date of your coverage is May 31, 2015.

The date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month.

A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Since you provided sufficient credible evidence on April 26, 2015, showing that your third party health insurance had a coverage termination date of May 31, 2015, you should have been eligible for Excellus BCBS effective June 1, 2015.

Therefore, the June 9, 2015 enrollment notice is MODIFIED insofar as to state that your coverage with Excellus BCBS is effective June 1, 2015.

## **Decision**

The June 9, 2015 Marketplace notice is MODIFIED insofar as to state that your coverage with Excellus BCBS is effective June 1, 2015.

Your case is RETURNED to the Marketplace to effectuate the start date of June 1, 2015 for your Excellus BCBS plan.

**Effective Date of this Decision:** November 09, 2015

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

Your Excellus BCBS plan is effective June 1, 2015.

Your case is being returned to the Marketplace to effectuate the start date of June 1, 2015 for your Excellus BCBS plan

You are eligible for reimbursement by Medicaid for any outstanding medical expenses that were incurred as a result of your Excellus BCBS not being effective June 1, 2015.

## **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 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 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).

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 June 9, 2015 Marketplace notice is MODIFIED insofar as to state that your coverage with Excellus BCBS is effective June 1, 2015.

Your case is RETURNED to the Marketplace to effectuate the start date of June 1, 2015 for your Excellus BCBS plan.

Your Excellus BCBS plan is effective June 1, 2015.

You are eligible for reimbursement by Medicaid for any outstanding medical expenses that were incurred as a result of your Excellus BCBS not being effective June 1, 2015.

## **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:**

