



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

Notice of Decision

Decision Date: June 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005601

[REDACTED]

Dear [REDACTED],

On February 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 7, 2015 eligibility determination notice and October 21, 2015 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: June 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005601



Issues

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

Did NY State of Health (NYSOH) properly determine that you were eligible for Medicaid, effective October 1, 2015?

Did NYSOH properly determine that your enrollment in Empire BlueCross Blue Shield, your Medicaid Managed Care plan, was effective December 1, 2015?

Procedural History

On July 12, 2014 NYSOH issued a notice of eligibility determination, based on your July 11, 2014 application, stating that you were eligible for Medicaid, effective June 1, 2014.

On May 15, 2015, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that, based on information from federal and state sources obtained as of May 6, 2015, NYSOH found that you no longer qualified for health care coverage under Medicaid; however, you did qualify to buy a health plan at full cost through NYSOH. This eligibility determination was effective July 1, 2015. The notice further stated that if you thought NYSOH made a mistake, you needed to make any necessary changes to your account between May 16, 2015 and June 15, 2015 in order for your new plan to be effective July 1, 2015.

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 June 17, 2015, NYSOH issued a disenrollment notice stating that your Medicaid coverage through New York State Catholic Health Plan, Inc. (Fidelis Care) would end effective June 30, 2015.

On June 29, 2015, NYSOH received two updated applications, in which you attested to two different annual household incomes: \$11,810.00 and \$19,222.00.

On June 30, 2015, NYSOH issued a notice stating that your June 29, 2015 application was reviewed and that you might be eligible for health insurance through NYSOH, but more information was needed to make a determination. The notice directed you to provide income documentation by July 15, 2015 in order for your eligibility to be determined.

Also on June 30, 2015, NYSOH received copies of 1) an Unemployment Insurance Official Record of Benefit Payment History issued by New York State Department of Labor as of June 29, 2015, and (2) a letter issued by [REDACTED] dated April 21, 2015, stating that your last day of insurance coverage would be April 30, 2015, as well as a health coverage continuation offer through COBRA.

On October 6, 2015, NYSOH redetermined your eligibility based on the information contained in your June 29, 2015 application.

On October 7, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in your October 6, 2015 application. It stated that you remained eligible for Medicaid. The eligibility determination was effective October 1, 2015.

On October 21, 2015, NYSOH issued a notice confirming your enrollment in Empire BlueCross BlueShield (Empire BCBS) as your Medicaid Managed Care (MMC) plan as of October 20, 2015. The notice also stated that your coverage with Empire BCBS would begin December 1, 2015.

On December 17, 2015, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your MMC plan insofar as it did not begin July 1, 2015.

On February 29, 2016, 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 support the following findings of fact:

- 1) You were originally found eligible for Medicaid, effective July 1, 2014.
- 2) NYSOH issued a renewal notice and eligibility determination on May 15, 2015. You were found eligible to enroll in qualified health plan at full cost, effective July 1, 2015.
- 3) You submitted an updated application to NYSOH for financial assistance on June 29, 2015. In response to this application, NYSOH issued a notice on June 30, 2015 requesting that you provide income documentation by July 15, 2015 so that your eligibility could be confirmed. The notice went on to request that you write your first and last name, date of birth, and your Account ID on any documents you mailed or faxed to the NYSOH, so that they could be identified.
- 4) On June 30, 2015, NYSOH received copies of: (1) an Unemployment Insurance Official Record of Benefit Payment History issued by New York State Department of Labor as of June 29, 2015, which confirmed that your unemployment benefits had been exhausted as of January 12, 2015; and (2) a letter issued by [REDACTED], dated April 21, 2015, stating that your last day of insurance coverage would be April 30, 2015, and including a health coverage continuation offer by COBRA.
- 5) You did not write the requested identifying information on these documents as requested by the June 30, 2015 notice. The first document had your name on it to identify it, and the second had your name and address as listed on your NYSOH account. The documents were neither reviewed nor verified by NYSOH until October 6, 2015, after they had been resent to NYSOH by you by facsimile on October 6, 2015.
- 6) You were found eligible for Medicaid on October 1, 2015, as reflected in the October 7, 2015 eligibility redetermination notice.
- 7) You testified, and the record reflects, that you enrolled in Empire BCBS as your MMC plan on October 20, 2015. Your coverage under this plan began as of December 1, 2015.
- 8) You testified that you need your MMC plan to begin on July 1, 2015 because you needed to cover some medical expenses incurred at that time, as well as to avoid a tax penalty for not having had insurance for multiple months during 2015.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

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, NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in the Empire BlueCross Blue Shield (Empire BCBS) Medicaid Managed Care (MMC) plan was effective December 1, 2015.

After having been found eligible to enroll in a qualified health plan at full cost, you updated your application twice on June 29, 2015. In these applications, you attested to having two different expected yearly incomes: \$11,810.00 and \$19,222.00. You credibly testified, and provided supporting documentation, that

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).

your employment with [REDACTED] had been terminated with as of April 17, 2015. The first update to your application reflected that you had received a total of \$11,810.00 prior to the ending of your employment. The second update reflected that you had received a total of \$19,222.00 in income during 2015, and that your current monthly income was \$0.00 as a result of losing your job. The totality of the documents also reflect that the unemployment benefits you were receiving in connection with a claim against a prior employer, [REDACTED], had been exhausted after two \$420.00 payments during January 2015. In response to this application, however, NYSOH requested income documentation to confirm the information in your application was accurate, so that an appropriate determination could be made.

You testified, and the record reflects, that on June 30, 2015, at the request of NYSOH, you provided documentation confirming that your unemployment benefits had been exhausted as of January 12, 2015, and that your insurance coverage issued by your former employer, [REDACTED], [REDACTED] had been terminated as of April 30, 2015. These documents, however, were neither reviewed nor verified by NYSOH until October 6, 2015, when you submitted them again for review, because the first copies you sent purportedly did not include enough personal identifying information for NYSOH to link them to your account.

An updated application submitted on October 6, 2015, which was based in part on the income documents you provided on June 30, 2015, was submitted to NYSOH.

Since the documents were provided by July 15, 2015, within the timeframe mandated by NYSOH in order to make an eligibility determination, your eligibility should have been determined as June 30, 2015, not October 6, 2015. Even though the documentation you provided did not include information identifying your account other than your name and address, we find that the available information in the documentation was sufficient such that a reasonable search would have allowed a NYSOH representative to locate your documentation for review and verification, or to contact you and confirm that the documents were yours.

Since you timely submitted the required income documentation to NYSOH before the mandated deadline, which NYSOH ultimately reviewed and verified, finding you eligible for Medicaid, the date you were eligible for Medicaid Fee-For-Service coverage should have been the month of your revised application, which was June 2015. However, as you were still enrolled in Fidelis Care as your MMC plan during that month, we find that your Medicaid Fee-For-Service coverage should have begun on July 1, 2015.

Therefore, NYSOH's October 7, 2015 eligibility determination notice is MODIFIED to state that you were eligible for Medicaid, effective July 1, 2015.

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 second issue under review is whether NYSOH properly determined that your enrollment in Empire BlueCross Blue Shield, your Medicaid Managed Care (MMC) plan, was effective December 1, 2015.

You testified that you contacted NYSOH on October 20, 2015 and enrolled in Empire BCBS as your MMC plan. We find it is reasonable to assume that you would have made this same MMC election when you had submitted the income documentation, which was June 30, 2015, had NYSOH permitted you to do so.

The date on which a MMC 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 we find enough evidence that you would have selected Empire BCBS as your MMC plan on June 30, 2015, it must take effect on the first day of the second following month after June 30, 2015; that is, on August 1, 2015.

Therefore, NYSOH's October 21, 2015 enrollment confirmation notice is MODIFIED to state that your MMC plan coverage with Empire BCBS began as of August 1, 2015.

Your case is RETURNED to NYSOH to effectuate the modifications noted above so as to begin your Medicaid Fee-For-Service coverage as of July 1, 2015, and to begin your MMC plan coverage with Empire BCBS as August 1, 2015.

Decision

NYSOH's October 7, 2015 eligibility determination notice is MODIFIED to state that you were eligible for Medicaid, effective July 1, 2015.

NYSOH's October 21, 2015 enrollment confirmation notice is MODIFIED to state that your MMC plan coverage with Empire BCBS began as of August 1, 2015

Your case is RETURNED to NYSOH to effectuate the modifications noted above so as to begin your Medicaid Fee-For-Service coverage as of July 1, 2015, and to begin your MMC plan coverage with Empire BCBS as of August 1, 2015.

Effective Date of this Decision: June 3, 2016

How this Decision Affects Your Eligibility

You are eligible for Medicaid Fee-For-Service coverage as of July 1, 2015.

You are eligible for MMC plan coverage with Empire BCBS as of August 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 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

NYSOH's October 7, 2015 eligibility determination notice is MODIFIED to state that you were eligible for Medicaid, effective July 1, 2015.

NYSOH's October 21, 2015 enrollment confirmation notice is MODIFIED to state that your MMC plan coverage with Empire BCBS began as of August 1, 2015

Your case is RETURNED to NYSOH to effectuate the modifications noted above so as to begin your Medicaid Fee-For-Service coverage as of July 1, 2015, and to begin your MMC plan coverage with Empire BCBS as of August 1, 2015.

You are eligible for Medicaid Fee-For-Service coverage as of July 1, 2015.

You are eligible for MMC plan coverage with Empire BCBS as of August 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

