



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

Notice of Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005700

[REDACTED]

Dear [REDACTED]

On March 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 23, 2014 and November 17, 2015 eligibility determination notices, as well as the December 24, 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).

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Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005700

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Issues

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

Was the December 23, 2014 eligibility determination subject to appeal as of December 22, 2015?

Did NY State of Health (NYSOH) properly terminate your Medicaid coverage, effective November 30, 2015?

Did NYSOH properly determine that your enrollment in the Essential Plan was effective no earlier than February 1, 2016?

Procedural History

On December 23, 2014, NYSOH issued an eligibility determination stating that you were eligible for Medicaid, effective December 1, 2014.

On September 15, 2015, NYSOH issued a notice stating that it was time to renew your health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by November 15, 2015 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by November 15, 2015.

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On November 17, 2015 NYSOH issued an eligibility determination notice stating that you are not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility ended November 30, 2015.

On November 23, 2015, NYSOH issued a disenrollment notice stating that your Medicaid coverage through UnitedHealthcare of New York, Inc. would end effective November 30, 2015 because you did not renew your health insurance coverage.

On December 22, 2015, NYSOH received your updated application for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you were found eligible to enroll in an Essential Plan, effective February 1, 2016.

Also on December 22, 2015, you spoke to NYSOH's Account Review Unit and appealed (1) the November 17, 2015 eligibility determination notice insofar as your Medicaid coverage was terminated effective November 30, 2015 and (2) the December 22, 2015 preliminary eligibility determination insofar as it began your coverage under the Essential Plan on February 1, 2016, and not January 1, 2016.

On December 23, 2015, NYSOH issued an eligibility redetermination notice formalizing the findings prepared under the December 22, 2015 preliminary eligibility determination. It stated that you were eligible to enroll in the Essential Plan. This eligibility determination was effective February 1, 2016.

On December 24, 2015, NYSOH issued a letter confirming your enrollment in an Essential Plan with UnitedHealthcare Community Plan with a month premium of \$20.00, effective February 1, 2016.

On March 14, 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) Your NYSOH account indicates that you elected to receive notices from NYSOH via e-mail.

- 2) Your NYSOH account reflects that you provided the e-mail address [REDACTED] for the delivery of NYSOH e-mails alerting you to notifications in your account. You testified that this e-mail address was correct.
- 3) You testified that you did not receive any alerts from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue.
- 4) You testified that since you did not receive any notifications from NYSOH, you did not know you needed to renew your application until you went to get a prescription filled on or about December 2, 2015.
- 5) Your Medicaid coverage with UnitedHealthcare was terminated, effective November 30, 2015.
- 6) You testified that as a result of having not timely renewed your coverage, you incurred some out-of-pocket costs during the months of December 2015 and January 2016 when you were without coverage.
- 7) You contacted NYSOH on December 22, 2015 to update your application.
- 8) You were found eligible to enroll in an Essential Plan with a monthly premium of \$20.00, effective February 1, 2016.
- 9) You testified that in addition to a review of the termination of your Medicaid coverage as of November 30, 2015 and the start date of your Essential Plan coverage as of February 1, 2016, you were also seeking a review of the December 1, 2014 start date of your Medicaid coverage as reflected in the December 23, 2014 eligibility determination notice.
- 10) The record reflects that you did not contact NYSOH to request an appeal of your eligibility until December 22, 2015.

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

Applicable Law and Regulations

Appeal Timeliness

NYSOH "appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) a timeframe consistent with the state Medicaid agency's requirement for submitting

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fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination” (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (NY Social Services Law § 22(4)(a)), and this timeframe has been adopted by NYSOH.

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)).

Electronic Notice

NYSOH must permit individuals a choice to receive notices and information in electronic format or by regular mail and must be permitted to change such election (45 CFR § 155.230(d); 42 CFR § 435.918(a)).

If the individual elects electronic communications, NYSOH must send “an email or other electronic communication alerting the individual that a notice has been posted to his or her account” and send a notice by regulation mail within three business days if the electronic communication cannot be delivered (42 CFR § 435.918(b)(4), (5)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York’s Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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The effective date of coverage by an Essential Plan 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); 42 CFR § 600.320). For selections received by NYSOH after the fifteenth 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

The first issue under review is whether the December 23, 2014 eligibility determination was subject to appeal as of December 22, 2015.

On December 22, 2015, you spoke with NYSOH's Account Review Unit and appealed the December 23, 2014 eligibility determination insofar as you were seeking to backdate your Medicaid coverage to October 1, 2014, and appealed the November 16, 2015 eligibility determination insofar as you were seeking for your coverage through Medicaid to be continued until at least January 31, 2016 to avoid a gap in coverage during the months of December 2015 and January 2016.

Eligibility determinations may be appealed within 60 days of issue. Since the December 23, 2014 eligibility determination was issued more than 60 days before your appeal, the appeal of the December 23, 2014 eligibility determination is untimely and must be dismissed.

The December 23, 2014 eligibility determination continues in effect.

The second issue is whether NYSOH properly terminated your Medicaid coverage, effective November 30, 2015.

You were originally found eligible for Medicaid based on a household income of \$16,599.96 on December 23, 2014. This eligibility determination was effective December 1, 2014.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months. NYSOH's September 15, 2015 renewal notice stated that there was not enough information to determine whether you were eligible for financial assistance for health insurance coverage in 2015, and direct you to supply additional information by November 15, 2015 or your financial assistance might end.

Because there was no timely response to this notice, you were terminated from your UnitedHealthcare Medicaid Managed Care (MMC) plan effective November 30, 2015.

However, you credibly testified that you received no notice advising you of the need to update your account, either electronically or by mail.

On December 22, 2015, you spoke to NYSOH and verbally updated the information in your NYSOH account.

On December 24, 2015, NYSOH issued an eligibility redetermination notice that stated that you were eligible for enrollment in the Essential Plan, effective February 1, 2016.

Since you elected to receive communications from NYSOH electronically, NYSOH was required to post notices to your electronic account within one business day of notice generation. It was also required to send an email or other electronic communication alerting you that a notice had been posted to your account.

If the electronic communication failed, NYSOH was required to send a notice by regular mail within three business days of the date of the failed electronic communication if the electronic communication was undeliverable.

The record does not contain any evidence on behalf of NYSOH as to whether the electronic communications were sent or were undeliverable. The record also does not contain evidence that any written notice was sent by regular mail within three business days of the date of a failed electronic communication. Without evidence on behalf of NYSOH, it must be presumed that you were not given proper notice of the need to renew your eligibility, nor were you given the proper notice of the termination of your Medicaid coverage.

Therefore, it is found that NYSOH improperly disenrolled you from your UnitedHealthcare MMC plan without the required notice. Accordingly, we find there is sufficient evidence that the November 17, 2015 eligibility redetermination notice was issued in error and must be RESCINDED.

Furthermore, since NYSOH terminated your Medicaid coverage through UnitedHealthcare based on not having renewed your application by November 15, 2015, for which we have found you did not receive proper notice, the record supports that the November 23, 2015 disenrollment notice should be MODIFIED to extend your coverage through the UnitedHealthcare MMC plan until December 31, 2015.

The final issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was effective February 1, 2016.

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You testified, and the record reflects, that you contacted NYSOH on December 22, 2015 and enrolled into an Essential Plan with UnitedHealthcare.

The date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected on or before the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of the month goes into effect on the first day of the second following month.

On December 22, 2015, you selected an Essential Plan, so it would have properly taken effect on the first day of the second month following after December 22, 2015; that is, on February 1, 2016.

However, since your Medicaid coverage with UnitedHealthcare was found to have terminated as of December 31, 2015 (as a result of this Decision), NYSOH was required to issue you a further renewal notice and you should have been permitted to update your application, to ensure that you did not have gap in coverage during 2016.

We must assume that the application you provided to NYSOH on December 22, 2015 would not have been materially different had you submitted it prior to December 16, 2015. Accordingly, we find there is sufficient evidence that would have been found eligible to enroll in an Essential Plan at that time.

Therefore, the December 24, 2015 enrollment confirmation notice is MODIFIED to state that your Essential Plan coverage with UnitedHealthcare began as of January 1, 2015.

Decision

The appeal of the December 23, 2014 eligibility determination is untimely and must be dismissed.

The November 17, 2015 eligibility redetermination notice is RESCINDED.

The November 23, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage with the UnitedHealthcare MMC plan is extended until December 31, 2015.

The December 24, 2015 enrollment confirmation notice is MODIFIED to state that your Essential Plan coverage with UnitedHealthcare began as of January 1, 2015.

The case is RETURNED to NYSOH to effectuate the extension of your Medicaid coverage with UnitedHealthcare until December 31, 2015 and backdating of your Essential Plan coverage with UnitedHealthcare to January 1, 2016.

Effective Date of this Decision: May 20, 2016

How this Decision Affects Your Eligibility

The December 23, 2014 eligibility determination continues in effect.

Your Medicaid coverage with UnitedHealthcare is extended until December 31, 2015.

Your Essential Plan coverage with UnitedHealthcare started effective January 1, 2016.

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 appeal of the December 23, 2014 eligibility determination is untimely and must be dismissed.

The December 23, 2014 eligibility determination continues in effect.

The November 17, 2015 eligibility redetermination notice is RESCINDED.

The November 23, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage with the UnitedHealthcare MMC plan is extended until December 31, 2015.

The December 24, 2015 enrollment confirmation notice is MODIFIED to state that your Essential Plan coverage with UnitedHealthcare began as of January 1, 2015.

The case is RETURNED to NYSOH to effectuate the extension of your Medicaid coverage with UnitedHealthcare until December 31, 2015 and backdating of your Essential Plan coverage with UnitedHealthcare to January 1, 2016.

Your Medicaid coverage with UnitedHealthcare is extended until December 31, 2015.

Your Essential Plan coverage with UnitedHealthcare started effective January 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

