



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

Notice of Decision

Decision Date: August 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005865

[REDACTED]

Dear [REDACTED],

On August 3, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 4, 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 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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Issue

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

Was your appeal of the NY State of Health's September 4, 2015 enrollment confirmation notice timely?

Procedural History

On January 5, 2014, you created your NY State of Health (NYSOH) account and applied for health insurance coverage for your household through NYSOH.

On February 17, 2014, NYSOH issued a notice of eligibility determination stating that you and your youngest son were eligible to enroll in a qualified health plan through NYSOH. The same notice stated that you and your youngest son were not eligible to receive tax credits to help pay for the cost of a qualified health plan because you were already receiving public minimum essential coverage.

On November 5, 2014, NYSOH issued a renewal notice stating that you and your youngest son now qualified for health care coverage under Medicaid through NYSOH, effective January 1, 2015. The notice also stated that you needed to select a health plan for yourself and your youngest son if you wanted coverage in 2015.

On December 12, 2014, NYSOH issued an enrollment confirmation notice confirming the rest of your household's enrollment in a Medicaid Managed Care (MMC) plan, and informing you that you and your youngest son had not yet

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chosen a health plan. The notice further stated that you needed to pick a health plan soon or one would be chosen for you.

On September 2, 2015, you updated your family members' enrollments in your NYSOH account.

On September 4, 2015, NYSOH issued an enrollment notice confirming that your enrollment and your youngest son's enrollment in your United Healthcare MMC plan was effective October 1, 2015.

On December 30, 2015, you spoke with NYSOH's Account Review Unit and filed a formal appeal based on the September 4, 2015 enrollment confirmation notice, insofar as it did not begin your enrollment and your youngest son's enrollment in your MMC plan as of January 1, 2015.

On August 3, 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 supports the following findings of fact:

- 1) You testified that you are appealing the start date of your enrollment and your youngest son's enrollment in your MMC plan.
- 2) You testified that you need your plan to be effective January 1, 2015 to cover bills that you incurred for your youngest son between January 1, 2015 and June 30, 2015 that are not covered by Fee-For-Service Medicaid.
- 3) The record reflects that the first time you called NYSOH to file a complaint in regards to the start date of your and your youngest son's MMC plan was December 30, 2015.
- 4) You testified that you weren't aware that you and your youngest son were not enrolled in your MMC plan as of January 1, 2015. You testified that you and your youngest son had been covered by Medicaid and United Healthcare in 2014, though you did not know if that coverage was through NYSOH.
- 5) The record reflects that you and your youngest son were not enrolled in coverage through NYSOH until January 1, 2015.

- 6) The record reflects that, when you first created your NYSOH account in 2014 and applied for insurance for your family, you and your son were not found eligible for financial assistance through NYSOH because, according to the system, you and your youngest son already had active Medicaid coverage.
- 7) You testified that your youngest son's doctor informed you that his United Healthcare coverage was active in early 2015, when you went to schedule him for surgery.
- 8) You testified that you realized your youngest son did not have MMC coverage shortly before he was scheduled for surgery. You testified that you went to the Department of Social Services (DSS) for assistance, and they helped you get MMC coverage through United Healthcare for your son.
- 9) The record reflects that your son had Medicaid coverage through DSS from July 1, 2015 through August 31, 2015.
- 10) You testified that United Healthcare initially paid for many of your youngest son's medical bills from the period of January 1, 2015 through June 30, 2015, but then took back all the payments.
- 11) The record reflects that you were sent notices on November 5, 2014 and December 12, 2014 informing you that you and your youngest son were eligible for Medicaid through NYSOH effective January 1, 2015, but that you needed to select a plan.
- 12) You testified that you did not receive either of these notices.
- 13) You testified, and the record confirms, that you receive notices from NYSOH by regular mail.
- 14) You testified that your address has been the same since you enrolled with NYSOH.
- 15) No notices have been returned as undeliverable to NYSOH.
- 16) The record also indicates that NYSOH issued an enrollment confirmation notice on September 4, 2015, confirming your enrollment and your son's enrollment in your MMC plan, effective October 1, 2015.
- 17) The record indicates that you first contacted NYSOH to file a complaint regarding your and your youngest son's MMC coverage on December 30, 2015, and that a formal appeal was filed on your behalf on that day.

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)).

Legal Analysis

The only issue under review is whether your appeal of NYSOH's September 4, 2015 enrollment confirmation notice was timely.

On September 4, 2015, NYSOH issued an enrollment confirmation notice stating that your enrollment and your youngest son's enrollment in your MMC plan was effective October 1, 2015.

The record reflects that the first time you called NYSOH to file a complaint in regards to the start date of your and your youngest son's MMC plan was on December 30, 2015. The record indicates that a formal appeal was filed on your behalf on that day.

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 effective date of your MMC plan as stated in the September 4, 2015 notice, an appeal should have been filed by November 3, 2015. According to the credible evidence in the record, you did not contact NYSOH until December 30, 2015 to file a formal appeal, which is well beyond 60 days from the September 4, 2015 enrollment confirmation notice. You testified that you did not know that your and your youngest son's MMC plan did not start as of January 1, 2015, as you had United Healthcare coverage in 2014

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and assumed you had it in 2015 as well. You also testified that your son's doctor said that his coverage was active.

However, NYSOH sent you notices in November and December of 2014 advising you to pick a plan for yourself and your youngest son, and sent an enrollment confirmation notice to you in September 2015 when you did pick a plan, and none of those notices was not returned as undeliverable to NYSOH. Moreover, you testified at the hearing that you knew there was a problem with your son's MMC coverage in June 2015, which is why you went to DSS to get him coverage.

Therefore, there has been no timely appeal of the September 4, 2015 notice, and your appeal on the issue of the effective date of your and your youngest son's MMC plan as stated in that notice is DISMISSED.

Decision

Your appeal of the September 4, 2015 enrollment confirmation notice is untimely and is DISMISSED.

Effective Date of this Decision: August 11, 2016

How this Decision Affects Your Eligibility

Your eligibility and your youngest son's eligibility remains the same.

Your enrollment and your youngest son's enrollment in your MMC plan began October 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

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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
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Summary

Your appeal of the September 4, 2015 enrollment confirmation notice is untimely and is DISMISSED.

Your eligibility and your youngest son's eligibility remains the same.

Your enrollment and your youngest son's enrollment in your MMC plan began October 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

