



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

Notice of Decision

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006539

[REDACTED]

Dear [REDACTED],

On June 6, 2016, you and your spouse appeared by telephone at a hearing on your appeal of a gap in your and your spouse’s fee-for-service Medicaid coverage through NY State of Health.

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

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006539

[REDACTED]

Issue

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

Did NY State of Health properly disenroll you and your spouse from fee-for-service Medicaid coverage for the period of February 5, 2015 through February 28, 2015?

Procedural History

On March 3, 2014, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid, effective February 1, 2014.

On January 6, 2015, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible for Medicaid, effective January 1, 2015.

That same day, NYSOH also issued a notice of enrollment confirmation, confirming your enrollment and your spouse's enrollment in your fee-for-service Medicaid coverage, effective January 1, 2015.

On February 3, 9, 21, 23, 24, and 25, 2015, your NYSOH account was updated.

On February 4, 10, 22, 24, 25, 26, and 27, NYSOH issued eligibility determination notices stating that you and your spouse were eligible for Medicaid effective February 1, 2015.

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On February 4 and 24, 2015, and May 6 and 20, 2015, NYSOH issued enrollment confirmation notices, confirming your enrollment in your fee-for-service Medicaid coverage, effective February 1, 2015.

On February 27, April 2, April 13, May 7, May 22, August 25, and October 26, 2015, and again on January 20 and January 27, 2016, you contacted NYSOH by telephone to report that you and your spouse were experiencing a gap in your Medicaid coverage during the month of February 2015.

On January 27, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your and your spouse's Medicaid coverage was made inactive by NYSOH from February 5, 2015 through February 28, 2015.

On June 6, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Both you and your spouse were sworn in and provided testimony. 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, at this point, you are appealing on behalf of your spouse, as you believe that your coverage has been put back on for February, and hers has not.
- 2) The record reflects, and your testimony confirmed, that you and your spouse both receive Medicare, and you therefore have fee-for-service Medicaid coverage
- 3) You testified that you first realized there was a problem with your coverage when you were billed for copays that were usually covered by Medicaid.
- 4) Your spouse testified that she had two doctors' visits in February 2015 for which there are unpaid bills.
- 5) You testified that you never at any time requested to terminate your or your spouse's Medicaid coverage.
- 6) You testified, and the record reflects, that you contacted NYSOH several times to try to resolve the gap in your coverage.

- 7) You testified that, on one call, a representative from NYSOH told you that your wife showed as having coverage on one computer, and not on another.
- 8) Your spouse testified that she was told by a representative from NYSOH that her situation was unique, and that it might require a computer technician to go into the system and change the coverage.
- 9) The record reflects that, on October 13, 2015, a representative from NYSOH observed the following in the notes for [REDACTED]:
"Consumer has mismatch info on Emedny and in the application. Coverage in Emedny states that it ended on 02/05/2015 and in the application in Enrollment History the coverage ended on 02/28/2015."

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Federal Register 3236, 3237).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as "continuous coverage" and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

Legal Analysis

The issue under review is whether NYSOH properly disenrolled you and your spouse from your fee-for-service Medicaid coverage from February 5, 2015.

In February 2015, NYSOH issued seven separate notices of eligibility redetermination stating that you and your spouse were eligible for Medicaid, effective February 1, 2015. There is no indication that these determinations were false when they were issued and they are therefore considered correct.

Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

However, you testified that you and your spouse experienced a gap in coverage for the period of February 5, 2015 through February 28, 2015. The record corroborates your assertion, in that the notes made by the NYSOH representative, as cited above, indicate that there appeared to be a mismatch in coverage information between eMedNY’s and NYSOH’s computer system.

Your case is RETURNED to NYSOH to ensure that your Medicaid coverage and your spouse’s Medicaid coverage is reinstated as of February 5, 2015 so as to remove any gap in coverage, and that any medical bills that you or your spouse have from this period are covered as appropriate.

Decision

Your and your spouse’s disenrollment from your Medicaid coverage during the month of February 2015 was not correct.

Your case is RETURNED to the NYSOH to ensure that your Medicaid coverage and your spouse’s Medicaid coverage is reinstated beginning February 5, 2015, so that there is no gap in your continuous Medicaid coverage.

NYSOH is directed to ensure that any medical bills you or your spouse have from this period are covered, as appropriate.

Effective Date of this Decision: June 23, 2016

How this Decision Affects Your Eligibility

Your Medicaid coverage and your spouse's Medicaid coverage should have continued for a full year as of February 1, 2015.

Your case is being returned to the NYSOH to reinstate your Medicaid coverage and your spouse's Medicaid coverage as of February 1, 2015 so that there is no gap in your coverage.

Your case is being returned so that any medical bills that you or your spouse have from this period can be covered, as appropriate.

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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

Your and your spouse's disenrollment from your Medicaid coverage during the month of February 2015 was not correct.

Your case is RETURNED to the NYSOH to ensure that your Medicaid coverage and your spouse's Medicaid coverage is reinstated beginning February 5, 2015, so that there is no gap in your continuous Medicaid coverage.

NYSOH is directed to ensure that any medical bills you or your spouse have from this period are covered, as appropriate.

Your Medicaid coverage and your spouse's Medicaid coverage should have continued for a full year as of February 1, 2015.

Your case is being returned to the NYSOH to reinstate your Medicaid coverage and your spouse's Medicaid coverage as of February 1, 2015 so that there is no gap in your coverage.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

