



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

Notice of Decision

Decision Date: June 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006760

[REDACTED]

Dear [REDACTED],

On June 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 20, 2015 and January 20, 2016 eligibility determinations regarding your spouse.

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 Code of 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).

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Issues

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

Did NY State of Health properly determine that your spouse was eligible for the Essential Plan, effective January 1, 2016?

Did NY State of Health properly determine that your spouse was eligible for Medicaid, effective March 1, 2016 and was enrolled in a Medicaid Managed Care plan as of that date?

Procedural History

According to your NY State of Health (NYSOH) account, your spouse had coverage through Medicaid Fee-For-Services as of February 1, 2015 and was enrolled in a Medicaid Managed Care (MMC) plan with Empire Blue Cross Blue Shield (BCBS) as of April 1, 2015.

On December 20, 2015, NYSOH issued an eligibility redetermination notice that in part stated your spouse was eligible to enroll in the Essential Plan, effective January 1, 2016.

On December 21, 2015, NYSOH issued a disenrollment notice that stated her coverage in her Empire BCBS MMC plan would end December 31, 2015.

That same day, NYSOH issued an enrollment notice confirming in part that your spouse was enrolled in the Essential Plan 3 with Empire BCBS, effective January 1, 2016.

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 January 13, 2016, NYSOH issued a renewal notice that stated your spouse's eligibility for financial assistance in the upcoming policy year could not be redetermined and that you needed to update the information on your NYSOH account by February 15, 2016, or she might lose the financial assistance she was currently getting.

On January 20, 2016, based on your January 19, 2016 updated application wherein you reported that your spouse was pregnant, NYSOH issued another eligibility redetermination notice that in part stated she remained eligible for Medicaid, effective March 1, 2016.

That same day, NYSOH confirmed her enrollment in Empire BCBS MMC plan, effective March 1, 2016.

Also that same day, NYSOH issued a disenrollment notice that in part stated her enrollment in the Empire BCBS Essential Plan 3 would end January 31, 2016.

On February 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the December 21, 2015 and January 20, 2016 enrollment notices insofar as your spouse's enrollment in her Empire BCBS MMC plan ended on December 31, 2015, leaving her with one month of coverage in the Essential Plan during January 2016, and then her MMC plan was not made effective again until March 1, 2016, leaving her with gap in coverage during the month of February 2016.

On February 11, 2016, NYSOH issued another enrollment notice confirming in part that your spouse's enrollment start date in her MMC plan of March 1, 2016.

On June 24, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace'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) According to the your NYSOH account, your spouse was found eligible for Medicaid, effective February 1, 2015, and enrolled in Empire BCBS MMC plan, effective April 1, 2015.
- 2) On December 20, 2015, you updated the information for yourself in your NYSOH account which resulted in your spouse's eligibility also being redetermined.

- 3) Since your NYSOH application showed your spouse was an immigrant non-citizen, she was redetermined eligible for and enrolled in the Essential Plan, effective January 1, 2016.
- 4) According to your NYSOH account and your testimony, you reported to NYSOH that your spouse was pregnant on January 19, 2016.
- 5) According to your NYSOH account, the household income listed on your application as of that date was \$16,736.00, based on your 2014 federal tax return (Form 1040) (see Document [REDACTED]).
- 6) According to your NYSOH account, this updated information changed your household size to include your unborn child and resulted in your spouse being redetermined eligible for Medicaid.
- 7) According to the eligibility tab in your NYSOH account, on January 19, 2016, your spouse was determined eligible for Medicaid as of January 1, 2016, based on household income of \$16,736.00 for a three-person household, which put her at 83.31% of the applicable FPL.
- 8) According to your NYSOH account, your spouse was made eligible for Medicaid as of March 1, 2016, with her enrollment in Empire BCBS being effective as of that date.
- 9) According to the notices issued by NYSOH, your spouse's Essential Plan ended January 31, 2016 and her Medicaid eligibility and enrollment next began on March 1, 2016, leaving a gap in her coverage for February 2016.
- 10) On February 2, 2016, NYSOH acknowledged that there was an EmedNY mismatch in that your spouse's Medicaid Fee-For-Service was missing for February 2016 when, based on the eligibility rerun on January 19, 2016, she was found eligible for Medicaid Fee-For-Service as of January 1, 2016.
- 11) According to your spouse's enrollment history in your NYSOH account, she was eligible for Medicaid Fee-For-Service from January 1, 2016 to February 29, 2016 and enrolled in Empire BCBS MMC plan as of March 1, 2016.
- 12) According to the EmedNY summary report of June 24, 2016, NYSOH's record system, your spouse is still showing a gap in coverage for the month of February 2016.
- 13) According to your NYSOH account and your testimony at hearing, your spouse gave birth to your child on [REDACTED].

- 14) You testified that this gap in coverage resulted in your spouse's labor and delivery at the hospital not being covered.
- 15) You testified that you want your spouse's coverage in Medicaid to be made effective February 1, 2016 to cover her hospitalization for labor and delivery.

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 the Marketplace 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); N.Y. Soc. Serv. Law § 366(1)(b)).

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 Marketplace 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 (N.Y. Soc. Serv. Law § 366(4)(c)).

Medicaid Program Start Dates

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; see § 1115 Soc. Sec. Act; N.Y. Soc. Serv. Law § 364-j(1)(c); 18 NYCRR 360-10.3(h)).

Legal Analysis

Initially, it is noted that in December 2015 your spouse was in her eleventh month of Medicaid eligibility, which had been previously determined effective as of February 1, 2015. 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.” Therefore, your spouse was entitled to one more month of coverage in her Empire BCBS MMC plan.

But for a system redetermination based on your updated application in December 2015, your spouse’s coverage in her Empire BCBS MMC Plan should have continued until January 31, 2016. Notwithstanding NYSOH’s error in not keeping her in her MMC plan one more month, she was actively enrolled in an Empire BCBS Essential Plan 3 from January 1, 2016 to January 31, 2016. Therefore, it will be at your option to keep her coverage in her Empire BCBS Essential Plan 3 during January 2016 or to have her Empire BCBS MMC plan coverage reinstated from January 1, 2016 to January 31, 2016. Your choice may hinge on what services, if any, your spouse received in January 2016 and whether claims for those services have already been processed with her Empire BCBS Essential Plan 3.

Next, it is noted that your spouse’s eligibility for Medicaid has not been under review. You updated your NYSOH account on January 19, 2016 and your spouse was redetermined eligible for Medicaid as of January 1, 2016. Since 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, NYSOH should have redetermined her eligible for Medicaid as of January 1, 2016, and not March 1, 2016, as stated in the January 20, 2016 notice of eligibility redetermination.

However, there were competing findings in play during January 2016 in that your spouse was eligible for and enrolled in Empire BCBS Essential Plan 3 as of January 1, 2016, and remained eligible for Medicaid continuous coverage in her Empire BCBS MMC plan during the month of January 2016.

Therefore, by this decision, your spouse’s eligibility for Medicaid is being made effective February 1, 2016 and the January 20, 2016 notice of eligibility redetermination is MODIFIED accordingly.

Your case is RETURNED to NYSOH to effectuate the February 1, 2016 start date of her eligibility for and health insurance coverage with Medicaid Fee-For-Service and to notify you accordingly.

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).

With regard to her enrollment start date in her MMC plan, you testified that you contacted NYSOH on January 19, 2016, and enrolled your spouse into an MMC plan with Empire BCBS.

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

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since you selected an MMC plan for your spouse on January 19, 2016 after the sixteenth day of the month, it properly took effect on the first day of the second month following January 2016; that is, on March 1, 2016.

Therefore, the January 20, 2016 enrollment confirmation notice stating that your spouse's enrollment in her MMC plan with Empire BCBS is effective March 1, 2016, was correct and is **AFFIRMED**.

Decision

It will be at your option to keep your spouse's coverage in her Empire BCBS Essential Plan 3 during January 2016 or to have her Empire BCBS MMC plan coverage reinstated from January 1, 2016 to January 31, 2016. Your choice may hinge on what services, if any, your spouse received in January 2016 and whether claims for those services have already been processed with her Empire BCBS Essential Plan 3. NYSOH is directed to facilitate the option you choose.

The January 20, 2016 notice of eligibility redetermination is **MODIFIED** to state your spouse was eligible for Medicaid, effective February 1, 2016.

Your case is **RETURNED** to NYSOH to effectuate the February 1, 2016 start date of her eligibility for Medicaid and health insurance coverage with Medicaid Fee-For-Service and to notify you accordingly.

The January 20, 2016 enrollment confirmation notice stating that your spouse's enrollment in her MMC plan with Empire BCBS is effective March 1, 2016, is **AFFIRMED**.

Effective Date of this Decision: June 30, 2016

How this Decision Affects Your Eligibility

You will need to decide if you want your spouse's enrollment from January 1, 2016 to January 31, 2016 to remain with Empire BCBS Essential Plan 3 or to be reinstated with Empire BCBS MMC Plan. NYSOH will contact you to facilitate the option you select.

By this decision, your spouse is made eligible for Medicaid, effective February 1, 2016.

Your case is being sent back for NYSOH to effectuate the February 1, 2016 start date of her Medicaid Fee-For-Service. NYSOH will notify you once this has been done.

Your spouse was enrolled in Empire BCBS as of March 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 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 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:

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- 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

It will be at your option to keep your spouse's coverage in her Empire BCBS Essential Plan 3 during January 2016 or to have her Empire BCBS MMC plan coverage reinstated from January 1, 2016 to January 31, 2016. Your choice may hinge on what services, if any, your spouse received in January 2016 and whether claims for those services have already been processed with her Empire BCBS Essential Plan 3. NYSOH is directed to facilitate the option you choose.

The January 20, 2016 notice of eligibility redetermination is MODIFIED to state your spouse was eligible for Medicaid, effective February 1, 2016.

Your case is RETURNED to NYSOH to effectuate the February 1, 2016 start date of her eligibility for Medicaid and health insurance coverage with Medicaid Fee-For-Service and to notify you accordingly.

The January 20, 2016 enrollment confirmation notice stating that your spouse's enrollment in her MMC plan with Empire BCBS is effective March 1, 2016, is AFFIRMED.

You will need to decide if you want your spouse's enrollment from January 1, 2016 to January 31, 2016 to remain with Empire BCBS Essential Plan 3 or to be reinstated with Empire BCBS MMC Plan. NYSOH will contact you to facilitate the option you select.

By this decision, your spouse is made eligible for Medicaid, effective February 1, 2016.

Your case is being sent back for NYSOH to effectuate the February 1, 2016 start date of her Medicaid Fee-For-Service. NYSOH will notify you once this has been done.

Your spouse was enrolled in Empire BCBS as of March 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

