



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

Notice of Decision

Decision Date: June 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006774

[REDACTED]

Dear [REDACTED],

On June 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2015 renewal notice and January 12, 2016 enrollment confirmation notice regarding your child.

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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006774

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Issue

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

Did NY State of Health (NYSOH) properly determine that your child's enrollment in his Medicaid Managed Care plan was effective February 1, 2016?

Procedural History

According to your NY State of Health (NYSOH) account, your child had health insurance coverage through Medicaid Fee-For-Services as of September 1, 2014 to December 31, 2014 and was enrolled in a Medicaid Managed Care (MMC) plan with Emblem Health as of January 1, 2015 through November 30, 2015.

On September 17, 2015, NYSOH issued a renewal notice that stated your child still qualified to get health care coverage under Medicaid, effective December 1, 2015. The notice also stated that you did not need to select a health plan for him at that time.

On November 22, 2015, NYSOH issued a disenrollment notice that stated your child's coverage in his MMC plan would end November 30, 2015 and if you selected a new plan for his upcoming coverage year, a separate notice with that information would be sent shortly.

On January 12, 2016, based on your January 11, 2016 updated application, NYSOH issued an eligibility redetermination notice that stated your child

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remained eligible for Medicaid, effective January 1, 2016, and may continue to receive services through his current health plan.

Also on January 12, 2016, NYSOH issued a notice regarding your child's enrollment in the Emblem Health MMC plan you selected on January 11, 2016, which was the same health plan he had in 2015, with a February 1, 2016 enrollment start date.

On February 3, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's enrollment in his MMC plan insofar as your request to have it backdated to December 1, 2015 was denied.

On June 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and was held open for you to submit documents, which were received by facsimile on June 17, 2016. That same day, your six-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

A review of the record support the following findings of fact:

- 1) According to the September 17, 2015 renewal notice, your child qualified for Medicaid for the upcoming policy year, effective December 1, 2015, and you did not have to pick a plan.
- 2) You testified that you thought this meant your child would have coverage in the same MMC plan he had in 2015 upon renewal on December 1, 2015.
- 3) You testified that you took your child to a specialist on December 2, 2015, after confirming with the doctor's office that your child's health insurance was active.
- 4) You testified that you learned after the appointment that your child's MMC plan was not active such that the claim for medical services of \$500.00 had been denied and you were now liable for that bill because the specialist does not accept Medicaid Fee-For-Services.
- 5) You testified that you were never informed by NYSOH until on or about December 8, 2015 that you should have select an MMC plan for your child between October 15, 2015 and November 15, 2015 in order for his coverage to continue in the same MMC plan.
- 6) There is no notice in your NYSOH account that contains this information.

- 7) You also testified that a NYSOH representative informed you for the first time in December 2015 that you needed to provide proof that your child no longer had third party health insurance.
- 8) There is no notice in your NYSOH account that contains this request.
- 9) You testified that you received the certificate of insurance from your former employer, dated December 8, 2015, and promptly faxed it over to NYSOH. When you called to confirm the facsimile had been received, NYSOH told you it could not locate it.
- 10) You testified that you faxed the certificate of insurance again on December 9 and 10, 2015, and that NYSOH finally acknowledged receipt on your fourth attempt on December 28, 2015.
- 11) The certificate of coverage states hospital only benefits for your child “ENDED 08/01/2015” (Appellant’s Exhibit A).
- 12) You testified, and the record reflects, that you selected your child’s MMC plan on January 11, 2016, and his enrollment was effective on February 1, 2016.
- 13) You testified that you want your child’s MMC plan to begin on December 1, 2015 because you did not receive proper notice or information from NYSOH about enrolling him within a certain timeframe or that any documentation was necessary to show he did not have third party health insurance and, as a result, you incurred medical expenses, which you cannot afford to pay.
- 14) You further testified that, had you received proper notice of the enrollment selection timeframe and the need to provide documentary proof that your child did not have third party health insurance, you would have timely complied to both requirements.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request

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that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b); NY Social Services Law 366-a(5)(a)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). With regard to redetermination and notice of eligibility, if NYSOH is able to identify updated information regarding income, family size, or family composition, it must notify the enrollee regarding the updated information, as well as the enrollee's projected eligibility determination after considering such information (45 CFR § 155.335(e)(2)(i)(A) and (B)).

NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Medicaid

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 Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Medicaid Managed Care 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 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Medicaid Managed Care

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

A "Managed Care Program" is a program in a social services district in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c)).

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The Partnership Plan Medicaid Section 1115 Demonstration, awarded to the New York State Department of Health by Centers for Medicare and Medicaid Services (CMS), contains Special Terms and Conditions, setting forth the state's obligations to CMS during the term of the demonstration.

The Partnership Plan provides that certain individuals cannot receive benefits through an MMC. Table 4 sets forth the individuals excluded from MMC, including individuals with access to comprehensive private health insurance if cost-effective.

Medicaid Eligibility: Third Party Health Insurance

As a condition of eligibility, the agency must also require legally able applicants and beneficiaries to assign rights to the Medicaid agency to medical support and to payment for medical care from any third party. The applicant or beneficiary must cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan, unless the individual establishes good cause for not cooperating (42 CFR § 435.610(a)(3)).

Legal Analysis

The issue is whether NYSOH properly determined that your enrollment in the Medicaid Managed Care plan was effective February 1, 2016.

You testified that you contacted NYSOH on December 8, 2015 to enroll your child into a Medicaid Managed Care plan. You further testified that you were told for the first time that you needed to provide proof that your child's third party health insurance had ended in order to re-enroll him in an MMC plan, which proof you obtained and provided that same day and three more times. The record reflects that NYSOH acknowledged receipt of the certificate of insurance coverage showing your child's hospital only coverage through your former employer ended on August 1, 2015. Since this proof satisfactorily proved he had no other insurance currently, you were permitted to select an MMC plan for your child and did so on January 11, 2016.

Ordinarily, the date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the plan for enrollment.

The rules dictate that a plan 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. Similarly, 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.

On January 11, 2016, you selected a Medicaid Managed Care plan for your child, so it was to take effect on the first day of the next month following after January 2016; that is, on February 1, 2016.

Therefore, the January 12, 2016 enrollment confirmation notice stating that your enrollment in your child's Medicaid Managed Care plan would be effective February 1, 2016, would be correct had NYSOH provided you with adequate notice regarding (1) the need to select and confirm enrollment for your child in his MMC plan within a certain timeframe for coverage to begin upon renewal on December 1, 2015; and (2) the need to provide third party health insurance documentation to prove he did not have any such coverage.

The record reflects that the September 17, 2015 renewal notice does not contain any information to advise you of the period in which you have to select and confirm your child's enrollment of October 15, 2015 to November 15, 2015, in order for his MMC plan to be effective December 1, 2015. In fact, that notice indicated you did not need to select a plan for your child at that time, which you construed to mean his renewal would be with the same MMC plan that he currently had at that time with Emblem Health.

Further, the record reflects that you did not receive proper notice that there was a third party insurance hit for your child that could only be resolved by documentation, such as a certificate of insurance, proving his coverage ended as of a date certain. To be eligible for MMC, an enrollee's access to third party health insurance must be evaluated. It is noted, however, that there was no mention of third party health insurance in the September 17, 2015 renewal notice nor was any other notice issued to inform you that you needed to provide proof that your child did not have any such insurance. You credibly testified that you only learned of this document requirement when you contacted NYSOH on December 8, 2015, and you promptly provided a certificate of insurance showing your child's hospital only coverage had ended August 1, 2015, which NYSOH received on December 28, 2015 and verified on December 29, 2016.

You also credibly testified that had you been given proper notice with regard to the enrollment selection timeframe and the need to provide proof of no third party health insurance for your child, you would have complied with both requirements so as to ensure that your child's coverage in his MMC plan continued without interruption upon renewal.

Based on the lack of proper notice, it is concluded that your child should have been allowed to enroll in his MMC plan upon renewal; that is, as of December 1, 2015.

To this end, the January 12, 2016 enrollment confirmation notice is MODIFIED to state your child's enrollment in the Emblem Health MMC plan you selected is effective December 1, 2015.

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Your case is RETURNED to NYSOH to facilitate the change in the effective date of your child's coverage in his Emblem Health MMC plan to December 1, 2015, and inform you accordingly.

Decision

The January 12, 2016 enrollment confirmation notice is MODIFIED to state your child's enrollment in the Emblem Health MMC plan you selected for him is effective December 1, 2015.

Your case is RETURNED to NYSOH to facilitate the change in the effective date of your child's coverage in his Emblem Health MMC plan to December 1, 2015, and inform you accordingly.

Effective Date of this Decision: June 24, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The effective date of his Medicaid Managed Care plan is December 1, 2015.

Your case is being sent back to NYSOH to facilitate the change in the effective date of your child's coverage in his Emblem Health MMC plan to December 1, 2015, and inform you accordingly.

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)).

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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 January 12, 2016 enrollment confirmation notice is MODIFIED to state your child's enrollment in the Emblem Health MMC plan you selected for him is effective December 1, 2015.

Your case is RETURNED to NYSOH to facilitate the change in the effective date of your child's coverage in his Emblem Health MMC plan to December 1, 2015, and inform you accordingly.

This decision does not change your child's eligibility.

The effective date of his Medicaid Managed Care plan is December 1, 2015.

Your case is being sent back to NYSOH to facilitate the change in the effective date of your child's coverage in his Emblem Health MMC plan to December 1, 2015, and inform you accordingly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

