



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

## Notice of Decision

Decision Date: July 18, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006779

[REDACTED]

Dear [REDACTED]

On June 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 9, 2016 disenrollment notice and September 26, 2015 disenrollment 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.

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## Decision

Decision Date: July 18, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006779

[REDACTED]

## Issues

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

Is your appeal of NY State of Health's September 26, 2015 disenrollment notice timely?

Did NY State of Health properly disenroll you from your Medicaid Managed Care coverage, effective January 31, 2016?

## Procedural History

On August 21, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you remained eligible for Medicaid, effective August 1, 2015.

Also on August 21, 2015, NYSOH issued an enrollment confirmation notice, reconfirming your enrollment in your Medicaid Managed Care (MMC) plan, effective January 1, 2015.

On September 26, 2015, NYSOH issued a notice of disenrollment, stating that your coverage in your MMC plan would be ending effective October 31, 2015.

On November 10, 2015, you updated your NYSOH account, including your residential and mailing address.

On November 11, 2015, NYSOH issued a notice of eligibility determination stating that you remained eligible for Medicaid, effective November 1, 2015.

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Also on November 11, 2015, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an MMC plan, effective December 1, 2015.

That same day, NYSOH also issued a cancellation notice, stating that your MMC coverage would end effective December 1, 2015.

On November 25, 2015, the November 11, 2015 enrollment confirmation and enrollment cancellation notices were returned to NYSOH as return mail.

On December 1, 2015, your NYSOH account was updated, including your residential and mailing address.

On December your NYSOH account was again updated, including your residential and mailing addresses.

On December 5, 2015, NYSOH issued an eligibility determination notice based on your December 4, 2015 updated application, stating that you were eligible for Medicaid, effective January 1, 2016.

Also on December 5, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment as of December 4, 2015 in a MMC plan, effective January 1, 2016.

On December 6, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment as of December 1, 2015 in an MMC plan, effective December 1, 2015.

Also on December 6, 2015, NYSOH issued a notice of eligibility redetermination stating that NYSOH redetermined your eligibility on December 1, 2015, and you were no longer qualified to enroll in coverage through NYSOH because mail that was sent to you by NYSOH was returned as undeliverable. The notice stated that your eligibility would end December 31, 2015.

That same day, a disenrollment notice was also issued, stating that you would be disenrolled from your MMC plan effective December 31, 2015 because you were no longer eligible to enroll in health insurance through NYSOH.

On December 10, 2015, your mailing address was updated in your NYSOH account.

On December 11, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment as of December 11, 2015 in your MMC plan, effective January 1, 2016.

On December 18, 2015, the December 6, 2015 disenrollment notice, December 6, 2015 eligibility determination, and the December 6, 2015 enrollment confirmation notice were all returned to NYSOH as undeliverable.

On January 4, 2016, the December 11, 2015 enrollment confirmation notice was returned to NYSOH as undeliverable.

On January 9, 2016, NYSOH issued an eligibility determination stating that NYSOH redetermined your eligibility on January 8, 2016, and you were no longer qualified to enroll in coverage through NYSOH because mail that was sent to you by NYSOH was returned as undeliverable. The notice stated that your eligibility would end effective January 31, 2016.

Also on January 9, 2016, NYSOH issued a disenrollment notice stating that your coverage in your MMC plan would end on January 31, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

On February 1, 2016, your NYSOH account was updated.

On February 2, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible for Medicaid effective February 1, 2016.

On February 3, 2016, your NYSOH account was updated, and you re-selected your former MMC plan.

Also on February 3, 2016, you contacted NYSOH's Account Review Unit and appealed the start date of your MMC plan, insofar as it began on March 1, 2016, and not February 1, 2016.

On February 4, 2016, NYSOH issued an enrollment confirmation notice, based on your plan selection on February 3, 2016, stating that your enrollment in your MMC plan would start as of March 1, 2016.

On June 15, 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, and the record reflects, that you have lived in New York State continuously since you first applied for health insurance through NYSOH.

- 2) You testified that you always reported address changes to NYSOH by speaking with a NYSOH representative over the phone.
- 3) You testified that, since August of 2015, your residential and mailing addresses and the dates they were in effect were as follows:
  - a. August 2015:  
[REDACTED]
  - b. September 1 – November 30, 2015:  
[REDACTED]
  - c. **November 1, 2015 – present:**  
[REDACTED]
- 4) You testified that you first notified NYSOH of your move to [REDACTED] on November 10, 2015, and the record supports this.
- 5) You testified that your current [REDACTED] address can also include [REDACTED] or [REDACTED] but that it is not necessary to include this as your mail goes to the landlord's mailbox and is then distributed to you.
- 6) You testified that on December 4, 2015, when you spoke to someone at NYSOH, they advised you that your address had to be listed as [REDACTED], or it would not be accepted by the system.
- 7) You testified that, when mail was still being returned, a representative from NYSOH suggested to you that you should use a different mailing address. You testified that, at that point, you gave them a PO Box number that belonged to a friend.
- 8) You testified that, when mail was again returned to NYSOH, you again changed your address back to your [REDACTED] address.
- 9) The record reflects that your mailing address was entered into your NYSOH account by NYSOH agents as follows, on the stated dates:
  - a. **November 10, 2015:**  
[REDACTED]

b. **December 1, 2015:**

[REDACTED]

c. **December 4, 2015:**

[REDACTED]

d. **December 10, 2015:**

[REDACTED]

e. **February 1, 2016:**

[REDACTED]

f. **February 13, 2016:**

[REDACTED]

- 10) The record reflects that the November 11, 2015 notices that were sent back to NYSOH as return mail were addressed to:

[REDACTED]

- 11) The record reflects that the December 6, 2015 notices that were sent back to NYSOH as return mail, including the notice informing you that you were no longer eligible to enroll in coverage because of returned mail, were addressed to:

[REDACTED]

It is noted that this address does not appear anywhere in your NYSOH account.

- 12) The record reflects that the January 9, 2016 notice informing you that you were no longer qualified to enroll in insurance through NYSOH because of returned mail, and that your eligibility would end effective January 31, 2016, was issued after the December 6, 2015 notices were returned.

- 13) At the hearing, you testified that you also wanted to appeal the fact that you did not have MMC coverage for November 2015.
- 14) The record indicates that you first contacted NYSOH in April 2016 regarding the fact that you did not have MMC coverage for November 2015.
- 15) You testified that you are looking for your MMC coverage to be reinstated for the months of November 2015 and February 2016.
- 16) It is noted that there are in Queens: a [REDACTED], a [REDACTED], and a [REDACTED].

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: (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 and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

### 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); 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

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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)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

## **Legal Analysis**

The first issue under review is whether your appeal of the September 26, 2015 disenrollment notice is timely.

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by the Marketplace. According to the credible evidence in the record, you did not contact the Marketplace until April 21, 2016 to file a formal complaint regarding the fact that you did not have coverage for the month of November. This is well beyond 60 days from the date of the September 26, 2015 disenrollment notice. Moreover, there is no indication in the record that the September 26, 2015 disenrollment notice

Therefore, there has been no valid timely appeal of the September 26, 2015 disenrollment notice, and your appeal of this notice is **DISMISSED**.

The second issue under review is whether NYSOH properly disenrolled you from your MMC coverage, effective January 31, 2016.

On December 5, 2015, NYSOH issued an eligibility determination stating that you were eligible for Medicaid, effective January 1, 2016. These determinations are not at issue in this appeal and are presumed correct. Most individuals determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage, with limited exceptions, including a lack of residence in NY State.

The record contains no evidence that you experienced any of the circumstances that should have ended your 12 months of continuous coverage. NYSOH discontinued your eligibility as of January 31, 2016 because of return mail; however, the record reflects that NYSOH repeatedly entered your address into its system incorrectly. Moreover, the December 6, 2015 notices, whose return to NYSOH appears to be at least partially the basis for NYSOH’s termination of your eligibility as of January 31, 2016, were sent to an address that was entirely

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incorrect, and that never appeared anywhere in your NYSOH account. While the December 12, 2015 notice that came back as returned mail was properly addressed to the PO Box you provided, your testimony reflects you only provided a PO Box at NYSOH's suggestion that you use an alternate address. Given that your mail was being returned to NYSOH primarily because NYSOH was repeatedly entering your address incorrectly, the very fact that you had to provide an alternate address was attributable to NYSOH's errors.

You testified credibly, and the record reflects, that you have had continuous NY State residency during the period since the December 6, 2015 notices (and prior to that). Additionally, a review of your testimony and the record indicates that it was NYSOH's failure to properly enter your mailing address that led to the return of the December 6, 2015 notices, and the subsequent termination of your eligibility and coverage.

Since all credible evidence in the record confirms that you were eligible for Medicaid as of January 1, 2016, and since the record does not indicate that there were any circumstances that should have given rise to a disruption of your twelve months of continuous coverage, NYSOH improperly discontinued your Medicaid and MMC coverage effective January 31, 2016.

Therefore, the January 9, 2016 eligibility determination notice and the January 9, 2016 disenrollment notices are **RESCINDED**.

NYSOH is directed to facilitate your re-enrollment into your MMC plan for the month of February 2016, such that there is no gap in your 2016 MMC coverage.

NYSOH is directed to assist you in submitting any bills for medical services you may have from February 2016 to your MMC plan for coverage, as appropriate.

NYSOH is directed to update your mailing address to the following:

[REDACTED]

## **Decision**

Your appeal of the September 26, 2015 disenrollment notice is untimely and is **DISMISSED**.

The January 9, 2016 eligibility determination stating that you are no longer eligible to enroll in coverage through NYSOH, and that your eligibility ended effective January 31, 2016, is **RESCINDED**.

The January 9, 2016 disenrollment notice, stating that your MMC coverage was discontinued as of January 31, 2016, is RESCINDED.

NYSOH is directed to facilitate your re-enrollment into your MMC plan for the month of February 2016 such that there is no gap in your 2016 MMC coverage.

NYSOH is directed to update your mailing address in your NYSOH account to the following:



**Effective Date of this Decision:** July 18, 2016

### **How this Decision Affects Your Eligibility**

Your appeal of the September 26, 2015 disenrollment notice was not timely and no decision will be made as to whether it was correct.

Your Medicaid coverage should not have been terminated as of January 31, 2016.

Your MMC plan coverage should not have been terminated as of January 31, 2016.

NYSOH will help you to re-enroll into your MMC plan coverage for the month of February 2016, and will help you to submit any outstanding medical bills you had for that month to your MMC plan for coverage, 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

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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**

Your appeal of the September 26, 2015 disenrollment notice is untimely and is DISMISSED.

The January 9, 2016 eligibility determination stating that you are no longer eligible to enroll in coverage through NYSOH, and that your eligibility ended effective January 31, 2016, is RESCINDED.

The January 9, 2016 disenrollment notice, stating that your MMC coverage was discontinued as of January 31, 2016, is RESCINDED.

NYSOH is directed to facilitate your re-enrollment into your MMC plan for the month of February 2016 such that there is no gap in your 2016 MMC coverage.

NYSOH is directed to update your mailing address in your NYSOH account to the following:



Your appeal of the September 26, 2015 disenrollment notice was not timely and no decision will be made as to whether it was correct.

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Your Medicaid coverage should not have been terminated as of January 31, 2016.

Your MMC plan coverage should not have been terminated as of January 31, 2016.

NYSOH will help you to re-enroll into your MMC plan coverage for the month of February 2016, and will help you to submit any outstanding medical bills you had for that month to your MMC plan for coverage, as appropriate.

### **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

