



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

Notice of Decision

Decision Date: August 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007371

[REDACTED]

Dear [REDACTED]

On July 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2015 eligibility determination notice and the November 12, 2015 and February 25, 2016 disenrollment notices.

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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NY State of Health Account ID: [REDACTED]
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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 (NYSOH) properly determine that your eligibility for Medicaid ended November 30, 2015?

Did NYSOH properly determine that you were eligible to receive advance premium tax credits and cost-sharing reductions, effective December 1, 2015?

Did NYSOH properly determine that your qualified health plan enrollment was effective January 1, 2016?

Did NYSOH properly determine that your qualified health plan enrollment was terminated effective February 29, 2016?

Procedural History

On February 10, 2014, NYSOH issued an eligibility determination notice, stating that you were eligible for Medicaid, effective January 1, 2014.

On November 3, 2014, NYSOH issue a notice stating that it was time to renew your NYSOH coverage for the upcoming coverage year. The notice found that you were still qualified to get health care coverage under Medicaid. This eligibility determination was effective January 1, 2015. The notice also stated that you would be re-enrolled in your current Medicaid Managed Care (MMC) plan for another year. However, the notice also stated that if this renewal notice

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was wrong, you should update your account between November 16, 2014 and December 15, 2014, for any such changes to be in effect by January 1, 2015.

On November 25, 2014, you updated your NYSOH account, changing your expected household income to \$19,500.00. NYSOH prepared a preliminary determination that you were eligible for tax credits, instead of Medicaid. No eligibility determination notice was ever issued regarding this application.

On November 26, 2014, you updated your NYSOH account again, changing your expected household income to \$14,800.00.

On November 27, 2014, NYSOH issued a notice of eligibility determination notice based on your November 26, 2014 application. It stated that you were eligible for Medicaid because your household income of \$14,800.00 was at or below the allowable income limit. This eligibility was effective as of November 1, 2014.

On December 9, 2014, NYSOH issued a notice of enrollment confirming that your enrollment in your MMC plan as of November 26, 2014. The notice further stated that your insurance coverage through Medicaid would begin as of November 1, 2014 and your enrollment with your MMC would begin as of January 1, 2015.

On December 26, 2014, NYSOH issued a disenrollment notice stating that your Medicaid Fee-For-Service coverage and MMC plan coverage would be discontinued as of December 31, 2014; however, your coverage under Medicaid apparently continued, notwithstanding this notice.

On November 9, 2015, NYSOH received a revised application in which you attested to a household income of \$23,619.72.

On November 10, 2015, NYSOH issued an eligibility determination notice based on the information contained in the November 9, 2015 application. It stated that you were newly eligible to receive up to \$179.00 per month in advance payments of the premium tax credit (APTC); newly eligible for cost-sharing reductions (CSR), if you enrolled in a silver-level plan; and ineligible for Medicaid. This eligibility determination was effective December 1, 2015. The notice also stated that your current coverage would end on November 30, 2015; however, it also directed you to pick a plan no later than January 8, 2016.

You did not select a plan at that time.

On November 12, 2015, NYSOH issued a disenrollment notice stating that your MMC plan coverage would end effective November 30, 2015 because you were no longer eligible to remain enrolled in your current health plan; it advised you to pick a plan right away, to ensure there would be no gap in coverage.

On December 1, 2015, NYSOH received a revised application in which you again attested to a household income of \$23,619.72, and prepared a preliminary determination as to your eligibility.

On December 1, 2015, you selected a new health plan.

On December 6, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 1, 2015 application. It stated that you were eligible to receive an APTC of up to \$242.00 per month; eligible for CSR, if you enrolled in a silver-level plan; and ineligible for Medicaid. This eligibility determination was effective January 1, 2016.

Also on December 6, 2015, NYSOH issued a notice of enrollment confirming that you enrolled in a qualified health plan (QHP) as of December 1, 2015. It further stated that coverage under the QHP would begin as of January 1, 2016.

On February 24, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your Medicaid coverage was not continued during the month of December 2015. You also stated that you were seeking a disenrollment date from your QHP of January 31, 2016, because you had been enrolled in an employer-sponsored plan as of February 1, 2016.

On February 25, 2016, NYSOH issued a disenrollment notice confirming receipt of your request to end your coverage under the QHP as of February 24, 2016. It stated that your coverage with the QHP would end as of February 29, 2016.

On July 26, 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) On November 3, 2014, NYSOH issued a renewal notice that stated you had been found eligible for Medicaid through NYSOH, effective January 1, 2015. You were told that if you disagreed with the findings in the projected eligibility for the upcoming coverage year, you would need to update your account between November 16, 2014 and December 15, 2014, for any such changes to be in effect by January 1, 2015.
- 2) Although you were preliminarily redetermined eligible for Medicaid effective January 1, 2015, in the November 3, 2014 renewal notice,

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this notice was superseded by the modifications you made to your account between November 16, 2014 and December 15, 2014; therefore, this finding never went into effect.

- 3) You updated your application twice between November 16, 2014 and December 15, 2014. As a result of the last application, you were found eligible for Medicaid effective November 1, 2014.
- 4) You submitted a revised application on November 9, 2015 in which you attested to an annual household income of \$23,619.72. As a result of this revised application, you were found eligible to receive up to \$179.00 per month in APTC and, if you selected a silver-level plan, CSR, effective December 1, 2015.
- 5) Your MMC plan coverage was terminated as of November 30, 2015.
- 6) You testified that you were seeking to have your Medicaid coverage under your MMC plan reinstated during the month of December 2015.
- 7) On December 1, 2015, you selected a QHP, with coverage beginning January 1, 2016.
- 8) You testified that you enrolled in an employer-sponsored plan with coverage beginning February 1, 2016. You further testified, and the record reflects, that you contacted NYSOH on February 24, 2016 to request a cancellation of your QHP coverage through NYSOH. Your QHP coverage through NYSOH was terminated effective February 29, 2016.
- 9) You testified that you were seeking to have your QHP coverage through NYSOH be terminated as of January 31, 2016 in order to avoid an overlap of coverage, and to seek reimbursement of premium amounts.

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

Applicable Law and Regulations

Medicaid Continuous Coverage

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

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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 effective date of the original Medicaid eligibility determination or the end of the “twelve month period beginning on the date of any subsequent determination of eligibility 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)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant’s information, NYSOH must generally make that redetermination effective on the first day of the month following the date of the determination (45 CFR § 155.330(f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Qualified Health Plan Termination

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to NYSOH or qualified health plan (45 CFR § 155.430(b)(1), (d)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were no longer eligible for Medicaid effective November 30, 2015.

The record reflects that, in the renewal and eligibility determination notice issued on November 3, 2014, you were preliminarily found still eligible for Medicaid coverage, effective January 1, 2015.

However, that notice also stated that if you disagreed with this decision, you would need to update your account between November 16, 2014 and December 15, 2014, for any such changes to be in effect by January 1, 2015.

You updated your account twice during that period; by doing so, the final change to your application replaced any prior preliminary findings made in the renewal notice for the next coverage year.

Subsequently, you were redetermined to be eligible for Medicaid effective November 1, 2014, and your eligibility for Medicaid was renewed for another 12-month period pursuant to the November 27, 2014 eligibility determination notice. Your 12-month period of continuous coverage therefore ended on November 30, 2015, 12 months after the date of the determination.

Therefore, when you modified your application on November 9, 2015 and December 1, 2015 and were found ineligible for Medicaid, you were no longer eligible to nonetheless remain enrolled in Medicaid under the continuous coverage rule.

Additionally, you were sent the appropriate notices to advise you that your eligibility for Medicaid was ending November 30, 2015. Both the November 10,

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2015 notice of eligibility determination and the November 12, 2015 disenrollment notice advised you that your Medicaid coverage would end on November 30, 2015. The latter notice advised you to pick a plan right away, to ensure there would be no gap in coverage.

Therefore, NYSOH properly found that you were no longer eligible for Medicaid, effective November 30, 2015.

The second issue is whether NYSOH properly determined that your eligibility to receive advance premium tax credits and cost-sharing reductions was effective December 1, 2015.

On November 9, 2015, you submitted a revised application to NYSOH reflecting a household income of \$23,619.72. Based on the information contained within this application, you were found eligible to receive an APTC of up to \$179.00 per month; newly eligible for CSR, if you enrolled in a silver-level plan; and ineligible for Medicaid. This eligibility determination was effective December 1, 2015.

Changes in eligibility become effective on the first day of the month following the date of the determination, if such a change occurs on or before the 15th of the month. Therefore, your *eligibility* for APTC and CSR was properly found effective December 1, 2015.

The third issue under review is whether NYSOH properly determined that your qualified health plan enrollment was effective January 1, 2016

You selected a QHP on December 1, 2015. Generally, the earliest that coverage under that plan would go into effect is January 1, 2016, the first day of the following month.

However, although the November 10, 2015 notice of eligibility determination notified you that your Medicaid coverage would end November 30, 2015, it also advised you twice that you should select your new plan no later than January 8, 2016. Nowhere did it state that if you did not select a plan by November 15, 2015, there would be a gap in coverage for December 2015.

Therefore, it is found that you relied on the misinformation in the November 10, 2015 notice of eligibility determination, and that had you been properly advised of the November 15, 2015 deadline, you could have enrolled in a QHP in time to obtain coverage for December 2015.

Therefore, your case must be RETURNED to NYSOH to assist you in determining whether you would like to backdate your coverage in your QHP, along with the applicable APTC and CSR, to December 1, 2015. If you choose to do so, you will be responsible for any applicable premium balance.

The fourth issue under review is whether the NYSOH properly determined that the coverage provided by your QHP would end on February 29, 2016.

Enrollees must be allowed to terminate their coverage with a QHP if they provide appropriate notice to NYSOH or to their health plan.

You testified that you paid the premium to your QHP issued by NYSOH for your health insurance coverage during February 2016. The record also reflects that you did not request to terminate your health insurance coverage through NYSOH until February 24, 2016.

Since you will not be allowed to retroactively disenroll from a QHP without the consent of the plan, it was appropriate for NYSOH to decline to retroactively end your coverage effective January 31, 2016.

Therefore, NYSOH's February 25, 2016 disenrollment notice is AFFIRMED.

Decision

The November 10, 2015 eligibility determination is AFFIRMED.

The November 12, 2015 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in deciding whether to backdate your coverage in your QHP to provide coverage for December 2015.

The February 25, 2016 disenrollment notice is AFFIRMED.

Effective Date of this Decision: August 16, 2016

How this Decision Affects Your Eligibility

Your coverage under Medicaid appropriately ended on November 30, 2015.

You were correctly found eligible APTC and CSR as of December 1, 2015; however, you should have been told that in order for there to be no gap in your health coverage, you would need to select a plan by November 15, 2015.

Your case is being sent back to NYSOH to assist you in deciding whether to backdate your coverage to include December 2015; you would be responsible for any applicable premium.

You were correctly disenrolled from your QHP plan coverage as of February 29, 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 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
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Summary

The November 10, 2015 eligibility determination is AFFIRMED.

The November 12, 2015 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in deciding whether to backdate your coverage in your QHP to provide coverage for December 2015.

The February 25, 2016 disenrollment notice is AFFIRMED.

Your coverage under Medicaid appropriately ended on November 30, 2015.

You were correctly found eligible APTC and CSR as of December 1, 2015; however, you should have been told that in order for there to be no gap in your health coverage, you would need to select a plan by November 15, 2015.

Your case is being sent back to NYSOH to assist you in deciding whether to backdate your coverage to include December 2015; you would be responsible for any applicable premium.

You were correctly disenrolled from your QHP plan coverage as of February 29, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]