



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

Notice of Decision

Decision Date: August 5, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007483

[REDACTED]

Dear [REDACTED],

On August 2, 2016, you and your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's February 29, 2016 enrollment confirmation 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.

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).

This page intentionally left blank.



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

Decision

Decision Date: August 5, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007483

[REDACTED]

Issue

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

Did NY State of Health provide you proper and adequate notice that they had determined that you were enrolled in Third Party Health Insurance as of April 1, 2015?

Did NY State of Health properly determine that your enrollment in a Medicaid Managed Care plan was effective April 1, 2016?

Procedural History

On March 12, 2014, NY State of Health (NYSOH) issued an eligibility determination notice stating your insurance coverage through Medicaid would begin January 1, 2014 and that your enrollment in a Medicaid Managed Care plan through Fidelis Care would begin April 1, 2014.

On February 10, 2015, NYSOH issued a renewal notice stating that based on the information from federal and state data sources there was not enough information to determine whether or not you qualified for financial assistance. The notice asked that you update your account by March 15, 2015 or the financial assistance you were receiving might end.

On March 12, 2015, NYSOH issued a notice stating that they were unable to make a determination about whether or not you were eligible for insurance through NYSOH. You were asked to submit documentation of your income by March 29, 2015.

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).

Also on March 12, 2015, NYSOH issued a notice stating that your Medicaid Fee-For-Service coverage would be discontinued as of March 31, 2015.

On March 27, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective April 1, 2015. The notice stated that you do not need to choose a health plan at this time and that more information about your Medicaid benefits could be found later in the letter under the "Additional information regarding Fee-For-Service Medicaid." However, the notice does not contain a section with that title.

Also on March 27, 2015, NYSOH issued an enrollment confirmation notice stating that you do not need to pick a health plan and that your insurance coverage through Medicaid would begin April 1, 2015.

On December 5, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective December 1, 2015. The notice stated that you may continue to access your benefits through fee-for service Medicaid and that more information about your Medicaid benefits could be found later in the letter under the "Additional information regarding Fee-For-Service Medicaid." However, the notice again does not contain a section with that title.

Also on December 5, 2015, NYSOH issued an enrollment confirmation notice stating that there was no action required because the type of Medicaid coverage you were eligible for does not require you to enroll in a health plan.

On February 26, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective February 1, 2016. The notice advised you to pick a health plan.

On February 29, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Medicaid Managed Care plan through Fidelis Care, effective April 1, 2016.

Also on February 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your Medicaid Managed Care plan, insofar as you were not notified by NYSOH that you did not have a Medicaid Managed Care plan as of April 1, 2015 due to NYSOH determining that you had Third Party Health Insurance coverage outside of NYSOH.

On August 2, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you authorized your son to act as your authorized representative and he testified on your behalf. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) Your authorized representative testified, and the record confirms, that you were determined eligible for Medicaid in 2014 and enrolled in a Medicaid Managed Care plan through Fidelis.
- 2) Your authorized representative testified that in March 2015 you renewed your coverage through Medicaid and that you received the notices issued on March 27, 2015 stating that you did not need to pick a health plan.
- 3) Your authorized representative testified that in March 2015 he contacted Fidelis Care and was told that you were enrolled into a plan through them.
- 4) Your authorized representative testified that from April 2015 through December 2015 you continued to use your Fidelis Medicaid Managed Care card and that Fidelis continued to pay for medical service and provide you with pre-authorization for procedures.
- 5) Your authorized representative testified that in December 2015 you were informed that Fidelis had cancelled the payments they had made to your health care providers because you were not eligible to be enrolled in a Medicaid Managed Care plan.
- 6) The record indicates that on December 29, 2015, a complaint was filed (# [REDACTED]) stating that your account was showing active Third Party Health Insurance.
- 7) On December 8, 2015, you faxed and uploaded a letter from Empire Blue Cross Blue Shield stating that you had coverage through them from January 1, 2014 through March 14, 2014.
- 8) On February 12, 2016, you uploaded a letter from Empire Blue Cross Blue Shield stating that your policy had been cancelled effective March 14, 2014.
- 9) The record does not contain any information from NYSOH regarding where they obtained the information that you were enrolled in Third Party Health Insurance.
- 10) The record does not contain any notices that state you were disenrolled from your Medicaid Managed Care plan through Fidelis Care.
- 11) The record indicates that you were reenrolled into a Fidelis Care Managed Care plan on February 28, 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).

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

Applicable Law and Regulations

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)).

Notice of Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)). NYSOH must send a written notice of the determination and if eligibility is denied, the reason for the denial (42 CFR § 435.913). NYSOH must also give applicants timely and adequate notice of proposed action to terminate, discontinue or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid (42 CFR § 435.919(a)).

Legal Analysis

The first issue for review is whether NYSOH provided you proper and adequate notice that they had determined that you were enrolled in Third Party Health Insurance as of April 1, 2015.

Your authorized representative testified, and the record confirms, that you were determined eligible for Medicaid in 2014 and enrolled in a Medicaid Managed Care plan through Fidelis Care. The record indicates that you renewed your coverage through Medicaid in March 2015 and that notices were issued on March 27, 2015 stating that you did not need to pick a health plan.

Generally, when an individual is eligible for Medicaid through NYSOH they are required to enroll in a Medicaid Managed Care plan. However, when a person has active coverage in a health insurance plan outside of NYSOH, they are not eligible to enroll in a Medicaid Managed Care plan.

Your authorized representative testified that in December 2015, you were informed that Fidelis had cancelled the payments they had made to your health care providers because you were not eligible to be enrolled in a Medicaid Managed Care plan.

NYSOH must send a written notice of the determination and if eligibility is denied, the reason for the denial. Further, NYSOH must also give applicants timely and adequate notice of proposed action to terminate, discontinue or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid.

The record does not contain any notices that state you were disenrolled from your Medicaid Managed Care plan through Fidelis Care. Furthermore, the record does not contain any eligibility determination notices detailing why you were ineligible to enroll in a Medicaid Managed Care plan. The notice that was issued on March 27, 2015 is also lacking a section that it expressly states the notice contains. The notice stated that you do not need to choose a health plan at this time and that more information about your Medicaid benefits could be found later in the letter under the "Additional information regarding Fee-For-Service Medicaid." However, the notice does not contain a section with that title.

The first time that there is any indication in the record that NYSOH noted that there was Third Party Health Insurance on your account is in a December 29, 2015 complaint (# [REDACTED] stating that your account was showing active Third Party Health Insurance.

Therefore, it is concluded that NYSOH did not provide you with proper and adequate notice that you were (1) being disenrolled from your Fidelis Care Medicaid Managed Care plan and (2) that you were ineligible to enroll into a Medicaid Managed Care plan because there was active Third Party Health Insurance on your account.

The second issue for review is whether NYSOH properly determined that your enrollment in a Medicaid Managed Care plan was effective April 1, 2016.

In response to NYSOH verbally informing you that the system was showing active Third Party Health Insurance, on December 8, 2015 you faxed and uploaded a letter from Empire Blue Cross Blue Shield stating that you had coverage through them from January 1, 2014 through March 14, 2014. On February 12, 2016 you uploaded another letter from Empire Blue Cross Blue Shield stating that your policy had been cancelled effective March 14, 2014.

The record indicates that the Third Party Health Insurance was removed from the system and on February 28, 2016 you were able to select a Fidelis Care as your Medicaid Managed Care plan.

Generally, the date on which a Medicaid Managed Care 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.

Your authorized representative testified that in March 2015 he contacted Fidelis Care and was told that you were enrolled into a plan through them. As a result, from April 2015 through December 2015, you continued to use your Fidelis Medicaid Managed Care plan and that Fidelis continued to pay for medical service and provide you with pre-authorization for procedures.

As noted above, you were unable to enroll into a plan prior to February 28, 2016 due to there being Third Party Health Insurance information on your account. However, you were not properly notified of the inconsistency. You were not given the opportunity to fix the inconsistency until after ten months had passed and you had reasonably relied on the actions and statements of your Medicaid Managed Care plan. Had NYSOH given you proper and adequate notice you would have been able to provide the documentation showing you did not have Third Party Health Insurance and properly select a health plan for enrollment in March 2015.

Therefore, the February 29, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis Care Medicaid Managed Care plan is effective as of April 1, 2015.

Your case is RETURNED to NYSOH to reinstate your Fidelis Care Medicaid Managed Care plan effective April 1, 2015.

Decision

NYSOH did not provide you with proper and adequate notice of your eligibility for and enrollment in a Medicaid Managed Care plan.

The February 29, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis Care Medicaid Managed Care plan is effective as of April 1, 2015.

Your case is RETURNED to NYSOH to reinstate your Fidelis Care Medicaid Managed Care plan effective April 1, 2015.

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).

Effective Date of this Decision: August 5, 2016

How this Decision Affects Your Eligibility

You were improperly disenrolled from your Medicaid Managed Care plan.

Your case is being sent back to NYSOH to reinstate your coverage through your Fidelis Care Medicaid Managed Care plan as of April 1, 2015.

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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

NYSOH did not provide you with proper and adequate notice of your eligibility for and enrollment in a Medicaid Managed Care plan.

You were improperly disenrolled from your Medicaid Managed Care plan.

The February 29, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis Care Medicaid Managed Care plan is effective as of April 1, 2015.

Your case is being sent back to NYSOH to reinstate your coverage through your Fidelis Care Medicaid Managed Care plan as of April 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

