



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

Notice of Decision

Decision Date: August 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007727

[REDACTED]

Dear [REDACTED],

On August 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 16, 2015 eligibility redetermination and October 18, 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

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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 properly determine that you were no longer eligible to remain enrolled in your Medicaid Managed Care plan as of October 31, 2015, and were disenrolled as of that date?

Did NY State of Health properly determine that you were eligible for Medicaid effective November 1, 2015, and had coverage under Medicaid Fee-For-Service as of that date?

Did NY State of Health properly determine that you were next enrolled in a Medicaid Managed Care plan, effective March 1, 2016?

Procedural History

According to your NY State of Health (NYSOH) account, you were determined eligible for Medicaid, effective May 1, 2015, enrolled in Medicaid Fee-For-Services as of that date, and were enrolled in a Medicaid Managed Care (MMC) plan thereafter as of June 1, 2015.

On October 17, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were eligible for Medicaid effective November 1, 2015. The notice included a legal reference include that the determination was based on Section 366(1)(b) of the Social Services Law.

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On October 18, 2015, NYSOH issued disenrollment notice that stated your MMC plan coverage would end October 31, 2015. The notice stated that this was because you were no longer eligible to remain enrolled in their current health insurance.

On December 16, 2015, NYSOH issued notices of eligibility redetermination and enrollment that respectively stated you were eligible for Medicaid as of December 1, 2015 and had health insurance coverage under Medicaid Fee-For-Service.

On January 29, 2016, NYSOH issued a notice of eligibility redetermination that stated you were eligible for Medicaid, effective January 1, 2016.

Also on January 29, 2016, NYSOH issued an enrollment notice confirming that you had selected a Healthfirst MMC plan, with an enrollment start date of March 1, 2016.

On March 7, 2016, you contacted NYSOH's Account Review Unit and requested an appeal insofar as your request to backdate your MMC plan to November 1, 2015 had not been addressed and you have a medical bill from November 2015 from a doctor who does not accept Medicaid Fee-For-Service.

On March 8, 2016, NYSOH issued a letter acknowledging your appeal request, which included a description of the appeal as follows:

Appellant is requesting backdate of MMC Healthfirst as of 11/01/2015. States there was active TPHI on file however that coverage ended 09/30/2014. Appellant has past medical bill and doctor does not accept ffs. He states this is due to no fault of his own and documentation was provided stating this and asking for retro coverage.

On August 17, 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 expect to file your 2016 federal income tax return as single, and will not claim any dependents on that tax return.
- 2) According to the May 8, 2015 application, you attested to no expected annual household income. You testified that, at the time you submitted your application, this income was an accurate reflection of your expected income for the 2015 tax year.

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- 3) According to your NYSOH account as of May 8, 2015, you did not have active third party health insurance and were enrolled in an MMC plan, effective June 1, 2015. Your eligibility was slated to be re-evaluated before October 31, 2015.
- 4) According to your NYSOH account, on October 16, 2015, the system detected from a data source that you had third party health insurance, which triggered disenrollment from your MMC plan.
- 5) You testified that you did not receive either the October 17, 2015 eligibility redetermination notice or the October 18, 2015 disenrollment notice so you kept an appointment with your treating medical provider in November 2015.
- 6) You testified that you learned after that appointment that you did not have coverage under your MMC plan any longer when you tried to use your MMC insurance identification card to pick up prescription medication.
- 7) You testified that you contacted NYSOH with an assistor and were told you needed to provide proof that you did not have active third party health insurance.
- 8) On November 24, 2015, your former employer provided you with a health benefits report that showed your employer-sponsored health insurance was terminated “retro to 10/1/14” (see Document [REDACTED]).
- 9) You testified that you provided this document to NYSOH shortly thereafter and again in January 2016. It was uploaded to your NYSOH account on January 15, 2016 (see Document [REDACTED]).
- 10) You testified that you should not be penalized by an error made by NYSOH because you did not have active third party health insurance in October 2015, and you are seeking to have your MMC plan reinstated as of November 1, 2015, and not March 1, 2016.

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

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Medicaid can be provided through NYSOH 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); NY Social Services Law § 366(1)(b)).

Generally, 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 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(e)).

Medicaid Eligibility: Third Party Health Insurance:

As a condition of eligibility, the agency must 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 under review is whether NYSOH properly determined that you were no longer eligible to remain enrolled in your MMC plan as of October 31, 2015.

Your eligibility for Medicaid as of May 1, 2015 and enrollment in an MMC plan as of June 1, 2015 are not in dispute. However, NYSOH's system detected from a data source that you had third party health insurance in October 2015, which triggered your disenrollment from your MMC plan and enrollment in Medicaid Fee-For-Services as of November 1, 2015.

The record reflects in your case that there was no third party health insurance issued when you were originally allowed to select and enroll in an MMC plan as of June 1, 2015, in that you were not required to assign any third party rights or cooperate in providing proof that your previous third party insurance had terminated. The record further reflects that you submitted documentation that demonstrated your employer-sponsored insurance ended on October 1, 2014. Therefore, it is reasonable to infer that you did not have active third party health insurance as of October 2015.

In addition, under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, unless a valid triggering event occurs. This provision is called "continuous coverage."

The credible evidence of record confirms that you were eligible for Medicaid effective May 1, 2015, were enrolled in an MMC plan as of June 1, 2015, and your third party health insurance terminated as of October 1, 2014. Therefore, you should have remained enrolled in your MMC plan for the remainder of your eligibility period.

Therefore, to bring your eligibility and enrollment history in line with this decision, the following changes are to be made:

The May 9, 2015 notices of eligibility redetermination and enrollment confirmation that state you were eligible for Medicaid as of May 1, 2015, had Medicaid Fee-For-Service as of May 1, 2015, and were enrolled in an MMC plan effective June 1, 2015, were in effect for the remainder of your eligibility period through April 30, 2016.

The October 17, 2015 notice of eligibility redetermination finding you eligible for straight Medicaid, effective November 1, 2015, and the October 18, 2016 disenrollment notice from your MMC plan, effective October 1, 2015, are RESCINDED.

The December 16, 2015 notices of eligibility redetermination and enrollment confirmation finding you eligible for Medicaid and covered under Medicaid Fee-For-Service, effective December 1, 2015, are RESCINDED.

The January 29, 2016 notices of eligibility redetermination and enrollment confirmation are MODIFIED to state that you were next eligible for Medicaid and enrolled in your MMC plan, effective May 1, 2016.

Decision

The May 9, 2015 notices of eligibility redetermination and enrollment confirmation that state you were eligible for Medicaid as of May 1, 2015, had Medicaid Fee-For-Service as of May 1, 2015, and were enrolled in an MMC plan effective June

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The December 16, 2015 notices of eligibility redetermination and enrollment confirmation finding you eligible for Medicaid and covered under Medicaid Fee-For-Services, effective December 1, 2015, are RESCINDED.

The January 29, 2016 notices of eligibility redetermination and enrollment confirmation are MODIFIED to state that you were next eligible for Medicaid and enrolled in your MMC plan, effective May 1, 2016.

Your case is RETURNED to NYSOH to restore your coverage in your MMC plan effective November 1, 2015, and to ensure you remain enrolled in your MMC plan as of May 1, 2016 and continuing during the next policy period, barring subsequent changes to your eligibility.

Effective Date of this Decision: August 22, 2016

How this Decision Affects Your Eligibility

Your Medicaid coverage, which began on May 1, 2015, and your MMC plan enrollment, which began June 1, 2015, continued until April 30, 2016.

Thereafter, your eligibility for Medicaid and enrollment in your MMC plan for the next policy period began May 1, 2016, and continues barring subsequent changes in your eligibility.

Your case has been sent back to NYSOH to restore your coverage in your MMC plan as of November 1, 2016, and to make sure your eligibility for Medicaid and your enrollment in your MMC plan for the next policy year begins May 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.

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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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 9, 2015 notices of eligibility redetermination and enrollment confirmation that state you were eligible for Medicaid as of May 1, 2015, had Medicaid Fee-For Service as of May 1, 2015, and were enrolled in an MMC plan effective June 1, 2015, were in effect for the remainder of your eligibility period through April 30, 2016.

The October 17, 2015 notice of eligibility redetermination finding you eligible for straight Medicaid, effective November 1, 2015, and the October 18, 2016 disenrollment notice from your MMC plan, effective October 1, 2015, are **RESCINDED**.

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Your case has been sent back to NYSOH to restore your coverage in your MMC plan as of November 1, 2016, and to make sure your eligibility for Medicaid and your enrollment in your MMC plan for the next policy year begins May 1, 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:



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