



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

Notice of Decision

Decision Date: November 08, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008162

[REDACTED]

Dear [REDACTED],

On September 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 6, 2016 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.

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

Decision

Decision Date: October 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008162

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly started your Medicaid Fee-For-Service coverage as of December 1, 2015?

Procedural History

On November 5, 2014, NYSOH issued an eligibility notice stating that you had been re-enrolled in a plan for coverage year 2015. That notice further stated you were eligible to receive advance premium tax credits up to \$323.71 per month, as well as cost-sharing reductions effective January 1, 2015.

On December 11, 2014, NYSOH issued a notice confirming your enrollment in a silver-level qualified health plan. The notice further stated that if you paid your first month's premium, your coverage could start as early as January 1, 2015.

On October 23, 2015, NYSOH issued a notice stating in part that it was time to renew your health insurance for the next yearly coverage period. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you were currently receiving.

On December 1, 2015, NYSOH received your updated application for health insurance.

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On December 2, 2015, you contacted NYSOH and updated your application to reflect that you were not applying for health coverage.

On December 6, 2015, NYSOH issued several notices reflecting the various changes and updates made to your account on December 1, 2015 and December 2, 2015.

On December 6, 2015, NYSOH issued an eligibility determination based on the December 1, 2015 application for health insurance that stated you were eligible for Medicaid, effective January 1, 2016.

Also on December 6, 2015, NYSOH issued an enrollment confirmation notice that stated that you were enrolled in a Medicaid Managed Care plan effective January 1, 2016.

Also on December 6, 2015, NYSOH issued a disenrollment notice stating that your Medicaid Fee-For-Service coverage would be discontinued as of December 31, 2015.

Also on December 6, 2015, NYSOH issued a disenrollment notice stating that your silver-level qualified health plan would end effective December 31, 2015.

On December 17, 2015, NYSOH issued a cancellation notice stating that your Medicaid Managed Care plan would end effective January 1, 2016.

On March 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the December 6, 2015 disenrollment notice insofar as it terminated your Medicaid Fee-For-Service coverage on December 31, 2015 and not December 1, 2015.

On September 21, 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) According to your NYSOH account, you were enrolled in a silver-level qualified health plan through NYSOH and that your coverage, as well as application of your APTC, was effective as of January 1, 2015.
- 2) According to your NYSOH account and your testimony, you updated your application for health insurance on December 1, 2015 for coverage in 2016.

- 3) According to your NYSOH account, based on that December 1, 2015 application, you were found eligible for Medicaid effective January 1, 2016.
- 4) According to your NYSOH account, your enrollment in Medicaid Fee-For Service was to end December 31, 2015. There is no notice of eligibility determination or enrollment indicating coverage in Medicaid Fee-For-Service began December 1, 2015.
- 5) According to your NYSOH account, you selected a Medicaid Managed Care plan on December 1, 2015, with an effective start date of January 1, 2016.
- 6) According to your NYSOH account and your testimony, on December 2, 2015, you contacted NYSOH and changed your account to state you were not applying for health insurance through NYSOH. You testified that you also cancelled your Medicaid Managed Care plan that was due to start on January 1, 2016, and asked that your Medicaid Fee-For-Service coverage be terminated as of December 1, 2015.
- 7) According to Form 1095-A, issued on January 23, 2016, your APTC for all twelve months was documented (see Document [REDACTED]).
- 8) You testified that in March 2016, you received a Form 1095-B that indicated that you were enrolled in Medicaid for the month of December 2015. There is no record of this form in your NYSOH account.
- 9) You testified that you want your Medicaid Fee-For-Service coverage be terminated as of December 1, 2015 and not December 31, 2015.
- 10) You testified that you were seeking to have the Form 1095-B revised to reflect that you were not enrolled in Medicaid for the month of December 2015.
- 11) You testified that you have private insurance coverage for 2016.

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

Applicable Law and Regulations

Notice of Decision Concerning Eligibility.

The agency (NYSOH) must send each applicant a written notice of the agency's decision on his or her application, and, if eligibility is denied, the reasons for the

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action, the specific regulation supporting the action, and an explanation of his right to request a hearing (42 CFR § 435.913).

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)).

Enrollee-Initiated Termination of Coverage

NY State of Health (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 the NYSOH or qualified health plan (45 CFR § 155.430(b)(1), (d)).

If an enrollee is newly eligible for Medicaid, the last day of coverage for the qualified health plan is the day before the Medicaid coverage begins (45 CFR § 155.430(d)(2)(iv)).

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 issue is whether NYSOH properly determined that you were enrolled in Medicaid Fee-For-Service as of December 1, 2015 and your disenrollment from that coverage ended December 31, 2015.

The record reflects that it was your intent to renew coverage for 2016 and that you contacted NYSOH on December 1, 2015 to renew your eligibility for financial assistance for the upcoming year. That day, you were found eligible for Medicaid effective January 1, 2016, as stated in the December 6, 2015 eligibility redetermination notice. As a result and because your current coverage was automatically scheduled to terminate at the end of the current calendar year, your enrollment in your silver-level qualified health care plan was set to terminate on December 31, 2015, as stated in the December 6, 2015 disenrollment notice.

The record is devoid of any notice from NYSOH that you were eligible for Medicaid Fee-For-Service as of December 1, 2015. The only notice given was a December 6, 2016 disenrollment notice from Medicaid as of December 31, 2015, which appears to have been issued in error. Therefore, NYSOH is bound by the December 6, 2015 eligibility determination notice stating that you were eligible for Medicaid effective January 1, 2016.

Further, on December 2, 2015, you changed your NYSOH account to indicate you were not applying for health insurance coverage. Therefore, your Medicaid Managed Care plan was correctly cancelled as of January 1, 2016.

Therefore, the following changes are made to the following notices to correct the status of your NYSOH eligibility and enrollment:

The December 6, 2015 disenrollment notice stating that your coverage in your silver-level qualified health plan would end effective December 31, 2015 is correct and must be **AFFIRMED**.

The December 6, 2015 notice of eligibility redetermination is correct and NYSOH is bound by that notice as to your eligibility for Medicaid as of January 1, 2016.

The December 6, 2015 disenrollment notice discontinuing your Medicaid Fee-For-Service coverage as of December 31, 2015 is incorrect and is **RESCINDED**.

Since you were no longer seeking insurance through NYSOH in 2016, the December 17, 2015 cancellation notice stating that your Medicaid Managed Care plan would end effective January 1, 2016 is also correct and is **AFFIRMED**.

NYSOH is directed to issue a corrected 2015 Form 1095-B as it relates to the subsidies to which you were entitled during the month of December 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).

Decision

The December 6, 2015 disenrollment notice stating that your coverage in your silver-level qualified health plan would end effective December 31, 2015 is correct and must be AFFIRMED.

The December 6, 2015 notice of eligibility redetermination is correct and NYSOH is bound by that notice as to your eligibility for Medicaid as of January 1, 2016.

The December 6, 2015 disenrollment notice discontinuing your Medicaid Fee-For-Service coverage as of December 31, 2015 is incorrect and is RESCINDED.

Since you were no longer seeking insurance through NYSOH in 2016, the December 17, 2015 cancellation notice stating that your Medicaid Managed Care plan would end effective January 1, 2016 is also correct and is AFFIRMED.

NYSOH is directed to issue a corrected 2015 Form 1095-B as it relates to the subsidies to which you were entitled during the month of December 2015.

Effective Date of this Decision: October 20, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility for health insurance coverage through your silver-level qualified health plan during the month of December 2015.

NYSOH will issue a corrected 2015 Form 1095-B with regard to the amount of APTC you were eligible for and received during the month of December 2015.

Your coverage through your qualified health plan ended effective December 31, 2015.

You did not have coverage through Medicaid Fee-For-Service as of December 1, 2015 and, therefore, the December 31, 2015 disenrollment notice stating it discontinued as of December 31, 2015 was issued in error.

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.

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).

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 December 6, 2015 disenrollment notice stating that your coverage in your silver-level qualified health plan would end effective December 31, 2015 is correct and must be **AFFIRMED**.

The December 6, 2015 notice of eligibility redetermination is correct and NYSOH is bound by that notice as to your eligibility for Medicaid as of January 1, 2016.

The December 6, 2015 disenrollment notice discontinuing your Medicaid Fee-For-Service coverage as of December 31, 2015 is incorrect and is **RESCINDED**.

Since you were no longer seeking insurance through NYSOH in 2016, the December 17, 2015 cancellation notice stating that your Medicaid Managed Care plan would end effective January 1, 2016 is also correct and is **AFFIRMED**.

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NYSOH is directed to issue a corrected 2015 Form 1095-B as it relates your subsidies in the month of December 2015.

This decision does not change your eligibility for health insurance coverage through your silver-level qualified health plan or application of your APTC during the month of December 2015.

NYSOH will issue a corrected 2015 Form 1095-B with regard to the amount of APTC you were eligible for and received during the month of December 2015.

Your coverage through your qualified health plan ended effective December 31, 2015.

You did not have coverage through Medicaid Fee-For-Service as of December 1, 2015 and, therefore, the December 31, 2015 disenrollment notice stating it discontinued as of December 3, 2015 was issued in error.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

