



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

## Notice of Decision

Decision Date: November 10, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008322

[REDACTED]

Dear [REDACTED]

On September 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 12, 17, and 24, 2016 enrollment confirmation 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

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).

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]  
Appeal Identification Number: AP000000008322

[REDACTED]

## 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 enrollment in your Healthfirst Medicaid Managed Care plan ended effective April 30, 2016?

Did NYSOH properly determine that your enrollment in your UnitedHealthCare Medicaid Managed Care plan was effective May 1, 2016?

## Procedural History

On March 12, 2016, NYSOH issued a notice of eligibility determination, based on your March 11, 2016 application, stating that you were eligible for Medicaid, effective March 1, 2016.

Also on March 12, 2016, NYSOH issued a notice of enrollment in the plan selected on March 11, 2016, stating that you were enrolled in the Healthfirst Medicaid Managed Care (MMC) plan, and that your coverage would start on April 1, 2016.

On March 16, 2016, you contacted NYSOH and cancelled your enrollment in the Healthfirst MMC plan and enrolled in an UnitedHealthcare MMC plan.

On March 17, 2016, NYSOH issued a disenrollment notice stating that your coverage through Healthfirst MMC plan would end effective April 30, 2016.

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Also on March 17, 2016 and again on March 24, 2016, NYSOH issued enrollment confirmation notices stating that you were enrolled in UnitedHealthcare MMC plan and that your coverage would start on May 1, 2016.

On March 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your UnitedHealthcare MMC plan insofar as it did not begin April 1, 2016.

On September 27, 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 that on Friday, March 11, 2016, you went to a medical clinic because you had a high risk pregnancy. As you did not have health insurance at that time, the clinic directed you to a certified application counselor (CAC) located in the same facility. The CAC created an account with NYSOH for you and submitted an application for financial assistance.
- 2) You testified that the banner at the CAC's desk read "Healthfirst."
- 3) You testified that during that sit down with the CAC on March 11, 2016, the CAC told you NYSOH had issued a preliminary eligibility determination that you were eligible for Medicaid effective March 1, 2016.
- 4) You testified that the CAC told you that you were enrolled in Medicaid effective March 1, 2016.
- 5) You further testified that you did not authorize the CAC to enroll you in a MMC plan at that time.
- 6) You testified that the CAC did not inform you that you had different options for selecting an MMC plan.
- 7) You testified the CAC did not tell you of the 15<sup>th</sup> of the month deadline for selecting an MMC plan in order for it to begin the first day of the next month.
- 8) You testified that on Tuesday, March 15, 2016, you contacted your regular doctor's office and learned that he participated in UnitedHealthcare MMC and did not participate in the Healthfirst MMC plan.

- 9) You testified that on March 16, 2016, you contacted NYSOH and learned that you had been enrolled by the Healthfirst CAC, without your knowledge, in a Healthfirst MMC plan. At that time, you cancelled your enrollment in Healthfirst MMC plan and enrolled in UnitedHealthcare MMC plan.
- 10) According to your NYSOH account, your enrollment in the Healthfirst MMC plan started April 1, 2016 and ended April 30, 2016, and your enrollment in the UnitedHealthcare MMC plan started effective May 1, 2016.
- 11) You testified that you want your UnitedHealthcare MMC plan to begin on April 1, 2016 because you have two outstanding medical bills for visits with your doctor during the month of April 2016 and, as he does not participate with Healthfirst, those bills have been unpaid.

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)).

### Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if:

1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.

2) The enrollment in the qualified health plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.

3) The enrollee was enrolled in a qualified health plan without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

(45 CFR § 155.430(b)(2)(iv)(A-C)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determine that your enrollment in your Healthfirst MMC plan ended effective April 30, 2016.

You testified that you are seeking retroactive disenrollment from the Healthfirst MMC plan effective April 1, 2016 and to have the UnitedHealthcare MMC start on April 1, 2016.

The record reflects that you became eligible for Medicaid on March 1, 2016 based on your March 11, 2016 application for financial assistance. The record further reflects that you were enrolled in a Healthfirst MMC plan on that date with a plan start date of April 1, 2016.

However, you credibly testified that, on March 11, 2016, you did not personally select or request that the CAC enroll you in the Healthfirst MMC plan.

NYSOH must permit an enrollee to be retroactively disenroll from their qualified health plan if the enrollee demonstrates that there was a technical error that should have allowed them to terminate coverage earlier, or if their enrollment in the plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities, or the enrollee was enrolled into a qualified health plan without their knowledge or consent by a third party.

Your credible testimony shows that your enrollment in the Healthfirst MMC plan as confirmed in the March 12, 2016 enrollment notice was without your knowledge or consent. Therefore, there is a basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in the Healthfirst MMC plan.

Therefore, the March 12, 2016 enrollment confirmation notice in the Healthfirst MMC plan is RESCINDED.

Further, the March 17, 2016 disenrollment notice stating that you no longer have coverage with Healthfirst effective April 30, 2016 is MODIFIED to reflect that you no longer had coverage with Healthfirst MMC effective April 1, 2016.

The second issue under review is whether NYSOH properly determined that your enrollment in the UnitedHealthcare MMC plan was effective May 1, 2016.

You testified and the record reflects that, on March 16, 2016, you contacted NYSOH, after learning on March 15, 2016 that your doctor did not participate with Healthfirst MMC, and requested to end the insurance coverage with the Healthfirst MMC plan. At that time, you also enrolled in the UnitedHealthcare MMC plan.

Generally, the date on which an MMC 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.

On March 16, 2016, you selected the UnitedHealthcare MMC plan and, strictly adhering to the law, it was to take effect on the first day of the second month following after March 2016; that is, on May 1, 2016.

However, as noted above, you credibly testified that your enrollment in the Healthfirst MMC plan was completed by a Healthfirst CAC without your knowledge and consent. You also credibly testified that you were not informed by the Healthfirst CAC that you had MMC plan options, should first confirm with your doctor with which MMC plans they participate, or that there was a 15<sup>th</sup> of the month selection deadline for coverage to start in your MMC plan the first day of the next month. You also credibly testified that you confirmed with your doctor's office on March 15, 2016, that they participate in UnitedHealthCare MMC and not with Healthfirst. Therefore, it is reasonable to conclude that had you been informed that you had MMC plan options, should confirm with your doctor with which MMC plans they participate, and that you had a 15<sup>th</sup> of the month selection

deadline, you would have selected UnitedHealthcare MMC plan by March 15, 2016.

Therefore, the March 17, 2016 and March 24, 2016 enrollment confirmation notices stating that your enrollment in UnitedHealthcare MMC plan would be effective May 1, 2016, are MODIFIED to state that your enrollment start date in that MMC plan is April 1, 2016.

## **Decision**

The March 12, 2016 enrollment confirmation notice is RESCINDED.

The March 17, 2016 disenrollment notice is MODIFIED to reflect that you did not have coverage with Healthfirst MMC, effective April 1, 2016.

The March 17, 2016 and March 24, 2016 enrollment confirmation notices stating that your enrollment in UnitedHealthcare MMC plan would be effective May 1, 2016, are MODIFIED to state that your enrollment start date in that MMC plan is April 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

**Effective Date of this Decision:** November 10, 2016

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

You no longer have health insurance with Healthfirst MMC as of April 1, 2016.

Your case is being sent back to NYSOH to change the effective date of your UnitedHealthcare Medicaid Managed Care plan from May 1, 2016 to April 1, 2016. NYSOH will notify you once this has been completed.

## **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

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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 March 12, 2016 enrollment confirmation notice is RESCINDED.

The March 17, 2016 disenrollment notice is MODIFIED to reflect that you did not have coverage with Healthfirst MMC, effective April 1, 2016.

The March 17, 2016 and March 24, 2016 enrollment confirmation notices stating that your enrollment in UnitedHealthcare MMC plan would be effective May 1, 2016, are MODIFIED to state that your enrollment start date in that MMC plan is April 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

You no longer have health insurance with Healthfirst MMC as of April 1, 2016.

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Your case is being sent back to NYSOH to change the effective date of your UnitedHealthcare Medicaid Managed Care plan from May 1, 2016 to April 1, 2016. NYSOH will notify you once this has been completed.

## **Legal Authority**

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

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

