



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

## Notice of Decision

Decision Date: November 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008890

[REDACTED]

Dear [REDACTED],

On October 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 16, 2015 notice of eligibility determination and April 2, 2016 and April 29, 2016 notices of enrollment.

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: November 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008890



## Issue

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

Was your appeal of the NY State of Health's May 16, 2015 notice of eligibility determination timely?

Did NYSOH properly determine that your children's enrollment, including your two newborn children, in your Medicaid Managed Care plan with Fidelis Care was effective May 1, 2016?

## Procedural History

On May 1, 2014, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible and your two oldest children remained eligible for Medicaid effective April 1, 2014. The notice also confirmed that you and your two oldest children's Medicaid Managed Care (MMC) plan coverage with UnitedHealthcare of New York, Inc. (UHC) would begin effective June 1, 2014.

On April 11, 2015, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you and your two oldest children would qualify for financial help paying for health coverage for you and your two oldest children, and that you needed to update your account by May 15, 2015 or you and your two oldest children might lose the financial assistance currently being received.

No updates were made to your account by May 15, 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).

On May 16, 2015, NYSOH issued an eligibility determination notice stating that you and your two oldest children were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You and your two oldest also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. You and your two oldest children's eligibility ended May 31, 2015.

On April 1, 2016, NYSOH received your updated application for health insurance. In this application, you added your 1-year-old child to that account to seek health insurance coverage.

On April 2, 2016, NYSOH issued an eligibility determination notice stating that you and your three children were eligible for Medicaid was effective April 1, 2016.

Also on April 2, 2016, NYSOH issued a notice of enrollment that stated that you had selected Fidelis Care as your family's MMC plan and the effective date of that plan was May 1, 2016.

On April 14, 2016, you spoke to NYSOH's Account Review Unit and appealed insofar as your MMC plan coverage with Fidelis Care began no earlier than May 1, 2016. There is no evidence that you raised any objection to the 2015 disenrollment of your family from coverage at that time of your appeal.

On April 28, 2016, NYSOH received an update to your application in which you included your two newborn children.

On April 29, 2016, NYSOH issued an eligibility determination notice stating that your family was eligible for Medicaid was effective April 1, 2016.

Also on April 29, 2016, NYSOH issued a notice of enrollment that stated that you had selected Fidelis Care as your family's MMC plan and the effective date of that plan was May 1, 2016.

On October 19, 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 support the following findings of fact:

- 1) The record reflects, that you receive all of your notices from NYSOH via electronic mail.

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).

- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility by May 15, 2015. You also did not receive any renewal notice or disenrollment notice by regular mail.
- 3) You and your two oldest children were disenrollment from their MMC plan coverage with UHC effective May 31, 2015.
- 4) You testified that you did not know that you needed to update your account until you incurred out of pocket expenses for your coverage during the month of April 2016.
- 5) The record reflects that on April 1, 2016, NYSOH received your updated application for health insurance. You revised that application to include your 1-year-old child. The record further reflects that you subsequently revised your application on April 28, 2016 to also include your spouse and two newborn children.
- 6) The record reflects that as of April 1, 2016, you and your three oldest children were found eligible for Medicaid effective April 1, 2016, and that you had selected Fidelis Care as the MMC plan of you and your children.
- 7) On April 14, 2016, you appealed the start date of your MMC plan coverage with Fidelis Care, but there is no indication that you requested any coverage to be backdated to 2015 until you appeared for your hearing.
- 8) Your two newborn children were born on [REDACTED].
- 9) You revised your application on April 28, 2016 to include your two newborn children to obtain their health insurance.
- 10) On April 29, 2016, NYSOH issued an eligibility determination notice stating that your five children, including your two newborn children, were eligible for Medicaid effective April 1, 2016. Their MMC plan coverage with Fidelis Care was effective May 1, 2016.
- 11) You testified that you are seeking to backdate the MMC plan coverage with Fidelis Care for you and your five children from May 1, 2016 to April 1, 2016 in order to cover out-of-pocket expenses you incurred during April 2016.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). NYSOH must make its "redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency" (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

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 Managed Care (MMC) 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

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).

day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).

### Newborn Child – Effective Date of Coverage for Medicaid

Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth (42 CFR § 435.117(a), N.Y. Soc. Serv. Law § 366-g(3)). Additionally, Medicaid MMCs are contractually obligated to provide coverage to eligible newborns from the date of birth (Medicaid Managed Care Model Contract (Appendix H-3(a), effective 3/1/2014 – 2/28/2019).

## **Legal Analysis**

The first issue under review is whether your appeal of the NY State of Health's May 16, 2015 notice of eligibility determination was timely.

You were originally found eligible for Medicaid effective April 1, 2014, and a renewal notice was prepared on April 11, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's April 11, 2015 renewal notice stated that there was not enough information to determine whether you and your two oldest children were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by May 15, 2015, or financial assistance for you and your two oldest children might end.

Because there was no timely response to this notice, you and your two oldest children were terminated from your MMC plan with UHC effective May 31, 2015.

You testified that you elected to receive alerts regarding notices from NYSOH electronically, but that you had not received any electronic alert regarding the notice that directed you to update the information in your NYSOH account.

However, when you filed your appeal on April 14, 2016, the only issue you raised was that the start date of your MMC plan should be April 1, 2016, and not May 1, 2016. You did not request that your coverage be backdated to 2015 until the hearing held on October 19, 2016.

Even if your testimony regarding the electronic alerts is fully credited, you were aware of the 2015 disenrollment at least as early as April of 2016. You failed to raise the issue until October 2016, more than six months later.

Therefore, your appeal was untimely with regard to the 2015 disenrollment and that issue cannot be considered now.

The second issue under review is whether NYSOH properly determine that your children's enrollment, including your two newborn children, in the Medicaid Managed Care plan with Fidelis Care was effective May 1, 2016.

The record reflects that you first revised your application to include your spouse and your 1-year-old child on April 1, 2016. You selected Fidelis Care the MMC plan for you and your three oldest children on that date.

The date on which a 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 April 1, 2016, you selected Fidelis Care as the MMC plan for you and your three oldest children, so it properly took effect on the first day of the second month following after April 1, 2016; that is, on May 1, 2016.

Therefore, the April 2, 2016 notice of enrollment is AFFIRMED because it properly began you and your three oldest children's MMC plan coverage with Fidelis Care effective May 1, 2016.

The record reflects that you further revised your application on April 28, 2016 to include your two newborn children to seek health insurance. The record further reflects that your two newborn children were found eligible for Medicaid and enrolled in Fidelis Care as their MMC plan as of April 28, 2016.

In New York State Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth. You were enrolled in Medicaid at the time of the birth of your two newborn children. Therefore, your newborn children are mandated to receive coverage through Medicaid as of the date of their birth. Since you were not enrolled in an MMC plan at the time of their birth, they are not entitled to enroll in an MMC plan at an earlier date.



## **Decision**

Your appeal is untimely and is therefore dismissed with regard to the May 16, 2015 eligibility determination.

The April 2, 2016 notice of enrollment is **AFFIRMED** because it properly began you and your three oldest children's MMC plan coverage with Fidelis Care effective May 1, 2016.

**Effective Date of this Decision:** November 28, 2016

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

Your family's eligibility and enrollment remain unchanged.

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

## **Summary**

Your appeal is untimely and is therefore dismissed with regard to the May 16, 2015 eligibility determination.

The April 2, 2016 notice of enrollment is **AFFIRMED** because it properly began you and your three oldest children's MMC plan coverage with Fidelis Care effective May 1, 2016.

Your family's eligibility and enrollment remain unchanged.

## **Legal Authority**

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

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

