



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

Notice of Decision

Decision Date: December 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009697

[REDACTED]

[REDACTED]

Dear [REDACTED],

On November 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 21, 2014 eligibility determination and February 9, 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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009697

[REDACTED]

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) provide you proper and adequate notice that you were disenrolled from your Medicaid Managed Care plan as of January 1, 2015?

Did NYSOH properly determine that you were disenrolled from your Medicaid Managed Care plan, effective March 31, 2016?

Procedural History

On February 21, 2014, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective January 1, 2014, and enrolled in your Medicaid Managed Care plan, effective March 1, 2014.

On November 6, 2014, 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 December 15, 2014 or the financial assistance you were receiving might end.

On December 8, 2014, you updated your application for financial assistance.

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On December 9, 2014, NYSOH issued a notice of eligibility determination stating that you remained eligible for Medicaid, effective January 1, 2015. Also on December 9, 2014, NYSOH issued an enrollment notice confirming your continuing enrollment in your Medicaid Managed Care plan, as of March 1, 2014.

On November 16, 2015, you updated your application for financial assistance.

On November 22, 2015, NYSOH issued a notice of eligibility determination stating that you remained eligible for Medicaid, effective January 1, 2016. Also on November 25, 2015, NYSOH issued an enrollment notice confirming your continued enrollment in your Medicaid Managed Care plan, as of March 1, 2014.

On February 9, 2016, NYSOH issued a disenrollment notice finding your disenrolled from your Medicaid Managed Care plan, effective March 31, 2016, as you were no longer eligible to remain enrolled in your current health insurance.

On May 18, 2016, you spoke to NYSOH's Account Review Unit and appealed your disenrollment from 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 January 1, 2015.

On November 23, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, ██████████ acted as your Authorized Representative and assisted you with your testimony. 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) Your authorized representative testified that you are seeking continuous enrollment in your Medicaid Managed Care plan from 2014 up until your disenrollment in 2016.
- 2) You and your authorized representative testified that you were first found eligible for Medicaid in 2014 and were enrolled into a Medicaid Managed Care plan with a start date of March 1, 2014.
- 3) You testified that a medical provider who you were seeing throughout 2015 was billing your Medicaid Managed Care plan. You testified that at some point in late 2015 the provider was charged back for all the payments received from your Medicaid Managed Care plan. You testified that sometime in early 2016, your provider billed you directly for these

- services, which is when you learned that you had been disenrolled for your Medicaid Managed Care plan.
- 4) You testified that you did not receive any notices advising you that you had been disenrolled from your Medicaid Managed Care plan until the disenrollment notice in February 2016.
 - 5) You testified that you became eligible for Medicare on March 1, 2016 and are enrolled in Medicare Part B.
 - 6) The record reflects that no disenrollment notices were sent to you until the February 9, 2016 disenrollment notice, advising you that your enrollment in your Medicaid Managed Care plan would end effective March 31, 2016.
 - 7) On September 20, 2016, NYSOH created incident # [REDACTED] which indicates that this account had a finding of Medicaid eligibility on December 8, 2014 and your enrollment in your Medicaid Managed Care plan continued until your disenrollment on March 31, 2016. However, the system was showing For-For Service Medicaid in another NYSOH account, but this was incorrect as there was no history of enrollments in that second account, and therefore should not have conflicted with the main account. The incident note goes on to indicate that the mismatch with NYSOH can be corrected by reinstating the Medicaid Managed Care plan enrollment for January 1, 2015 to December 31, 2015.

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)).

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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)).

Continuous Coverage

Most applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace 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 twelve-month period. This twelve-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 (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid social security number (N.Y. Soc. Serv. Law § 366(4)(c)).

Medicaid Managed Care Plans

Generally, with regard to enrollment in a Medicaid Managed Care plan, Medicaid recipients, except for those who are eligible for an exemption or an exclusion, must enroll in a Medicaid Managed Care plan (18 NYCRR § 360-10.4(a)).

An individual dually eligible for Medicaid and benefits under the federal Medicare program may be required to enroll into a Medicaid Managed Care plan (NY Soc. Serv. Law § 364-j(3)(e)(i)).

The Medicaid Managed Care program excludes from enrollment consumers who receive Medicare benefits. Once Medicare coverage is gained the recipient must be disenrolled from their Medicaid Managed Care plan as soon as possible (GIS 11 MA/025).

Legal Analysis

The first issue for review is whether NYSOH provided you proper and adequate notice that they had disenrolled you from your Medicaid Managed Care plan, effective January 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, effective March 1, 2014. The record indicates that you renewed your coverage through Medicaid on December 8, 2014 and November 22, 2015. Notices were issued on December 9, 2014 and November 25, 2015 confirming your enrollment in your Medicaid Managed Care plan, as of March 1, 2014.

Generally, when an individual is eligible for Medicaid through NYSOH they are required to enroll in a Medicaid Managed Care plan. Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid social security number.

There is no indication in the record that you became ineligible to remain enrolled in your Medicaid Managed Care plan throughout 2015 due to incarceration or moving out of state. Additionally, you provided a valid social security number at the time of completing your application.

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.

There is no indication in the record that you had active coverage in a health insurance plan outside of NYSOH during 2015.

As you did not become ineligible to be enrolled in a Medicaid Managed Care plan during 2015, NYSOH should not have disenrolled you from your Medicaid Managed Care plan, effective January 1, 2015.

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.

You testified that sometime in early 2016, you were informed that your Medicaid Managed Care plan had cancelled the payments they had made to your health care providers throughout 2015 because you were not enrolled in a Medicaid Managed Care plan.

The record does not contain any notices, until the February 9, 2016 disenrollment notice, that state you were disenrolled from your Medicaid Managed Care plan. Furthermore, the record does not contain any eligibility determination notices detailing why you were ineligible to enroll in a Medicaid Managed Care plan.

Therefore, it is concluded that NYSOH did not provide you with proper and adequate notice that you were being disenrolled from your Medicaid Managed Care plan, effective January 1, 2015.

The second issue for review is whether NYSOH properly determined that your enrollment in a Medicaid Managed Care was cancelled effective March 31, 2016.

The Medicaid Managed Care program excludes from enrollment consumers who receive Medicare benefits. Once Medicare coverage is gained the recipient must be disenrolled from their Medicaid Managed Care plan as soon as possible.

You testified that you became eligible for Medicare on March 1, 2016 and are enrolled in Medicare Part B.

Since you were eligible for Medicare benefits as of March 1, 2016, NYSOH properly found that you were disenrolled from your Medicaid Managed Care plan, effective March 31, 2016.

Therefore, the February 21, 2014 eligibility determination finding that you were enrolled in your Medicaid Managed Care plan, effective March 1, 2014 is **AFFIRMED**. The February 9, 2016 disenrollment notice, disenrolling you from your Medicaid Managed Care plan, effective March 31, 2016, is **AFFIRMED**.

Since you should have been enrolled in a Medicaid Managed Care continuously from March 1, 2014 to March 1, 2016, your case is **RETURNED** to NYSOH to ensure that you are enrolled in your Medicaid Managed Care plan from March 1, 2014 to March 31, 2016.

Decision

The February 21, 2014 eligibility determination is **AFFIRMED**.

The February 9, 2016 disenrollment notice is **AFFIRMED**.

Since you should have been enrolled in a Medicaid Managed Care continuously from March 1, 2014 to March 1, 2016, your case is **RETURNED** to NYSOH to ensure that you are enrolled in your Medicaid Managed Care plan from March 1, 2014 to March 31, 2016.

Effective Date of this Decision: December 12, 2016

How this Decision Affects Your Eligibility

You are enrolled in your Medicaid Managed Care plan from March 1, 2014 to March 31, 2016.

You no longer have a Medicaid Managed Care plan as of March 31, 2016.

Your case is being sent back to NYSOH to ensure that you are enrolled in your Medicaid Managed Care plan from March 1, 2014 until March 31, 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.

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

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- By fax: 1-855-900-5557

Summary

The February 21, 2014 eligibility determination is AFFIRMED.

The February 9, 2016 disenrollment notice is AFFIRMED.

You are enrolled in your Medicaid Managed Care plan from March 1, 2014 to March 31, 2016.

You no longer have a Medicaid Managed Care plan as of March 31, 2016.

Since you should have been enrolled in a Medicaid Managed Care continuously from March 1, 2014 to March 1, 2016, your case is RETURNED to NYSOH to ensure that you are enrolled in your Medicaid Managed Care plan from March 1, 2014 to March 31, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]