



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

## Notice of Decision

Decision Date: December 7, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009718

[REDACTED]

Dear [REDACTED],

On November 17, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's October 8, 2015 disenrollment notice and March 3, 2016 eligibility determination 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

Decision Date: December 7, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009718

[REDACTED]

## 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 enrolled in a Medicaid Managed Care plan for the months of October and November 2015?

Did NY State of Health properly determine that you were ineligible for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015?

## Procedural History

On August 13, 2015, NY State of Health (NYSOH) issued a renewal notice advising you that based on the information from Federal and State sources, NYSOH could not make a decision about whether or not you qualify for financial help paying for your health coverage. This same notice requested that you update the information in your NYSOH account by September 15, 2015 and that if you did not update your account, the financial assistance you were receiving may end.

On September 15, 2015 you contacted NYSOH and updated your application for financial assistance.

On September 16, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible for Medicaid, effective September 1,

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2015. This same notice requested that you submit income information by December 14, 2015.

Also on September 16, 2015, NYSOH issued an enrollment notice confirming your continued enrollment in a Medicaid Managed Care plan.

On October 8, 2015, NYSOH issued a disenrollment notice, advising that your enrollment in your Medicaid Managed Care plan would end effective November 30, 2015 as you were no longer eligible to remain enrolled in your current health plan.

On March 3, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to have Medicaid reimburse your Medicare Part B premiums effective December 1, 2015.

On March 9, 2016, NYSOH created incident # [REDACTED] which indicates that you were enrolled in a Medicaid Managed Care plan from October 1, 2015 to November 30, 2015, and as a result of this enrollment, you could not receive Medicare Part B premium reimbursement for those months.

On March 19, 2016, NYSOH issued an eligibility determination notice finding you fully eligible for Medicaid effective March 1, 2016.

On May 18, 2016, you spoke to NYSOH's Account Review Unit and appealed the March 3, 2016 eligibility determination insofar as you were not found eligible for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015.

On November 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) The record indicates that on September 15, 2015 four applications for health insurance were submitted to NYSOH. Each application indicated that you had active coverage through Medicare as of October 1, 2015.
- 2) You testified that you became aware that you were enrolled in Medicare when you noticed that premiums for Medicare were being deducted from your Social Security Disability payments. However, you were not sure exactly when you noticed the deduction for Medicare.

- 3) You testified that when you inquired regarding the deduction from your Social Security Disability payments, you were told that you had Medicare effective October 1, 2015.
- 4) The record reflects that you are enrolled in Medicare Part B.
- 5) You testified that you are seeking reimbursements for your Medicare Part B premiums for October 2015 and November 2015.
- 6) The NY State Department of Health, Third Party Liability Unit, created a summary stating that at the time you became eligible for Medicare, you were enrolled into a Medicaid Managed Care plan and Medicaid was paying the managed care plan premiums of \$461.84 per month. This summary also states the NY State Department of Health, Third Party Liability Unit's position that it is not cost effective for Medicaid to pay the monthly Medicaid Managed Care premium and the Medicare Part B premium for the same months.

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

## **Applicable Law and Regulations**

### Medicaid

Medicaid can be provided through the Marketplace 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 that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### Medicaid Premium Reimbursement

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A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services (see NYS Social Services Law § 367a(b), 18 NYCRR § 360-7.5, GIS 02 MA/019). Cost-effectiveness may be determined by comparing what it would cost Medicaid to provide coverage to the cost of the premiums for the health insurance policy.

### 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 is whether NYSOH properly determined that you were enrolled in a Medicaid Managed Care plan for the months of October and November 2015.

According to the September 16, 2015 eligibility determination notice you were eligible for Medicaid as of September 1, 2015. Also on September 16, 2015, NYSOH issued an enrollment notice confirming your continued enrollment in a Medicaid Managed Care plan.

A person who is Medicaid eligible generally must enroll in a Medicaid Managed Care plan. However, 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.

The record indicates that on September 15, 2015 four applications for health insurance were submitted to NYSOH. Each application indicated that you had active coverage through Medicare as of October 1, 2015.

Since you were eligible for Medicare benefits as of October 1, 2015, and NYSOH was made aware of this on September 15, 2015, NYSOH should have

disenrolled you from your Medicaid Managed Care plan effective September 30, 2015.

Therefore, the October 8, 2015 disenrollment notice is MODIFIED to state that you are disenrolled from your Medicaid Managed Care plan effective September 30, 2015.

The second issue is whether NYSOH properly determined that you were ineligible to have Medicaid reimburse your Medicare Part B premiums for the months of October 2015 and November 2015.

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services.

NYSOH determined that you were not eligible for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015 as you were enrolled in a Medicaid Managed Care plan for those months.

However, as discussed above NYSOH should have disenrolled you from your Medicaid Managed Care plan as of September 30, 2015 because your application contained information showing that you had active Medicare coverage as of October 1, 2015.

As NYSOH relied upon your enrollment in a Medicaid Managed Care plan for the months of October 2015 and November 2015 in their determination that you were ineligible for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015, your case is RETURNED to NYSOH to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015.

## **Decision**

The October 8, 2015 disenrollment notice is MODIFIED to state that you are disenrolled from your Medicaid Managed Care plan, effective September 30, 2015.

Your case is RETURNED to NYSOH to disenroll you from your Medicaid Managed Care plan effective September 30, 2015 and to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015.

**Effective Date of this Decision:** December 7, 2016

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

You are disenrolled from your Medicaid Managed Care plan as of September 30, 2015.

Your case is being sent back to NYSOH to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015.

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

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## **Summary**

The October 8, 2015 disenrollment notice is MODIFIED to state that you are disenrolled from your Medicaid Managed Care plan effective September 30, 2015.

You are disenrolled from your Medicaid Managed Care plan as of September 30, 2015.

Your case is RETURNED to NYSOH to disenroll you from your Medicaid Managed Care plan effective September 30, 2015 and to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for October 2015 and November 2015.

## **Legal Authority**

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

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

