



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

Notice of Decision

Decision Date: February 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010385

[REDACTED]

Dear [REDACTED]

On January 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 5, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010385



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 they had determined that you were enrolled in third-party health insurance as of April 5, 2016?

Did NYSOH properly disenroll you from your Medicaid Managed Care (MMC) plan effective April 30, 2016?

Procedural History

On October 24, 2015, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that based on the 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 November 22, 2015, NYSOH issued an eligibility determination notice stating that you remain eligible for Medicaid effective as of January 1, 2016.

Also, on November 22, 2015, NYSOH issued an enrollment notice confirming that as of November 19, 2015, you were enrolled in a MMC plan with an enrollment start date of March 1, 2015.

On April 4, 2016, NYSOH redetermined your eligibility for financial assistance through NYSOH.

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On April 5, 2016, NYSOH issued three notices:

- (a) An eligibility determination notice stating that you eligible for Medicaid effective as of May 1, 2016;
- (b) A disenrollment notice stating that you were no longer eligible to remain enrolled in your current health insurance, and your MMC plan would be terminated April 30, 2016.
- (c) A notice confirming that the type of Medicaid coverage you were eligible for does not require/allow you to enroll in a health plan.

On May 10, 2016, you uploaded a letter from Aetna to your NYSOH account ([REDACTED]).

On May 12, 2016, NYSOH issued an enrollment notice confirming that as of May 11, 2016, you were enrolled in a MMC plan with an enrollment start date of June 1, 2016.

On June 20, 2016, you uploaded a letter from Aetna to your NYSOH account ([REDACTED]).

Also on June 20, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the disenrollment of your MMC plan.

On January 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at the end of the proceeding.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you received notices from Fidelis Care in April 2016 stating that they were not responsible to pay for the medical services that you received from January 1, 2016 through April 30, 2016 because you were enrolled in private health insurance through Aetna.
- 2) According to your NYSOH account, you were enrolled in the MMC plan, Fidelis Care, from March 1, 2015 through April 30, 2016.
- 3) You testified that you contacted Aetna and was told that they were unable to terminate your coverage because the policyholder was your ex-husband.
- 4) You testified that you were enrolled in Aetna based on a clerical error and was not aware that you were enrolled in any health insurance outside of NYSOH in 2016.

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- 5) You testified that you have been divorced since 2009.
- 6) On May 10, 2016, you uploaded a letter from Aetna confirming, in relevant part, that you were enrolled in an Open Access Elect Choice plan from January 1, 2016 through May 1, 2016.
- 7) On June 20, 2016, you uploaded a letter from Aetna confirming, in relevant part, that your EPO plan was terminated effective January 1, 2016.
- 8) You testified that you were without a MMC plan from January 1, 2016 through May 31, 2016, and incurred out-of-pocket medical expenses because you were not enrolled in a MMC plan.
- 9) Your NYSOH account reflects that you re-enrolled in a MMC plan with an enrollment start date of June 1, 2016.

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

Applicable Law and Regulations

Enrollment in MMC

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

A “Managed Care Program” is a statewide program in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c)).

Third-Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider which may be maintained by payment, or part payment, and such payment would be cost-effective may not enroll in a MMC plan (NY SSL § 364-j(3)(e)(xx)).

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

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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)).

Legal Analysis

The first issue for review is whether NYSOH provided you proper and adequate notice that it had determined that you were enrolled in third party health insurance as of April 5, 2016.

A notice was issued on April 5, 2016, confirming that the type of Medicaid coverage you were eligible for does not require/allow you to enroll in a health plan.

Generally, when an individual is eligible for Medicaid through NYSOH, they are required to enroll in a MMC plan. However, when a person has active comprehensive third-party health coverage in a health insurance plan outside of NYSOH and it is determined to be cost-effective, they are not eligible to enroll in a MMC plan.

NYSOH must send a written notice of the determination and if eligibility is denied, the reason for the denial.

The record does not contain any eligibility determination notices explaining why you were found not eligible to enroll in a MMC plan as of April 5, 2016.

You testified that you first learned that there was an issue with your MMC coverage when you began to receive notices from Fidelis Care. The notices stated that they were not responsible to pay for the medical services that were received from January 1, 2016 through April 30, 2016 because you were enrolled in private health insurance through Aetna.

Therefore, it is concluded that NYSOH did not provide you with proper and adequate notice that you were no longer eligible to enroll into a MMC plan because you were enrolled in a third-party health insurance.

The second issue under review is whether NYSOH properly disenrolled you from your MMC effective April 30, 2016.

On April 4, 2016, NYSOH redetermined your eligibility for financial assistance through NYSOH. On April 5, 2016, NYSOH issued a notice advising that your coverage in your MMC plan would be terminated as of April 30, 2016, and the type of Medicaid coverage you were eligible for does not require/allow you to enroll in a health plan.

However, you credibly testified that you were not enrolled in health insurance outside of NYSOH in 2016 and submitted documentation from Aetna reflecting that your coverage was terminated effective January 1, 2016.

The credible record supports that you were not enrolled in third-party health insurance in 2016. Therefore, you were incorrectly disenrolled you from your MMC plan effective April 30, 2016.

Accordingly, the April 5, 2016, disenrollment notice terminating your MMC plan effective April 30, 2016 is RESCINDED.

Your NYSOH account reflects that you were re-enrolled in a MMC plan with an enrollment start date of June 1, 2016. Therefore, your cause is RETURNED to NYSOH to reinstate your MMC plan effective May 1, 2016.

During the hearing you credibly testified that your MMC plan, Fidelis Care, is refusing to pay for the medical services that were provided to you for the period of January 1, 2016 through April 30, 2016 because you were enrolled in third-party health insurance. Your NYSOH account reflects that you were enrolled in a Fidelis Care MMC for that period of time. NYSOH Appeals Unit does not have authority to hear issues involving health plan billing disputes. Therefore, your case is RETURNED to Plan Management in order to investigate whether or not your plan is incorrectly billing you the medical services provided from January 1, 2016 through April 30, 2016.

Decision

NYSOH did not provide you with proper and adequate notice of your eligibility for and enrollment in a MMC plan.

The April 5, 2016 disenrollment notice terminating your MMC plan effective April 30, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to backdate your MMC plan effective May 1, 2016.

Your case is also being sent back to allow the Plan Management Unit to investigate your claim that your MMC health plan is refusing to pay for the medical services received between January 1, 2016 through April 30, 2016.

Effective Date of this Decision: February 24, 2017

How this Decision Affects Your Eligibility

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NYSOH did not provide you with proper and adequate notice of your eligibility for and enrollment in a MMC plan.

Your case is being sent back to reinstate your MMC plan effective May 1, 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

NYSOH did not provide you with proper and adequate notice of your eligibility for and enrollment in a MMC plan.

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The April 5, 2016, disenrollment notice terminating your MMC plan effective April 30, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to backdate your MMC plan effective May 1, 2016.

Your case is also being sent back to allow the Plan Management Unit to investigate your claim that your MMC health plan is refusing to pay for the medical services received between January 1, 2016 through April 30, 2016.

NYSOH did not provide you with proper and adequate notice of your eligibility for and enrollment in a MMC plan.

Your case is being sent back to reinstate your MMC plan effective May 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

