



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

Notice of Decision

Decision Date: January 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010838

[REDACTED]

[REDACTED]

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 4, 2015 eligibility determination and December 5, 2015 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010838

[REDACTED]

Issues

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

Was your appeal of NY State of Health's (NYSOH) December 4, 2015 eligibility determination notice and December 5, 2015 disenrollment notice timely?

Did NY State of Health properly disenroll you from your Medicaid Managed Care coverage, effective December 31, 2015?

Procedural History

On October 21, 2015, you updated your application for financial assistance with health insurance.

On October 22, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective October 1, 2015. On November 2, 2015 this notice was returned to NYSOH as undeliverable. This notice was resent and again returned to NYSOH as undeliverable on November 30, 2015.

Also on October 22, 2015 NYSOH issued a notice of enrollment confirming your continued enrollment in your Medicaid Managed Care plan, as of March 1, 2015. On October 30, 2015 this notice was returned to NYSOH as undeliverable. This notice was resent and again returned to NYSOH as undeliverable on November 30, 2015.

On November 5, 2015, your mailing address was updated in your NYSOH account.

On November 6, 2015, NYSOH issued a notice of enrollment confirming your continued enrollment in your Medicaid Managed Care plan, as of March 1, 2015. On November 19, 2015, this notice was returned to NYSOH as undeliverable.

On December 3, 2015 NYSOH redetermined your eligibility for financial assistance with health insurance.

On December 4, 2015 NYSOH issued a notice of eligibility determination stating that you were not qualified to enroll through NYSOH as notices sent to you by U.S mail to the mailing address provided in your account were returned to NYSOH as undeliverable. The notice further stated that your eligibility would end effective December 31, 2015. On December 18, 2015 this notice was returned to NYSOH as undeliverable.

On December 5, 2015 NYSOH issued a disenrollment notice advising you that your enrollment in Medicaid and your Medicaid Managed Care plan would end effective December 31, 2015 as you were no longer eligible to enroll in health insurance through NYSOH. On December 18, 2015 this notice was returned to NYSOH as undeliverable.

On February 24, 2016, you contacted NYSOH and updated your application for financial assistance with health insurance. Also, on February 24, 2016 your mailing address was updated in your NYSOH account.

On February 25, 2016 NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided to NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by March 11, 2016.

On March 7, 2016, income documentation was uploaded to your NYSOH account.

On March 15, 2016, NYSOH redetermined your eligibility for financial assistance based on the income documentation you submitted. On March 16, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective March 1, 2016, and directing you to select a Medicaid Managed Care plan. On March 28, 2016 this notice was returned to NYSOH as undeliverable.

On July 5, 2016, you contacted NYSOH and updated your application for financial assistance with health insurance.

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On July 6, 2016, NYSOH issued a notice of eligibility determination stating that you were no longer eligible for Medicaid, however, your Medicaid coverage would continue until January 31, 2017.

Also on July 6, 2016, NYSOH issued an enrollment notice confirming your plan selection on July 5, 2016, and stating that your Medicaid Managed Care plan would start on August 1, 2016.

On July 13, 2016, you contacted NYSOH's Account Review Unit and appealed the start date of your Medicaid Managed Care plan, insofar as it began on August 1, 2016, and not January 1, 2016.

On December 22, 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, and the record reflects, that you have lived in New York State continuously since you first applied for health insurance through NYSOH.
- 2) You testified, and the record reflects, that you updated your application for financial assistance with health insurance on October 21, 2015 with a navigator. You testified that you selected a Medicaid Managed Care plan for enrollment that same day.
- 3) You testified that you advised the navigator of your updated address at that time.
- 4) You testified that you were concerned that the navigator had not updated your address and you contacted NYSOH yourself.
- 5) The events tab in your account indicates that you contacted NYSOH on November 5, 2015 and updated the address on your account.
- 6) You testified that your address changed shortly before you updated your account with the navigator on October 21, 2015. You confirmed that your previous address was [REDACTED].
- 7) You testified that your address thereafter has been and continues to be [REDACTED].

- 8) You testified that you have never resided at [REDACTED] [REDACTED] You further testified that this address does not exist.
- 9) You testified that you realized that you had been disenrolled from your Medicaid and Medicaid Managed Care plan in February of 2016 when you contacted your doctor's office, and were advised that you had no coverage.
- 10) You testified that you also updated your address when you contacted NYSOH in February 2016. The record reflects that your address was updated on February 24, 2016.
- 11) You testified that you did not receive the October 22, 2015 eligibility determination notice, the October 22, 2015 enrollment notice, the November 6, 2015 enrollment notice, December 4, 2015 eligibility determination notice; the December 5, 2015 disenrollment notice; or the March 16, 2016 eligibility determination notice.
- 12) The October 22, 2015 eligibility determination notice and the October 22, 2015 enrollment confirmation notice were first sent to the [REDACTED], and then sent to [REDACTED] upon being returned, and were again returned, with an indication from the United States Postal Service that no such number exists for the [REDACTED] address.
- 13) The December 4, 2015 eligibility determination notice, the December 5, 2015 disenrollment notice, and the March 16, 2016 eligibility determination notice were sent to the [REDACTED] address. These three notices were returned as undeliverable. The United States Postal Service indicated that the address was insufficient.
- 14) You testified that you want your Medicaid Managed Care plan to begin as of January 1, 2016 as you believe it should not have been cancelled and you have medical bills for the period for which you did not have coverage.

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

Applicable Law and Regulations

Valid Appeal Requests

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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)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Medicaid for Adults between the Ages of 19 and 65

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

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH 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 12-month period. This 12-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 (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

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Under 42 CFR § 435.403 Medicaid must be provided to “eligible residents of the State” (42 CFR § 435.403(a)). A person shall not be eligible for Medicaid unless he or she is a resident of the state, or, while temporarily in the state, requires immediate medical care which is not otherwise available (N.Y. Soc. Serv. Law § 366(1)(d)(1)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH’s December 4, 2015 eligibility determination and December 5, 2015 disenrollment notice was timely.

The record reflects that you first contacted NYSOH to file an appeal regarding your disenrollment from Medicaid and your Medicaid Managed Care plan on July 13, 2016.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the disenrollment from Medicaid and your Medicaid Managed Care plan as stated in the December 4, 2015 eligibility determination and December 5, 2015 disenrollment notice, an appeal should have been filed by February 2, 2016. The record reflects that you filed your appeal on July 13, 2016, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, the record reflects that the December 4, 2015 eligibility determination notice, the December 5, 2015 disenrollment notice, or the March 16, 2016 eligibility determination notice were returned to NYSOH as undeliverable.

Furthermore, you credibly testified that you did not receive the December 4, 2015 eligibility determination notice, the December 5, 2015 disenrollment notice, or the March 16, 2016 eligibility determination notice. The record reflects that on November 5, 2015 and February 24, 2016 you contacted NYSOH and attempted to update your address with NYSOH. However, the address on file was incorrectly updated by an agent of NYSOH. As you did not receive the December 4, 2015 eligibility determination or December 5, 2015 disenrollment notice, there is no indication that you were ever made aware of the determination or your appeal rights.

As you were not properly provided with the December 4, 2015 eligibility determination or the December 5, 2015 disenrollment notice nor were you properly made aware of your appeal rights, and you contacted NYSOH shortly after learning that your coverage had lapsed, your failure to timely submit the

appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue under review is whether NYSOH properly found you ineligible for Medicaid and disenrolled you from Medicaid and your Medicaid Managed Care plan, effective December 31, 2015.

On October 22, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective October 1, 2015. Also on October 22, 2015, NYSOH issued a notice of enrollment confirming your continued enrollment in your Medicaid Managed Care plan, as of March 1, 2015. Both of these notices were sent to [REDACTED] and on October 30, 2015 these notices were returned to NYSOH as undeliverable.

On November 5, 2015, your mailing address was updated in your NYSOH account to [REDACTED].

On November 6, 2015, NYSOH issued a notice of enrollment to the Apartment [REDACTED] address but on November 19, 2016 it was returned to NYSOH because there was no such number and the post office was unable to forward it to another address.

On December 4, 2015, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid as you were not qualified to enroll through NYSOH because notices that were sent to you about your eligibility and coverage by U.S. mail to the mailing address provided in your account were returned to NYSOH as undeliverable. On December 5, 2015 NYSOH issued a disenrollment notice stating that your enrollment in Medicaid and your Medicaid Managed Care plan would end December 31, 2015 as you were no longer eligible to enroll in health insurance through NYSOH. Both of these notices were sent via regular mail to [REDACTED].

Again the December 18, 2015, the December 4, 2015 eligibility determination and disenrollment notices were returned to NYSOH because there was no such number and the post office was unable to forward it to another address.

You testified that you have never resided at [REDACTED] [REDACTED]. You further testified that this address does not exist and that you actually reside at Apartment [REDACTED].

You testified that when you met with a navigator on October 21, 2015, you provided your new address to the navigator. You further testified that on November 5, 2015 and February 24, 2016, you contacted NYSOH to confirm your mailing address. However, there is no indication in the file that your account was ever updated to reflect the correct apartment number as a result of any of these telephone conversations.

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The record indicates that because of the issues you experienced with your address being updated, you were without Medicaid Managed Care coverage from January 1, 2016 through August 1, 2016.

Generally, an individual remains eligible for Medicaid for twelve continuous months unless the person becomes otherwise ineligible. If a person lacks state residence or is unable to prove state residence during those twelve months they become ineligible for Medicaid and continuous coverage.

Since you contacted NYSOH to provide your address on November 5, 2015, and the indication of apartment [REDACTED] rather than apartment [REDACTED] was an error by an agent of NYSOH, all notices from that date forward should have been sent to that address. Since there is sufficient evidence in the record to conclude that you have continuously retained New York State residency, you were improperly disenrolled from Medicaid and your Medicaid Managed Care plan effective December 31, 2015.

Therefore, the December 4, 2015 eligibility determination notice and the December 5, 2015 disenrollment notice are RESCINDED.

The case is RETURNED to NYSOH to facilitate your reenrollment into Medicaid and your Medicaid Managed Care plan as of January 1, 2016.

Decision

The December 4, 2015 eligibility determination notice is RESCINDED.

The December 5, 2015 disenrollment notice is RESCINDED.

The case is RETURNED to NYSOH to facilitate your reenrollment into Medicaid and your Medicaid Managed Care plan as of January 1, 2016.

Effective Date of this Decision: January 5, 2017

How this Decision Affects Your Eligibility

Your Medicaid coverage should not have been terminated as of December 31, 2015.

Your enrollment in your Medicaid Managed Care plan should not have been terminated as of December 31, 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).

NYSOH will reenroll you into Medicaid and your Medicaid Managed Care plan as of January 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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 4, 2015 eligibility determination notice is RESCINDED.

The December 5, 2015 disenrollment notice is RESCINDED.

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Your Medicaid coverage should not have been terminated as of December 31, 2015.

Your enrollment in your Medicaid Managed Care plan should not have been terminated as of December 31, 2015.

The case is RETURNED to NYSOH to facilitate your reenrollment into Medicaid and your Medicaid Managed Care plan as of January 1, 2016.

NYSOH will reenroll you into Medicaid and your Medicaid Managed Care plan as of January 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:

