



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

Notice of Decision

Decision Date: February 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011216

[REDACTED]

Dear [REDACTED]

On January 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 21, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011216

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that your enrollment in a Medicaid Managed Care plan terminated effective August 31, 2016?

Procedural History

On February 17, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid effective March 1, 2016.

On March 19, 2016, NYSOH issued an enrollment notice confirming your selection of a Medicaid Managed Care (MMC) plan on March 17, 2016, with a plan enrollment start date of May 1, 2016.

On July 20, 2016, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

On July 21, 2016, NYSOH issued a notice stating that your application for health insurance dated January 27, 2016 had been review, and that you may be eligible for health insurance; however, more information was required to make a determination in your case. You were requested to provide documentation proving your income by August 4, 2016 so that an appropriate decision could be made.

Also on July 21, 2016, NYSOH issued a disenrollment notice confirming that your MMC plan coverage would end effective August 31, 2016.

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On August 1, 2016, you uploaded a letter from the Social Security Administration, dated August 1, 2016, showing that while you had been receiving Social Security benefits in the amount of \$1,914.10 per month, this amount was not being reduced as a result of medical insurance premiums.

On August 2, 2016, NYSOH received an update to your application for health insurance. In response to your application, NYSOH prepared a preliminary eligibility determination notice stating that you were not eligible for financial assistance.

Also on August 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the disenrollment of your MMC plan effective August 31, 2016.

On August 3, 2016, NYSOH issued an eligibility determination notice based on the information contained in the August 2, 2016 application. The notice stated that you were eligible to purchase a qualified health plan (QHP) at full cost, effective September 1, 2016.

On January 27, 2017, 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 your account confirms, that you were determined eligible for Medicaid effective March 1, 2016.
- 2) Your account confirms that on March 17, 2016, you selected a MMC plan.
- 3) You testified, and your account confirms, that on July 21, 2016 you were disenrolled from your MMC plan; however, no reason was provided within the July 21, 2016 disenrollment notice or the July 21, 2016 notice requesting additional information from you so that NYSOH could issue an appropriate eligibility determination.
- 4) You testified that you had not been enrolled in a third-party health insurance plan as of the July 21, 2016 disenrollment notice. You further testified, and you provided documentation, that while you had been receiving Social Security benefits in the amount of \$1,914.10 per month beginning March 2016, and that this amount was not being reduced as a result of medical insurance premiums since you were not eligible for Medicare until January 1, 2017.

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- 5) You testified that you did not incur any out of pocket costs during the month of September 2016, you were concerned that you could incur a tax penalty for not having health insurance for a portion of 2016 if you withdrew your appeal.
- 6) The record does not contain any information from NYSOH regarding where they obtained the information that you were enrolled in third party health insurance.

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 that individual was eligible at 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 18 NYCRR § 360-10.3(h);,; Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13 ADM-03(III)(F)).

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 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 any subsequent Medicaid eligibility determination based on modified adjusted gross income (see 42 CFR § 435.916; NY Social Services Law (NY SSL) § 366(4)(c)).

Third Party Health Insurance

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A person who has primary medical or health care coverage available from or under a third-party insurance provider is not permitted to enroll into a Medicaid Managed Care plan (NY SSL § 364-j(3)(e)(xx); Medicaid Managed Care Model Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019). However, they will remain eligible for fee-for-service Medicaid with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY SSL § 366(4)(c)).

Legal Analysis

The issue for review is whether NYSOH properly determined that your enrollment in your MMC plan was terminated effective August 31, 2016.

In the February 17, 2016 eligibility determination notice, you were found eligible for Medicaid, effective March 1, 2016. On March 17, 2016, you selected a MMC plan, effective May 1, 2016, as is documented by the March 19, 2016 enrollment notice.

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.

On July 20, 2016, NYSOH redetermined your household's eligibility for financial assistance with health insurance. On July 21, 2016, NYSOH issued a disenrollment notice advising that your coverage in your MMC plan would be terminated as of August 31, 2016, though did not provide a reason as to why NYSOH made this determination.

When NYSOH determines that a person has active coverage in a health insurance plan outside of NYSOH, that person is not eligible to enroll or remain enrolled in a MMC plan.

However, you credibly testified that you were not enrolled in a third-party health insurance plan as of the July 21, 2016 redetermination, and you submitted documentation confirming that while you were receiving Social Security benefits beginning March 2016, you were not enrolled in Medicare at that time since no portion of your benefits was being reduced for health insurance premiums.

Therefore, when NYSOH cancelled your coverage in a MMC plan due to your, you did not, in fact, have third party health insurance and the information relied upon by NYSOH in making the determination to terminate your coverage under

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your Medicaid Managed Care plan was incorrect. The record otherwise does not contain a basis upon which your MMC plan should have been discontinued.

Accordingly, the July 21, 2016 disenrollment notice terminating your coverage under your MMC plan, effective August 31, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your MMC plan coverage for the period between September 1, 2016 through December 31, 2016, since the record reflects that your Medicare coverage began as of January 1, 2017.

Decision

The July 21, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your MMC plan coverage for the period between September 1, 2016 and December 31, 2016, since the record reflects that your Medicare coverage began as of January 1, 2017.

Effective Date of this Decision: February 2, 2017

How this Decision Affects Your Eligibility

NYSOH improperly disenrolled you from your MMC plan.

Your case is being sent back to reinstate your MMC plan between September 1, 2016 and December 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

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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 July 21, 2016 disenrollment notice is RESCINDED.

NYSOH improperly disenrolled you from your MMC plan.

Your case is being sent back to reinstate your MMC plan between September 1, 2016 and December 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:

