



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

Notice of Decision

Decision Date: March 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011321



Dear [REDACTED],

On January 10, 2017, you appeared by telephone with an authorized representative at a hearing on your appeal of NY State of Health's August 11, 2015 enrollment confirmation 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]
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Issues

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

Was your appeal of the NY State of Health's (NYSOH) August 11, 2015 eligibility determination notice timely?

Did NYSOH properly determine that your enrollment in your Medicaid Managed Care (MMC) plan was effective September 1, 2015?

Procedural History

On August 4, 2015, you submitted to NYSOH an application for financial assistance for yourself.

On August 5, 2015, NYSOH issued a notice stating that your application had been reviewed, but that more information was needed to make an eligibility determination. You were directed to submit income documentation for your household to confirm the information in your application by August 20, 2015. An attachment to the notice stated the types of documentation you could provide.

On August 7, 2015, you submitted documentation as proof of income.

On August 11, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective August 1, 2015.

Also on August 11, 2015, NYSOH issued an enrollment notice confirming your plan select of August 10, 2015, stating that you were enrolled in a MMC plan, and that your coverage would start on September 1, 2015.

On August 8, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your MMC plan.

On January 10, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you requested that your daughter, [REDACTED], act as your authorized representative. [REDACTED] was also sworn in and assisted you with your testimony. During the hearing, Spanish interpreter [REDACTED] interpreted. The record was developed during the hearing and held open until January 24, 2017 to allow you the opportunity to submit a copy of your health plan identification card(s) and copies of pertinent medical bills.

On January 20, 2017, the Appeals Unit received via facsimile your two-page submission, consisting of a cover page and the front and back copies of your health insurance cards, which you received from your MMC plan. These documents were made part of the record collectively as Appellant's Exhibit # 1. The record is now closed.

Findings of Fact

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

- 1) Your authorized representative testified that she has been assisting you on all of your applications for health insurance and related submission to NYSOH because of your language limitations.
- 2) You testified that you are appealing the original start date of your MMC plan. You are requesting your MMC plan to begin August 1, 2015.
- 3) You testified that your place of employment ceased operations on [REDACTED] and you were out of work as of that date.
- 4) You submitted an application to NYSOH for financial assistance on August 4, 2015.
- 5) You testified that you used an application counselor to assist you in obtaining health insurance in August 2015. You testified that the counselor told you that you would have health insurance starting August 1, 2015.
- 6) According to your NYSOH account, you selected your MMC plan on August 10, 2015, and your enrollment was effective on September 1, 2015.

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- 7) You testified that you had a health insurance identification card which you gave to the doctor's office in August 2015 from your MMC plan when you went in for [REDACTED].
- 8) The health identification cards that you submitted does not have a start date listed for the MMC plan (see Appellant's Exhibit # 1).
- 9) You testified that it was not until a year later, in July 2016 when you received bills from the doctor's office, that you first learned you were not covered by a MMC plan during August 2015 when you had [REDACTED] at your doctor's office.
- 10) You testified that you want your MMC plan to begin on August 1, 2015 because of the substantial unpaid medical bills from August 2015 due to your doctor not accepting Medicaid Fee-For-Service.

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

Applicable Law and Regulations

Valid Appeal Requests

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)).

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)).

Legal Analysis

The initial issue under review is whether your appeal of NYSOH's August 11, 2015 eligibility determination notice was timely.

The record reflects that on August 8, 2016, you contacted NYSOH to file a complaint about the September 1, 2015 start date of your MMC plan. A review of the record indicates that at first, it was believed you were appealing the July 27, 2016 enrollment confirmation notice that stated your MMC plan would start September 1, 2016. However, from your testimony, it was determined that you were appealing the August 11, 2015 enrollment confirmation notice that stated your MMC plan was effective September 1, 2015.

The August 9, 2016 notice confirming your August 8, 2016 appeal states the reason for your appeal is "Other" and the description of your appeal is "MMC start date".

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 effective date of your MMC plan as stated in the August 11, 2015 eligibility determination and the enrollment confirmation notice of August 11, 2015, an appeal should have been filed by October 11, 2015. The record reflects that you filed your appeal on August 9, 2016, which is well beyond the 60-day deadline.

However, you credibly testified that you first became aware that you did not have MMC plan coverage in August 2015 in July 2016 when you received bills for the medical services performed at your doctor's office in August 2015. You also credibly testified that was when you first learned your doctor did not accept Medicaid Fee-For-Service.

Therefore, it is reasonable to conclude that when you filed your appeal on August 8, 2016, it was within a reasonably short time of learning in July 2016 that there was a problem with the start date of your MMC plan in 2015. Therefore, it is reasonable to conclude that your appeal was filed timely.

The second issue is whether NYSOH properly determined that your enrollment in the MMC plan was effective September 1, 2015.

According to your NYSOH account and your testimony, you originally submitted an application for financial assistance to NYSOH on August 4, 2015.

According to your NYSOH account, on August 7, 2015, you uploaded to your account a letter from your employer stating you last worked on [REDACTED]. NYSOH verified that document on August 10, 2015 and your eligibility for Medicaid, effective August 1, 2015 was determined at that time.

According to your NYSOH account, you selected a MMC plan on August 10, 2015.

The date on which an MMC plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

On August 10, 2015, you selected a MMC plan, so it properly took effect on the first day of the first month following after August 2015; that is, on September 1, 2015.

Therefore, the August 11, 2015 enrollment confirmation notice stating that your enrollment in your MMC plan would be effective September 1, 2015, was correct and must be AFFIRMED.

Decision

The August 11, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: March 9, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility for or coverage with Medicaid.

You had Medicaid Fee-For-Service as of August 1, 2015 through August 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).

The effective date of your Medicaid Managed Care plan was September 1, 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 11, 2015 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your eligibility for or coverage with Medicaid.

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You had Medicaid Fee-For-Service as of August 1, 2015 through August 31, 2015.

The effective date of your Medicaid Managed Care plan was September 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

