



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

Notice of Decision

Decision Date: January 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011513

[REDACTED]

[REDACTED]

On January 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 18, 2016 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545.

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Issues

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

Did NY State of Health (NYSOH) properly determine that your older son's enrollment in a Medicaid Managed Care (MMC) plan was effective October 1, 2016, and your younger son's enrollment in his MMC plan was effective April 1, 2016?

Procedural History

On December 16, 2015, you created your NYSOH account and applied for financial assistance for yourself and your two sons. That day, you also uploaded documentation to your NYSOH account.

On December 17, 2015, NYSOH issued a notice stating that your December 16, 2015 application had been reviewed, but that more information was needed in order to make a determination as to your sons' eligibility for health insurance. The notice directed you to provide income information for your household by January 1, 2016.

On December 24, 2015, NYSOH issued a notice stating that the documentation you submitted had been reviewed, but that more information was needed to determine your sons' eligibility. The notice directed you to submit proof of your sons' citizenship and Social Security numbers.

On January 5, 2016, you updated your NYSOH account.

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On January 6, 2016, NYSOH issued a notice stating that your January 5, 2016 application had been reviewed, but that more information was needed in order to make a determination as to your sons' eligibility for health insurance. The notice directed you to submit income documentation for your household by January 21, 2016.

On January 15, 2016, you uploaded documentation to your NYSOH account.

On January 23, 2016, NYSOH issued a notice of eligibility determination stating that your younger son was eligible for Medicaid, effective January 1, 2016, and your older son was eligible for Medicaid effective December 1, 2015. The notice further stated that you needed to pick a health plan for your sons.

Also on January 23, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, and stating that you needed to pick a health plan for your sons.

On March 10, 2016, your NYSOH account was updated.

On March 11, 2016, NYSOH issued a notice of enrollment confirmation, confirming your younger son's enrollment in a MMC plan, effective April 1, 2016, and stating that you needed to pick a plan for your older son.

On June 15, 2016, your NYSOH account was updated.

On June 16, 2016, NYSOH issued a notice of eligibility determination stating that your younger son remained eligible for Medicaid, effective June 1, 2016, and that your older son remained eligible for Medicaid, effective July 1, 2016. The notice further stated that you did not need to choose a health plan for your older son.

On June 16, 2016, NYSOH issued a notice of enrollment confirmation stating that the type of Medicaid coverage your older son was eligible for did not require or allow him to enroll in a health plan.

On July 15 and 18, 2016, your NYSOH account was updated.

On July 16 and 19, 2016, NYSOH issued a notice of eligibility determination stating that your sons were no longer eligible for Medicaid. However, their Medicaid coverage would continue until May 31, 2017. The notice further stated that you needed to submit proof of your household's income by July 30, 2016.

Also on July 16 and 19, 2016, NYSOH issued a notice of enrollment confirmation confirming your younger son's enrollment in his MMC plan as of April 1, 2016, and stating that the type of Medicaid coverage your older son was enrolled in did not require or allow him to enroll in a health plan.

On July 20, 2016, NYSOH issued a notice stating that the documentation received did not confirm the information in your application, and that you needed to provide proof of household income by October 13, 2016.

On July 28, 2016, NYSOH uploaded a document that you faxed to NYSOH on July 11, 2016 to your NYSOH account.

On August 9, 2016, NYSOH issued a notice stating that the documentation received did not confirm the information in your application, and that you needed to provide proof of household income by October 13, 2016 for your sons, and October 28, 2016 for yourself.

On August 15, 2016, your NYSOH account was updated.

On August 16, 2016, NYSOH issued a notice of eligibility determination stating that your two sons were no longer eligible for Medicaid, but that their Medicaid coverage would continue until May 31, 2017. The notice also stated that you needed to provide proof of income for your sons by October 13, 2016.

Also on August 16, 2016, NYSOH issued a notice of enrollment confirmation, confirming your younger son's enrollment in his MMC plan as of April 1, 2016, and stating that the type of Medicaid your older son was enrolled in did not require or allow him to enroll in a health plan.

On August 17, 2016, your NYSOH account was updated.

Also on August 17, 2016, you spoke to NYSOH's Account Review Unit and appealed the fact that your older son's MMC plan coverage would not begin until October 1, 2016.

On August 18, 2016, NYSOH issued an eligibility determination notice stating that your sons were eligible for Medicaid, effective August 1, 2016. The notice further directed you to pick a health plan for your older son.

Also on August 18, 2016, NYSOH issued an enrollment confirmation notice confirming your younger son's enrollment in his MMC plan as of April 1, 2016, and your older son's enrollment in his MMC plan as of October 1, 2016.

On January 10, 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 that, prior to applying for health insurance through NYSOH, you had been eligible for health insurance through your former employer, but that you never paid for or used that coverage.
- 2) On July 28, 2016, NYSOH uploaded a document that you had faxed to NYSOH on July 11, 2016, consisting of a fax cover page, and a one-page letter from Empire BlueCross dated March 25, 2016 (Document [REDACTED]). The document was also stamped "RESCAN JUL 22 2016."
- 3) The letter from Empire BlueCross stated that your Empire EPO policy, which covered you and your sons, had an effective date of January 1, 2016 and a cancellation date of January 1, 2016. The letter further stated this policy showed no active plan (see Document [REDACTED]).
- 4) Your NYSOH account reflects that you first tried to apply for coverage through NYSOH on December 16, 2015, and you confirmed this in your testimony.
- 5) You testified that you began trying to enroll in your sons in a MMC plan as soon as they were found eligible for Medicaid.
- 6) Your NYSOH account reflects that NYSOH issued a notice to you on January 23, 2016 telling you that your sons were eligible for Medicaid, and that you needed to select a health plan for them.
- 7) You testified that you do not recall receiving the January 23, 2016 notice, but that you thought everything was fine because you received a call from NYSOH on January 25, 2016 informing you your sons' MMC plan coverage would begin on March 1, 2016.
- 8) You testified that, after that, you waited until March and then tried to make an appointment with a doctor for your older son. You testified that you found out at this point that your son did not have any MMC coverage.
- 9) You testified that you contacted NYSOH in early March and finally spoke to a supervisor who informed you that the system was showing your sons as having third party health insurance coverage.

- 10) You testified that, despite this, you were able to enroll your younger son in a MMC plan on March 10, 2016, with a start date of April 1, 2016.
- 11) You testified that you faxed proof that your sons did not have third party health insurance sometime in March or early April 2016.
- 12) You testified that, after this, you repeatedly tried to enroll your older son into a MMC plan, but were unable to do so.
- 13) Your NYSOH account reflects that you selected a MMC plan for your older son on August 17, 2016, and you confirmed this in your testimony.
- 14) Information in your NYSOH account shows that, on December 23, 2015, NYSOH validated the income documentation you uploaded on December 16, 2015 (Documents [REDACTED] and [REDACTED]).
- 15) The record does not contain any information from NYSOH regarding where they obtained the information that your sons were enrolled in third party health insurance.
- 16) The record does not contain any notices that state the reason why your sons could not select a MMC plan was because they were enrolled in third party health insurance.
- 17) You testified that you have outstanding medical bills for your older son, and you are seeking for his MMC coverage to be backdated.

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 an individual was eligible any time during that month (42 CFR § 435.915(b)).

MMC 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

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3/1/2014 – 2/28/2019; see, §1115 Soc. Sec. Act; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h)).

A Medicaid recipient who has primary medical or health care coverage available from a Third-Party payor may be required to enroll with a managed care program when the payment of the premium or cost sharing amounts would be cost-effective, as determined by the local social services district (NY Soc. Serv. Law § 364-j(3)(e)(xx)).

Legal Analysis

The only issue raised on appeal is whether or not NYSOH properly determined that your younger son's enrollment in his MMC plan was effective April 1, 2016, and your older son's enrollment in his MMC plan effective October 1, 2016.

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

A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month.

A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Your younger son's MMC plan was selected on March 10, 2016, so it took effect on the first day of the first month after March; that is, on April 1, 2016. Your older son's MMC plan was selected on August 17, 2016, so it took effect on the first day of the second month after August; that is, on October 1, 2016.

However, the fact that your sons could not enroll into a MMC plan earlier in 2016 is directly attributable to errors made by NYSOH.

You first applied for health insurance on December 16, 2015. In that application, you did not provide Social Security numbers for your sons. NYSOH issued a notice on December 17, 2015 stating that your sons' eligibility could not be determined because income documentation was needed. You uploaded income documentation to your NYSOH account on December 16, 2015, and it was validated by NYSOH on December 23, 2015. However, instead of making a conditional eligibility determination at that point, pending proof of your sons' citizenship and Social Security number, NYSOH issued another notice requesting more information; this time, the notice asked for proof of citizenship and Social Security numbers for your sons.

In response, you updated your account on January 5, 2016, and provided your sons' Social Security numbers. However, instead of issuing an eligibility

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determination, NYSOH issued another notice stating that income documentation was needed, despite the fact that your household income had been verified on December 23, 2015.

Therefore, both of your sons should have been found conditionally eligible for Medicaid, pending proof of their citizenship and Social Security numbers, effective December 1, 2015. As such, the January 23, 2016 eligibility determination notice is MODIFIED to state that both of your sons were eligible for Medicaid, effective December 1, 2015.

The delay in your ability to select a MMC plan for your sons was also caused by NYSOH's actions.

NYSOH never issued a notice stating that you needed to provide proof that your sons did not have third party health insurance. Moreover, NYSOH never provided any evidence of how it came to conclude that your sons had third party health insurance. The record indicates that you initially were informed that you could select a MMC plan for your sons in the January 23, 2016 notice, and you credibly testified that you thought your sons were enrolled in MMC coverage as of March 1, 2016.

However, when you discovered that your sons did not in fact have MMC coverage, you testified that you spent considerable time trying to get your sons enrolled, and the record reflects that you were continually prevented from enrolling your older son. By the time NYSOH finally allowed you to select a MMC plan for your older son, his coverage did not begin until October 1, 2016.

Since you credibly testified that your sons did not have third party health insurance at any time in 2016, and provided documentation to corroborate this testimony, you should have been able to select a MMC plan as of December 24, 2015, when NYSOH verified your income documentation. This would have allowed you to select a MMC plan in time for your sons' MMC enrollment to begin as of February 1, 2016.

Therefore the August 18, 2016 enrollment confirmation notice is MODIFIED to state that both your sons' enrollments in their MMC plan began on February 1, 2016.

Decision

The January 23, 2016 eligibility determination notice is MODIFIED to state that both of your sons were eligible for Medicaid, effective December 1, 2015.

The August 18, 2016 enrollment confirmation notice is MODIFIED to state that both of your sons were enrolled in their MMC plans with enrollment start dates of February 1, 2016.

Your case is RETURNED to NYSOH to effect these changes, and to facilitate the backdating of your sons' enrollments in their MMC plans.

Effective Date of this Decision: January 20, 2017

How this Decision Affects Your Eligibility

Your sons were eligible for Medicaid, effective December 1, 2015.

Your sons' enrollment in their MMC plans should have started on February 1, 2016.

Your case is being sent back to NYSOH to make these changes and to backdate your sons' enrollments in their MMC plans.

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 January 23, 2016 eligibility determination notice is MODIFIED to state that both of your sons were eligible for Medicaid, effective December 1, 2015.

The August 18, 2016 enrollment confirmation notice is MODIFIED to state that both of your sons were enrolled in their MMC plans with enrollment start dates of February 1, 2016.

Your case is RETURNED to NYSOH to effect these changes, and to facilitate the backdating of your sons' enrollments in their MMC plans.

Your sons were eligible for Medicaid, effective December 1, 2015.

Your sons' enrollment in their MMC plans should have started on February 1, 2016.

Your case is being sent back to NYSOH to make these changes and to backdate your sons' enrollments in their MMC plans.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

