



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

Notice of Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011705

[REDACTED]

Dear [REDACTED],

On January 12, 2017, you appeared with your Authorized Representative by telephone at a hearing on your appeal of NY State of Health's February 5, 2016 eligibility determination and disenrollment notices.

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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011705



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 you and your spouse were no longer eligible to remain enrolled in your Medicaid and Medicaid Managed Care (MMC) plan through NYSOH because mail sent to you was returned as undeliverable?

Procedural History

On January 12, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid, effective December 1, 2015.

On January 15, 2016, NYSOH issued a notice of enrollment confirmation, confirming your and your spouse's enrollment in a Fidelis MMC plan with a start date of February 1, 2016.

On February 5, 2016, NYSOH issued an eligibility redetermination notice stating that you and your husband were not qualified to enroll in coverage through NYSOH because information that was sent to you by mail at the mailing address in your account was returned to NYSOH as undeliverable.

Also on February 5, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in your MMC plan was terminated, effective February 29, 2016, because you were no longer eligible to enroll in health insurance through NYSOH.

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On August 2, 2016, you updated your NYSOH account.

On August 3, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid, effective August 1, 2016.

Also on August 3, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment, and your spouse's enrollment, in a Fidelis MMC plan, effective September 1, 2016.

On August 26, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal of the February 5, 2016 eligibility determination and disenrollment notices, insofar as your and your spouse's enrollment in your Medicaid and MMC plan had been discontinued as of February 29, 2016, leaving you with a gap in coverage for the months of March through August 2016.

On January 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At the hearing, you appeared with an Authorized Representative (AR), [REDACTED], an Application Counselor from Fidelis. Both of you provided sworn testimony. 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 and your spouse were initially found eligible for Medicaid effective December 1, 2015, and that eligibility determination is not under review.
- 2) Your NYSOH account reflects that notices mailed to you on January 12, 2016 and January 15, 2016 were returned to NYSOH as undeliverable and were stamped "Return Mail" on January 25, 2016 and January 27, 2016, respectively. The notices were addressed to you at "[REDACTED]" (Documents [REDACTED]).
- 3) Your NYSOH account reflects that the returned notices were uploaded to your account by NYSOH on January 30, 2016 and February 4, 2016.
- 4) Your AR testified that she completed your initial NYSOH application online, while conferring with you on the phone.
- 5) Your AR testified that she recalls listing your mailing address as "[REDACTED]" which is the address she had in your case file on the day

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that she received your case. She testified that this case file was created on December 28, 2015.

- 6) Your AR testified that it is her practice to keep checking on an applicant's NYSOH account until an eligibility determination is issued, and the person is enrolled into coverage.
- 7) Your AR testified that she continued to check on your NYSOH account until the January 12, 2016 and January 15, 2016 notices were issued, as these notices confirmed that you and your spouse were eligible for, and enrolled in, Medicaid and MMC plan coverage.
- 8) Your NYSOH account indicates that, on February 4, 2016, a NYSOH representative marked the mailing address on your account as "invalid," and your eligibility was redetermined that same day.
- 9) The "Events" tab of your NYSOH account indicates that, at 10:14 AM on February 5, 2016, your mailing address was marked "valid" by username [REDACTED]."
- 10) Your AR confirmed that "[REDACTED]" is her username, but testified that she did not recall accessing your account in February 2016.
- 11) Your AR testified that, in her experience, if there is a problem with an accountholder's address, then a screen comes up as soon as you log into the account, asking you to update the address.
- 12) Your AR testified that if, for some reason, she went into the account on February 5, 2016 and had to confirm the mailing address, she would have hit "agree" and "next" to move forward in the account. However, she testified that she could not think of any reason why she would have accessed your account, and you confirmed that you did not recall contacting her at any point in February 2016 regarding your account.
- 13) Other than the event indicating that your mailing address was marked "valid" on February 5, 2016, there is no event that indicates that any changes were made to your account, or your address, on that day.
- 14) In contrast, when your mailing address was updated on August 2, 2016, there is an event in your account that reads, "Where You Lived Changed."
- 15) You testified that your mailing address was a PO box from the time of your application until you moved to your current address, and that you always gave your PO box as your mailing address, as the town in which you were living required delivery to a PO box.

- 16) Your AR testified that, if she did somehow put the wrong mailing address in your account at the time of your application, then it was her oversight, as she was the one entering the information into the computer, and she does not want you to be penalized.
- 17) You and your AR both testified that you did not know that you and your husband were no longer enrolled in coverage until July 2016, which was the first time that you tried to use the coverage.
- 18) Your AR testified that you contacted her in July 2016 when you found out that you did not have coverage. She testified that she accessed your NYSOH account and saw that the January 2016 notices had been returned, and that a notice had been sent out on February 5, 2016 to notify you that your coverage was ending because mail was returned to NYSOH.
- 19) Your AR testified that, when she accessed your account in July 2016, she noticed that the Address History button showed that your mailing address had been changed to the PO box on February 5, 2016, and that she did not understand who did this, as she knew you did not access your account, and she did not recall accessing your account at any point after January 2016.
- 20) You testified that you never accessed the online account yourself between the time of your application and August 2016, and did not know that mail had been returned to NYSOH.
- 21) Your NYSOH account reflects that you reapplied for financial assistance on August 2, 2016, and that you and your spouse were found eligible for Medicaid as of August 1, 2016, with your Fidelis MMC plan enrollment beginning on September 1, 2016.
- 22) You testified that you do not have outstanding medical bills for the period in question, but that you filed this appeal because you do not want you or your spouse to be penalized for not having coverage for part of 2016.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid can be provided through NYSOH 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); NY Social Services Law § 366(1)(b)).

Generally, most adults determined eligible for Medicaid are guaranteed twelve 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 twelve-month period. This twelve-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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse's eligibility for, and enrollment in, your Medicaid and MMC plan coverage ended as of February 29, 2016 because mail sent to you by NYSOH was returned as undeliverable.

You and your spouse were originally found eligible for Medicaid effective December 1, 2015, and that eligibility determination is not at issue in this appeal.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, with limited exceptions. This provision is called “continuous coverage.” One of the exceptions to continuous coverage is a lack of NY State residence.

On January 30, 2016 and February 4, 2016, 2016, NYSOH uploaded copies of notices dated January 12, 2016 and January 15, 2016, respectively, that were

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sent to you and had been marked "Return Mail" on January 25 and 27, 2016 . During the hearing, you testified that you had a PO box at that time, and that you provided your PO box address to your application counselor, who also appeared as your AR during the hearing. The AR confirmed that you provided this mailing address to her at the time of your application, and testified that the case file she has for you, which was created on December 28, 2015, indicates that your mailing address was [REDACTED]. Nevertheless, the eligibility determination and enrollment confirmation notices of January 12 and 15, 2016 were sent to [REDACTED], and were returned to NYSOH.

After mail sent to you was returned to NYSOH, NYSOH determined that you and your spouse were not eligible to enroll in coverage through NYSOH and discontinued your Medicaid coverage and MMC plan. However, your AR credibly testified that you informed her of your correct PO box address at the time of your application, and that although she believed she entered the correct address, if any mistake had been made, it was her responsibility.

Moreover, your NYSOH account indicates that your mailing address was marked "valid" on February 5, 2016 by someone using your AR's username. It does not indicate that any information was actually changed in your account on that day. In contrast, when you updated your mailing address on August 2, 2016, your NYSOH account includes a note that says "Where You Live Changed." It is therefore reasonable to conclude that the PO box mailing address was already in your account, and was simply marked valid on February 5, 2016. It is therefore just as likely that NYSOH sent the January 12, 2016 and January 15, 2016 notices to the wrong mailing address as it is that your AR entered your mailing address incorrectly at the time of your application. In either case, it was not your fault that the notices were sent to the improper address and did not reach you.

As such, your and your spouse's enrollment in your Medicaid coverage and your MMC plan should not have been terminated as of February 29, 2016. Instead, your Medicaid and MMC coverage should have continued for a 12-month period that began on December 1, 2015, as there is no evidence that there were any intervening events that made you or your spouse ineligible.

Therefore, the February 5, 2016 eligibility determination notice is MODIFIED to state that you and your spouse remain eligible for Medicaid.

The February 5, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your and your spouse's Medicaid coverage, and your MMC enrollment, beginning March 1, 2016, so that there is no gap in your coverage.

Decision

The February 5, 2016 eligibility determination notice is MODIFIED to state that you and your spouse remain eligible for Medicaid.

The February 5, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to facilitate your and your spouse's re-enrollment into your Medicaid coverage and MMC plan beginning March 1, 2016 so that there is no gap in your coverage.

Effective Date of this Decision: January 26, 2017

How this Decision Affects Your Eligibility

Your and your spouse's Medicaid coverage, which began on December 1, 2015, should have continued for a twelve-month period, as there is no evidence that there were any intervening events that made you or your spouse ineligible.

Your and your spouse's MMC coverage should not have been terminated as of February 29, 2016.

Your case is being sent back to NYSOH to reinstate your Medicaid coverage and your MMC plan coverage as of March 1, 2016, so that there is no gap in your coverage.

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)).

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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 February 5, 2016 eligibility determination notice is MODIFIED to state that you and your spouse remain eligible for Medicaid.

The February 5, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to facilitate your and your spouse's re-enrollment into your Medicaid coverage and MMC plan beginning March 1, 2016 so that there is no gap in your coverage.

Your and your spouse's Medicaid coverage, which began on December 1, 2015, should have continued for a twelve-month period, as there is no evidence that there were any intervening events that made you or your spouse ineligible.

Your and your spouse's MMC coverage should not have been terminated as of February 29, 2016.

Your case is being sent back to NYSOH to reinstate your Medicaid coverage and your MMC plan coverage as of March 1, 2016, so that there is no gap in your coverage.

Legal Authority

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A Copy of this Decision Has Been Provided To:

