



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

Notice of Decision

Decision Date: February 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011776

[REDACTED]

Dear [REDACTED],

On January 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 10, 2015 disenrollment notice, and August 31, 2016 eligibility redetermination 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 NY State of Health 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 Date: February 14, 2017

NY State of Health Account ID: [REDACTED]
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[REDACTED]

Issues

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

Was your appeal of your disenrollment from your Medicaid Managed Care plan effective December 31, 2015, timely?

Did NY State of Health (NYSOH) properly determine that you were not eligible for Medicaid for January 1, 2016 through April 30, 2016?

Procedural History

You were found eligible for Medicaid effective January 1, 2015. You subsequently enrolled in a Medicaid Managed Care plan effective February 1, 2015.

On October 22, 2015, a renewal notice was issued stating it was time to renew your NYSOH coverage. The notice stated you no longer qualified for coverage under Medicaid, Child Health Plus, or the Essential Plan effective January 1, 2016. The notice stated this was because information from federal and state data sources it was determined you were already enrolled in or eligible for a public insurance program such as Medicaid, Child Health Plus or another program.

On December 10, 2015, a disenrollment notice was issued terminating your Medicaid Managed Care plan effective December 31, 2015.

On August 30, 2016, NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was made finding you

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eligible for Medicaid effective August 1, 2016. You also requested help paying for medical bills for the three-month period prior to your application on August 30, 2016.

On August 30, 2016, you spoke to NYSOH's Account Review Unit and appealed the fact that you were not determined eligible for Medicaid effective January 1, 2016.

On August 31, 2016, NYSOH issued an eligibility determination notice, based on your August 30, 2016 application and retro Medicaid request, stating that you were eligible for retro Medicaid coverage for the months of May 1, 2016 through July 31, 2016.

On January 12, 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 proceeding.

Findings of Fact

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

- 1) You testified you are seeking insurance for yourself.
- 2) You testified you would like to be found eligible for Medicaid for the months of January 1, 2016 through April 30, 2016.
- 3) You testified that you expect to file your 2016 federal income tax return as single and will claim no dependents.
- 4) You were found eligible for Medicaid as of August 1, 2016.
- 5) You testified you had no income for the period of January 1, 2016 through the date of your application on August 30, 2016.
- 6) You provided a letter of separation from your previous employer on January 13, 2015. The letter is dated January 9, 2015 and states your last date of work was December 29, 2014 for a lack of work. See Document [REDACTED]. You testified this was your last employer.
- 7) The record supports your letter of separation was verified as a valid proof of not having income on August 30, 2016 by a NYSOH representative.
- 8) You testified you were not aware your prior Medicaid Managed Care plan was terminated effective December 31, 2015.

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- 9) The record supports you updated your application on December 9, 2015 over the phone with a NYSOH representative.
- 10) The record supports you filed your appeal on August 30, 2016.
- 11) You reside in [REDACTED] County.

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 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)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Timely Appeals

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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)).

Valid Appeals

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)).

Legal Analysis

The first issue under review is whether your appeal of your disenrollment from your Medicaid Managed Care plan effective December 31, 2015, timely.

You were issued a renewal notice on October 22, 2015, stating it was time to renew your NYSOH coverage. The notice stated you no longer qualified for coverage under Medicaid, effective January 1, 2016, this was because information from federal and state data sources it was determined you were already enrolled in or eligible for a public insurance program such as Medicaid, Child Health Plus or another program.

The record shows you contacted NYSOH on December 9, 2015, and updated your application. As a result, you were asked to provide income documentation to show the income amount you had included in your application.

No documentation was received and you were disenrolled from your Medicaid Managed Care plan effective December 31, 2015. This was confirmed by a notice issued on December 10, 2015.

For an appeal to have been valid on the issue of your disenrollment of your Medicaid Managed Care plan effective December 31, 2015, as addressed in the December 10, 2015 notice, an appeal should have been filed by February 13, 2016. According to the credible evidence in the record, you did not contact NYSOH until August 30, 2016 to file a formal complaint and appeal. This date well beyond 60 days from the December 10, 2015 disenrollment notice.

Therefore, there has been no valid timely appeal of December 10, 2015 disenrollment notice and your appeal on the issue of your disenrollment from your Medicaid Managed Care plan as stated in that notice is **DISMISSED**.

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The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid for January 1, 2016 through April 30, 2016.

On August 30, 2016 you submitted an application for health insurance, on that application you also requested help in paying for medical bills from the past three months. You were then found eligible for Medicaid retroactively for the months of May, through July, 2016 as a result of your request.

You testified that you are seeking to have your Medicaid coverage retroactively applied for the months of January 1, 2016, through April 30, 2016.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

You were properly granted eligibility for the three-month period prior to the month of your August 30, 2016 application. There were no other timely applications for health insurance prior to this date. Therefore, you cannot apply for retro Medicaid for a period of time beyond the three-month period before your August 30, 2016 application.

Accordingly, the August 31, 2016 eligibility redetermination notice is **AFFIRMED**.

During the hearing you testified that your doctor's office is not accepting your current Medicaid Managed Care plan as you are showing you are enrolled in two plans. NYSOH Appeals Unit does not have authority to review whether or not a doctor's office is properly accepting your Medicaid Managed Care plan. However, we are **RETURNING** your case to Plan Management Unit to investigate your enrollment and ensure that you are only enrolled in one Medicaid Managed Care plan through NYSOH.

Decision

Your appeal of December 10, 2015 disenrollment notice is **DISMISSED** as untimely.

The August 31, 2016 eligibility redetermination notice is **AFFIRMED**.

Your case is **RETURNED** to Plan Management to investigate your enrollment and ensure that you are only enrolled in one Medicaid Managed Care plan through NYSOH.

Effective Date of this Decision: February 14, 2017

How this Decision Affects Your Eligibility

You are not eligible for Medicaid from January 1, 2016 through April 30, 2016.

Your case is being sent back to Plan Management to ensure that you are properly enrolled into a Medicaid Managed Care plan.

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:

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- By fax: 1-855-900-5557

Summary

Your appeal of December 10, 2015 disenrollment notice is **DISMISSED** as untimely.

The August 31, 2016 eligibility redetermination notice is **AFFIRMED**.

You are not eligible for Medicaid from January 1, 2016 through April 30, 2016.

Your case is **RETURNED** to Plan Management to investigate your enrollment and ensure that you are only enrolled in one Medicaid Managed Care plan through NYSOH.

Your case is being sent back to Plan Management to ensure that you are properly enrolled into a Medicaid Managed Care plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

