



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

**Notice of Decision**

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011947

[REDACTED]

[REDACTED]

On December 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s March 16, 2016 eligibility redetermination and disenrollment notices and the September 8, 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 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.

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## Decision

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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:

Did NY State of Health (NYSOH) properly determine that your eligibility for Medicaid and enrollment in your Medicaid Managed Care plan ended effective March 31, 2016?

Did NYSOH properly determined that your next enrollment in a Medicaid Managed Care plan was effective September 1, 2016?

## Procedural History

On March 16, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible to purchase a qualified health plan (QHP) at full cost, effective April 1, 2016, and needed to pick a plan because your current health plan was to end March 31, 2016. The notice further stated that you no longer qualified for any financial assistance programs through NYSOH because you did not provide proof of income to confirm your eligibility.

There are no corresponding pending Medicaid or renewal notices in this regard in your NYSOH account.

Also on March 16, 2016, NYSOH issued a disenrollment notice confirming that your coverage in the Fidelis Care Medicaid Managed Care (MMC) plan you were enrolled in would end March 31, 2016.

On September 8, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible for Medicaid effective September 1, 2016 and needed to pick a health plan.

Also on September 8, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Fidelis Care MMC plan effective October 1, 2016.

On September 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment start date insofar as your Medicaid eligibility began September 1, 2016 and your enrollment in your MMC plan began October 1, 2016, and not as of April 1, 2016.

On December 16, 2016, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Through sworn testimony, you agreed to waive formal written notice of the adjourned hearing. 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) According to your NYSOH account, you were determined Medicaid eligible as of January 1, 2014 with Medicaid Fee-For-Service and were enrolled in a Fidelis Care MMC plan as of August 1, 2014 through March 31, 2016.
- 2) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH via electronic mail. On April 30, 2014, NYSOH issued a letter confirming "that you have chosen to receive all information from New York State of Health electronically. This means that all important notifications will be sent to your Marketplace account. We will notify you of any new information via text message, email, or other electronic communication. We will not include any confidential information in the email or electronic alert."
- 3) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility. You also did not receive any renewal notice by regular mail.
- 4) You further testified that you did not receive any electronic alerts regarding any notice that your eligibility was to end on March 31, 2016 and, therefore, you would be disenrolled from your MMC plan as of that date.

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- 5) You testified that you did not know that you needed to update your account until September 2016 when you received a bill for an emergency room visit you had in May 2016.
- 6) The record reflects that, on September 7, 2016, NYSOH received your updated application for health insurance and redetermined you eligible for Medicaid effective September 1, 2016.
- 7) You testified that you are seeking reinstatement in your MMC plan as of April 1, 2016 so that you have continuity of coverage and your medical bill for your May 2016 hospitalization will be covered.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR § 155.335(h)).

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 2010,13 ADM-03(III)(F)).

Medicaid Managed Care (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

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(Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13 ADM-03(III)(F)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR §435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

### **Legal Analysis**

The issue under review is whether NYSOH properly determined that your disenrollment from your MMC plan was effective March 31, 2016, and your next enrollment in your MMC plan was effective October 1, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. According to the enrollment history in your NYSOH account, you had Medicaid Fee-For-Service as of January 1, 2014 and were enrolled in your MMC plan, effective August 1, 2014 through March 31, 2016. Therefore, it appears that NYSOH was establishing a new policy period for you as of April 1, 2016.

However, your NYSOH account does not contain a renewal notice or a pending Medicaid notice before March 15, 2016 so as to inform you that you needed to renew coverage or provide income documentation by a date certain so that your eligibility for financial assistance going forward could be redetermined for April 1, 2016. Rather, on March 16, 2016, NYSOH issued an eligibility redetermination notice that stated you were no longer eligible for any of the financial assistance programs because you had not provided proof of income as required. It also issued a March 17, 2016 disenrollment notice confirming you would be disenrolled from your MMC plan effective March 31, 2016.

You credibly testified that you did not receive any email alerts which corroborates that, in the first instance, notified you of the need to provide income documentation so that your eligibility for financial assistance could be confirmed.

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Therefore, it is reasonable to conclude that NYSOH failed to issue any notices to alert you that you needed to provide income documentation for your eligibility going forward to be redetermined.

As to the March 16, 2016 eligibility redetermination and disenrollment notices, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding either of these notices that informed you respectively that you were no longer eligible for Medicaid and were disenrolled from your MMC plan, both effective March 31, 2016. Further, there is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice to you that you needed to update your account for your eligibility to be redetermined for an April 1, 2016 renewal date.

You first renewed your eligibility for financial assistance through NYSOH for the upcoming coverage year on September 7, 2016, after receiving medical bills for your May 2016 emergency room visit and, therefore, we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account.

Had the information been submitted at that time and a redetermination timely made, your enrollment in your MMC plan would have begun on April 1, 2016.

Therefore, the March 16, 2016 eligibility redetermination notice and disenrollment notices are RESCINDED.

The September 8, 2016 eligibility redetermination is MODIFIED to state you were eligible for Medicaid effective April 1, 2016.

Similarly the September 8, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis Care MMC plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes, to facilitate correcting your enrollment in your MMC plan as directed herein, and to notify you accordingly.

## **Decision**

The March 16, 2016 eligibility redetermination notice and disenrollment notices are RESCINDED.

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The September 8, 2016 eligibility redetermination is MODIFIED to state you were eligible for Medicaid effective April 1, 2016.

Similarly the September 8, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis Care MMC plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes, to facilitate correcting your enrollment in your MMC plan as directed herein, and to notify you accordingly.

**Effective Date of this Decision:** January 17, 2017

### **How this Decision Affects Your Eligibility**

Your enrollment in your MMC plan should have been effective as of April 1, 2016.

Your case is being sent back to NYSOH to reinstate you in your MMC plan as of April 1, 2016. NYSOH will notify you once this has been completed.

PLEASE NOTE that this change of eligibility and enrollment start dates affects your 12 months of continuous coverage and your new end date will be March 31, 2017. Therefore, you will need to update your NYSOH account between February 16, 2017 and before March 15, 2017 and, once your eligibility is redetermined, confirm your enrollment in a health plan within that same timeframe for the next policy year to begin without an interruption in 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

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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 March 16, 2016 eligibility redetermination notice and disenrollment notices are RESCINDED.

The September 8, 2016 eligibility redetermination is MODIFIED to state you were eligible for Medicaid effective April 1, 2016.

Similarly the September 8, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis Care MMC plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes, to facilitate correcting your enrollment in your MMC plan as directed herein, and to notify you accordingly.

Your enrollment in your MMC plan should have been effective as of April 1, 2016.

Your case is being sent back to NYSOH to reinstate you in your MMC plan as of April 1, 2016. NYSOH will notify you once this has been completed.

PLEASE NOTE that this change of eligibility and enrollment start dates affects your 12 months of continuous coverage and your new end date will be March 31, 2017. Therefore, you will need to update your NYSOH account between

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February 16, 2017 and before March 15, 2017 and, once your eligibility is redetermined, confirm your enrollment in a health plan within that same timeframe for the next policy year to begin without an interruption in coverage.

### **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

