



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

Notice of Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011968

[REDACTED]

Dear Ms. Staum,

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 13, 2016 redetermination 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011968

[REDACTED]

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 your eligibility for and enrollment in your Medicaid Managed Care plan ended effective August 31, 2016?

Procedural History

On May 26, 2016, NYSOH issued a notice of eligibility determination, based on your May 25, 2016 application, stating in part that you were eligible for Medicaid, effective May 1, 2016.

Also on May 28, 2016, NYSOH issued a notice of enrollment in the plan you selected on May 27, 2016, stating in part that you were enrolled in a Medicaid Managed Care plan and that your coverage would start on July 1, 2016.

On July 16, 2016, NYSOH issued a notice of eligibility redetermination stating in part that you remain eligible for Medicaid, effective July 1, 2016.

Also on July 16, 2016, NYSOH issued a notice of enrollment confirming in part that you were enrolled in a Medicaid Managed Care plan, and that your plan enrollment start date was July 1, 2016.

On August 13, 2016, NYSOH issued a notice of eligibility redetermination stating in part, that you were not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of

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insurance. You also could not enroll in a qualified health plan at full cost because notices about your eligibility and coverage had been sent to the mailing address you provided were returned by the Post Office as undeliverable. Your eligibility would end effective August 31, 2016.

Also on August 13, 2016, NYSOH issued a disenrollment notice stating that your Medicaid Managed Care plan would end, effective August 31, 2016, because you were no longer eligible to enroll in health insurance through NYSOH.

On September 12, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination ending your eligibility for Medicaid and the disenrollment notice terminating your Medicaid Managed Care plan effective August 31, 2016.

On December 21, 2016, 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 submitted an application to NYSOH for financial assistance on May 25, 2016.
- 2) According to your NYSOH account and your testimony, you elected to receive all your notices by regular mail.
- 3) According to your NYSOH account and your testimony, on your May 25, 2016 application, you expected to file your 2016 income taxes as married filing jointly and would claim 5 dependents.
- 4) According to your NYSOH account and your testimony, on your May 25, 2016 application for financial assistance, you indicated you were pregnant with two children and the expected due date was [REDACTED].
- 5) According to your NYSOH account you were found eligible for Medicaid effective May 1, 2016.
- 6) According to your NYSOH account and your testimony, you selected your Medicaid Managed Care Plan on May 27, 2016, and that your enrollment was effective on July 1, 2016.
- 7) You testified that you and your family were away for several months in the summer and had your mail forwarded for convenience during this time.

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- 8) You testified that the Post Office was supposed to end the mail forwarding on August 16, 2016.
- 9) You testified that your twin children were born on [REDACTED].
- 10) You testified that there was an error by the Post Office due to your regular mail delivery person being on vacation. The error resulted in your mail continuing to be forwarded and this resulted in mail being return by the Post Office to senders.
- 11) According to your NYSOH account there is a letter from the [REDACTED] Post Office dated 9/15/2016 that confirms your mail continued to be forwarded after the stop date which in turn resulted in mail items being returned to sender (see Document [REDACTED]).
- 12) According to your NYSOH account, on August 11, 2016 and August 12, 2016, items marked "RETURNED MAIL" were uploaded to your account.
- 13) According to your NYSOH account, on August 12, 2016, your mailing address was marked as invalid and you were determined ineligible for Medicaid. At that time, you were terminated from your Medicaid Managed Care plan effective August 31, 2016.
- 14) You testified that you first learned you did not have health insurance was when you entered the hospital to give birth to your twin children.
- 15) You testified that you have numerous medical bills as a result of being terminated from Medicaid coverage and the birth of your twin children.
- 16) You testified that you want your eligibility for Medicaid reinstated for twelve continuous months and your Medicaid Managed Care plan to resume effective September 1, 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

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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)).

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).

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 2015 FPL, which is \$11,770.00 for a one-person household (81 Federal Register 3236, 3237).

Generally, most adults determined eligible for Medicaid are guaranteed 12 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 12-month period. This 12-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 only issue under review is whether NYSOH properly determined that your eligibility for and enrollment in your Medicaid Managed Care plan ended effective August 31, 2016.

You were found eligible for Medicaid in a notice of eligibility determination, dated May 26, 2016, with your Medicaid coverage starting on May 1, 2016.

You selected a Medicaid Managed Care plan on May 27, 2016 and coverage in the plan properly started on July 1, 2016.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for twelve months, even if the household income rises above the applicable income level. This provision is called “continuous coverage.”

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NYSOH issued a notice on August 13, 2016 stating that you were no longer eligible for Medicaid, CHP, the Essential Plan or to receive premium tax credits or cost sharing reductions or to purchase a qualified health plan effective August 31, 2016. This was because notices that were sent to you at the mailing address you provided were returned as undeliverable.

However, according to your testimony and the credible evidence of record, the address you provided to NYSOH was correct.

According to your testimony, you and your family were away from your residence for a while during the summer months and you had a forwarding order with your local post office for a certain time period.

The record reflects that the Post Office confirmed that there was an error on their part in delivering your mail in that the mail carrier continued to forward your mail after the stop date of August 16, 2016, which in turn resulted in some mail not being forwarded and returned to sender (see Document [REDACTED]).

Therefore, it is reasonable to conclude that the error in mail service was outside your control and the notices returned to NYSOH were a result of this error and not a change in your address. Accordingly, and in the interest of justice, you should not be determined ineligible for Medicaid based on returned mail and should not have been terminated from your Medicaid Managed Care plan, effective August 31, 2016.

Therefore, the August 13, 2016 notice of eligibility redetermination and the corresponding August 13, 2016 disenrollment notice are RESCINDED.

Therefore, your case is RETURNED to NYSOH to re-enroll you in your Medicaid Managed Care plan for the period of September 1, 2016 through April 30, 2017, provided none of the exceptions to the continuous coverage policy occur.

Decision

The August 13, 2016 eligibility determination is RESCINDED.

The August 13, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to re-enroll you in your Medicaid Managed Care plan for the period of September 1, 2016 through April 30, 2017, provided none of the exceptions to the continuous coverage policy occur.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

The returned mail to NYSOH was a result of Post Office error outside of your control, which resulted in you being disenrolled from your Medicaid Managed Care plan, effective August 1, 2016.

For this reason, your case is sent back to NYSOH to reinstate you in your Medicaid Managed Care plan for the period of September 1, 2016 to April 30, 2017, or for as long as you remain eligible under the continuous coverage policy.

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

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Summary

The August 13, 2016 eligibility determination is RESCINDED.

The August 13, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to re-enroll you in your Medicaid Managed Care plan for the period of September 1, 2016 through April 30, 2017, provided none of the exceptions to the continuous coverage policy occur.

The returned mail to NYSOH was a result of Post Office error outside of your control, which resulted in you being disenrolled from your Medicaid Managed Care plan, effective August 1, 2016.

For this reason, your case is sent back to NYSOH to reinstate you in your Medicaid Managed Care plan for the period of September 1, 2016 to April 30, 2017, or for as long as you remain eligible under the continuous coverage policy.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

