



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

## Notice of Decision

Decision Date: [REDACTED]

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012119

[REDACTED]

Dear [REDACTED],

On January 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 31, 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.

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).

This page intentionally left blank.



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

## Decision

Decision Date: January 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012119



## 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 oldest son's enrollment in his Empire Blue Cross Blue Shield Medicaid Managed Care (MMC) plan was effective October 1, 2016?

## Procedural History

On July 8, 2016, NYSOH issued a notice of eligibility determination, based on your July 7, 2016 application updated, stating that your oldest son remained eligible for Medicaid, effective August 1, 2016.

Also on July 8, 2016, NYSOH issued a notice of enrollment, confirming that you and your newborn son were enrolled in a Fidelis MMC plan, and that your husband and two older sons were enrolled in an Empire Blue Cross Blue Shield MMC plan, and that their enrollment had started on January 1, 2016.

On August 2, 2016, the enrollment information in your account was updated.

On August 3, 2016, NYSOH issued a disenrollment notice stating that NYSOH received your request to end coverage with Empire Blue Cross Blue Shield for your husband and two older sons on August 2, 2016. The notice further stated that their coverage in their Empire Blue Cross Blue Shield MMC plan would end effective August 31, 2016.

Also on August 3, 2016, NYSOH issued a notice of enrollment confirmation, confirming your husband's and two older sons' enrollment in a Fidelis MMC plan, with a plan start date of September 1, 2016.

On August 30, 2016, the enrollment information in your NYSOH account was updated.

On August 31, 2016, NYSOH issued a disenrollment notice stating that NYSOH received your request to end coverage with Fidelis for your oldest son on August 30, 2016. The notice further stated that his coverage in his Fidelis MMC plan would end effective September 30, 2016.

Also on August 31, 2016, NYSOH issued a notice of enrollment confirmation stating that your oldest son was enrolled in an Empire Blue Cross Blue Shield MMC plan, with a plan start date of October 1, 2016.

On September 21, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your oldest son's enrollment in his Empire Blue Cross Blue Shield MMC plan, insofar as it did not begin September 1, 2016.

On January 18, 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 you contacted NYSOH in August 2016 to switch a different child to Fidelis, but that NYSOH misunderstood you and switched your oldest son to a Fidelis MMC plan.
- 2) You testified that you would not have switched your oldest son to Fidelis because you were in the middle of having him treated for a [REDACTED], and the doctor he was seeing does not take Fidelis.
- 3) You testified that when you went to the doctor to have your oldest son's [REDACTED], you were informed by the doctor that he did not accept Fidelis.
- 4) You testified that you contacted NYSOH to inform them that they had made a mistake and asked them to switch your oldest son's coverage back to Blue Cross Blue Shield.

- 5) You testified that NYSOH re-enrolled your son in a Blue Cross Blue Shield MMC plan, but that it did not start until October 1, 2016.
- 6) Your NYSOH account reflects that you updated your oldest son's enrollment on August 30, 2016, and selected a Blue Cross Blue Shield plan for him on that date.
- 7) You testified that you requested that NYSOH change the start date of your oldest son's Blue Cross Blue Shield MMC plan to September 1, 2016, but were informed that they could not do so, and that you would need to file an appeal.
- 8) You testified that you still have an outstanding medical bill for the month of September 2016 when your son had a Fidelis MMC plan.
- 9) After the hearing, the Hearing Officer requested the recording of your phone call with NYSOH on August 2, 2016. The recording was obtained, and the Hearing Officer listened to it in its entirety. The following findings of fact are based on this recording:
  - a. You informed the NYSOH representative that you wanted to switch your husband's MMC plan to Fidelis;
  - b. The NYSOH representative repeated your request in order to confirm that you wanted to switch your husband's enrollment to Fidelis;
  - c. You responded to the representative that this was correct, and that you also wanted to switch your two older children to Fidelis;
  - d. You informed the representative that you and your family were not happy at all with Empire Blue Cross Blue Shield;
  - e. The NYSOH representative confirmed that he had changed the enrollment to Fidelis for your husband and your two older children, and that their new plan would start 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

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

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).

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 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your oldest son's enrollment in his Empire Blue Cross Blue Shield MMC plan began on October 1, 2016.

The record reflects, and your testimony confirms, that you contacted NYSOH on August 30, 2016 and changed your oldest son's MMC plan to Empire Blue Cross Blue Shield.

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

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

On August 30, 2016, you selected the Empire Blue Cross Blue Shield MMC plan for your oldest son, so it properly took effect on the first day of the second month following after August; that is, on October 1, 2016.

You testified that your oldest son's enrollment in this plan should have started on September 1, 2016 because NYSOH erroneously enrolled him in a Fidelis MMC plan for the month of September 2016. You testified that you contacted NYSOH to change enrollments for other members of your household, and that NYSOH mistakenly put your oldest son in Fidelis. However, a review of the recording of your phone conversation with NYSOH on August 2, 2016 shows that this was not the case. During the phone call on August 2, 2016, you informed the NYSOH representative that you wanted to change your husband's and "two older children's" enrollment to Fidelis. You went on to state that you and your family were not happy with Empire Blue Cross Blue Shield.

As there is no evidence of any error on NYSOH's part, and as the record in fact reflects that you requested to have your oldest son placed into a Fidelis MMC plan beginning September 1, 2016, there is no basis for changing that enrollment.

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).

Therefore, the August 31, 2016 enrollment confirmation notice, stating that your oldest son's enrollment in his Empire Blue Cross Blue Shield MMC plan began October 1, 2016, was correct and must be AFFIRMED.

## **Decision**

The August 31, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** January 25, 2017

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

This decision does not change your oldest son's eligibility or enrollment.

The effective date of your oldest son's enrollment in his Empire Blue Cross Blue Shield MMC plan was October 1, 2016.

## **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 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).

## **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 August 31, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your oldest son's eligibility or enrollment.

The effective date of your oldest son's enrollment in his Empire Blue Cross Blue Shield MMC plan was October 1, 2016.

## **Legal Authority**

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



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

