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

Notice of Decision

Decision Date: April 17, 2017

NY State of Health Account ID [redacted]
Appeal Identification Number: AP000000012339

[redacted]

Dear Ms. [redacted]

On February 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 15, 2016 eligibility determination 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.

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).

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

Decision

Decision Date: April 17, 2017
NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000012339

[redacted]

Issues

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

> Did NY State of Health properly determine that you were eligible for Medicaid reimbursement of your Medicare Part B premiums no earlier than November 1, 2016?

Procedural History

On December 30, 2015, NYSOH issued an eligibility determination notice based on the information in your December 29, 2015 application, stating that you remained eligible for Medicaid, effective December 1, 2015. The notice also stated that you may continue to receive services through your current health plan.

Also on December 30, 2015, NYSOH issued an enrollment confirmation notice stating that your Medicaid Managed Care (MMC) plan coverage with Total Care, A Today's Options of New York Health Plan (Total Care) would begin effective February 1, 2016.

On July 29, 2016, NYSOH received a further update to your application for health insurance. You attested in this application that you were not enrolled in public coverage, such as Medicare.

On July 30, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in your July 29, 2016 application, stating that you remained eligible for Medicaid, effective July 1, 2016. The notice also stated that you may continue to receive services through your current health plan.

Also on July 30, 2016, NYSOH issued a disenrollment notice confirming receipt of your July 29, 2016 request to end your MMC plan coverage with Total Care. The notice advised you that your MMC plan coverage with Total Care would end effective August 31, 2016.

Finally, on July 30, 2016, NYSOH issued an enrollment confirmation notice acknowledging your selection of Fidelis Care as your MMC plan on July 29, 2016. The notice stated that your MMC plan coverage with Fidelis Care would begin effective September 1, 2016.

On September 1, 2016, NYSOH reran your eligibility for health insurance based on information contained in your account as of that date.

On September 2, 2016, NYSOH issued an eligibility redetermination notice stating that you remained eligible for Medicaid, effective November 1, 2016. However, the notice also stated that you were not permitted to enroll in an MMC plan since you had other health insurance or Medicare.

Also on September 2, 2016, NYSOH issued a disenrollment notice confirming that your MMC plan coverage with Fidelis Care would end effective October 31, 2016, as you were no longer eligible to remain enrolled in your current health plan.

On September 3, 2016, NYSOH received a completed Medicare Savings Program Application [redacted] dated [redacted] requesting reimbursement of your Medicare premiums.

On September 15, 2016, NYSOH issued an eligibility determination notice stating that you were found eligible to receive reimbursement of your Medicare Part B premium from NYSOH, effective November 1, 2016.

On September 30, 2016, you spoke to NYSOH's Account Review Unit and appealed (1) the start date of your Medicaid Fee-For-Service; and (2) the start date of your Medicare Premium Assistance Payments, insofar as you were seeking in each case a start date of September 1, 2016, rather than November 1, 2016.

On October 26, 2016, NYSOH received (1) duplicate copy of the Medicare Savings Program Application, with an October 24, 2016 date stamp; and (2) a Medicare Savings Program Notice, dated September 2, 2016, stating that no action had been taken on your August 12, 2016 application since it had been withdrawn.

On November 1, 2016, NYSOH received a copy of an eligibility determination notice stating that you had been found eligible to receive reimbursement of your Medicare Part B premium from NYSOH, effective November 1, 2016.

On February 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide additional evidence to corroborate your testimony, such as the Medicare Savings Program Application issued by NY Health Options instructing you to return your completed form to your LDSS, rather than NYSOH, and the corresponding denial notice. The record was to be closed at 5:00 p.m. EST on February 7, 2017, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you uploaded a copy of an August 3, 2016 cover letter from New York Health Options and a Medicaid Savings Program Notice, dated September 2, 2016, stating that no action was taken on your August 12, 2016 application since it was withdrawn (*see* Document [redacted]. The requested documents having been received, the record was closed on February 7, 2017.

Findings of Fact

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

1) You testified that you were seeking an appeal of your eligibility only.

2) According to your NYSOH account, you were determined eligible for Medicaid as of December 1, 2015 and were enrolled in an MMC plan as of February 1, 2016.

3) You updated your application on July 29, 2016, and you remained eligible for Medicaid, effective July 1, 2016.

4) You testified that, in February of 2016, you were informed by the Social Security Administration (SSA) that your Medicare benefits would begin September 1, 2016

5) You testified that, beginning September 1, 2016, you began to receive Medicare Parts A, B and D.

6) You testified that you contacted NYSOH by telephone on July 29, 2016 to request information on how to end your MMC plan so that you could become eligible for the Medicare Premium Assistance Program since your Medicare coverage would begin effective September 1, 2016. You further testified that during that call a NYSOH representative advised you that in order to disenroll from your MMC plan, and receive reimbursement under

the Medicare Premium Assistance Program, you had to complete a Medicare Savings Program Application [redacted]

7) You testified that on July 29, 2016, you also requested to switch your MMC plan from Total Care to Fidelis Care since your child needed emergency surgery and his doctor did not accept Total Care. The record reflects that your MMC plan coverage with Total Care ended effective August 31, 2016, and your MMC plan coverage with Fidelis Care began effective September 1, 2016; however, your son's MMC plan remained with Total Care until September 1, 2016, when his coverage was switched to an MMC plan with UnitedHealthcare.

8) The July 29, 2016 application indicated that state and federal sources showed that you would be enrolled in Medicare effective September 1, 2016. You attested in this application that you were not enrolled in Medicare. You clarified during the hearing that you made this attestation in your application since you would not be enrolled in Medicare until September 1, 2016.

9) You testified and submitted documentary proof that on August 3, 2016, you submitted a Medicare Savings Program Application to your Local Department of Social Services in Onondaga County (LDSS), as you were instructed to do by the form provided to you.

10) You testified that on September 2, 2016, you received a notice from your LDSS that your application for Medicare Premium Assistance Program had been denied; however, that notice indicates that you withdrew your application on August 12, 2016 since "[y]ou are active with the Health Benefit Exchange."

11) You testified, and the record reflects, that you submitted a Medicare Savings Program Application to NYSOH on September 3, 2016.

12) Your MMC plan coverage with Fidelis Care was terminated effective October 31, 2016, and your Medicaid Fee-For-Service coverage began effective November 1, 2016.

13) You were found eligible for Medicare Premium Assistance Program benefits through NYSOH beginning November 1, 2016, at which time you began getting reimbursed for your Medicare Part B monthly premium.

14) You testified that you were seeking to be found eligible for Medicaid Fee-For-Service and Medicare Premium Assistance Program benefits through NYSOH beginning September 1, 2016, rather than November 1, 2016, because you incurred $121.60 per month in premiums during the months of September 2016 and October 2016.

15) The record does not contain a summary from NY State Department of Health, Third Party Liability Unit, regarding your enrollment in an MMC plan at the time you became eligible for Medicare as of September 1, 2016, or that it was paying the MMC plan premiums for the months of September 2016 and October 2016, and its position as to the cost-effectiveness for Medicaid to pay the monthly MMC premium and the Medicare Part B premium for the months of September 2016 and October 2016.

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

Applicable Law and Regulations

Medicaid

Medicaid can be provided through the Marketplace 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 that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 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 2013 FPL, which is $11,490.00 for a one-person household (79 Fed. Reg. 3593, 3593).
Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be 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).

Medicaid Premium Reimbursement

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services (see NYS Social Services Law § 367a(b), 18 NYCRR § 360-7.5, GIS 02 MA/019). Cost-effectiveness may be determined by comparing what it would cost Medicaid to provide coverage to the cost of the premiums for the health insurance policy.

Medicaid Managed Care Plans

Generally, with regard to enrollment in an MMC plan, Medicaid recipients, except for those who are eligible for an exemption or an exclusion, must enroll in a Medicaid Managed Care plan (18 NYCRR § 360-10.4(a)).

An individual dually eligible for Medicaid and benefits under the federal Medicare program may be required to enroll into a MMC plan (NY Soc. Serv. Law § 364-j(3)(e)(i)).

The Medicaid Managed Care program excludes from enrollment consumers who receive Medicare benefits. Once Medicare coverage is gained the recipient must be disenrolled from their MMC plan as soon as possible (GIS 11 MA/025).

Legal Analysis

The issue under review is whether you should be eligible for Medicaid Premium Reimbursement for the months of September 2016 and October 2016.

According to the December 30, 2015 eligibility determination notice, you were eligible for Medicaid as of December 1, 2015. Also on December 30, 2015, NYSOH issued an enrollment notice confirming your enrollment in an MMC plan beginning February 1, 2016. On July 30, 2016, NYSOH issued an enrollment notice confirming that you were enrolled in a different MMC plan as of September 1, 2016. On September 2, 2016, NYSOH issued a disenrollment notice stating your MMC plan coverage would end November 1, 2016.

A person who is Medicaid eligible generally must enroll in an MMC plan. However, the MMC program explicitly excludes from enrollment consumers who receive Medicare benefits. Once Medicare coverage is gained the recipient must be disenrolled from their MMC plan as soon as possible.

The record indicates that as of September 1, 2016, NYSOH registered that you had active Medicare coverage as of that date.

Since you were eligible for Medicare benefits as of September 1, 2016, and NYSOH was made aware of this as of that date, you should have been disenrolled from your MMC plan as soon as possible.

The record reflects that your disenrollment from your MMC plan was effective October 31, 2016, which appears to be the earliest possible date that NYSOH cold effectuate your disenrollment. Therefore, the September 2, 2016 disenrollment notice is AFFIRMED.

The second issue is whether NYSOH properly determined that you were ineligible to have Medicaid reimburse your Medicare Part B premiums for the months of September 2016 and October 2016.

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services.

The record does not contain a summary from NYSOH's Third Party Liability Unit as to the cost-effectiveness of the Medicaid program paying the MMC monthly premiums for September 2016 and October 2016, coupled with your request for reimbursement of monthly Medicare premiums for those same months.

Absent this analysis, a ruling cannot be made on this issue. Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for Medicaid reimbursement of your Medicare Part B premiums for September 2016 and October 2016.

Decision

The September 2, 2016 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine the cost-effectiveness of Medicaid reimbursement of your Medicare Part B premiums for September 2016 and October 2016.

Effective Date of this Decision: April 17, 2017

How this Decision Affects Your Eligibility

Your disenrollment from your MMC plan remains effective as of October 31, 2016.

Your case is being sent back to NYSOH to redetermine whether it is cost-effective for Medicaid to reimburse you for your Medicare Part B premiums for September 2016 and October 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 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 September 2, 2016 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine the cost-effectiveness of Medicaid reimbursement of your Medicare Part B premiums for September 2016 and October 2016.

Your disenrollment from your MMC plan remains effective as of October 31, 2016.

Your case is being sent back to NYSOH to redetermine whether it is cost-effective for Medicaid to reimburse you for your Medicare Part B premiums for September 2016 and October 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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).

Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。 如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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).

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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 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).