



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

Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012413

[REDACTED]

Dear [REDACTED],

On January 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2016 and November 18, 2016 eligibility determination 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012413

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Issues

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

Did NY State of Health (NYSOH) properly determine that your Medicaid Managed Care plan coverage ended as of September 30, 2016 and November 30, 2016?

Procedural History

According to your NYSOH account, you were disenrolled from your Medicaid Managed Care (MMC) plan, effective July 31, 2016, for failure to renew your application.

On August 5, 2016, NYSOH issued an eligibility redetermination notice, based on your August 4, 2016 updated application, stating that you were eligible for Medicaid effective August 1, 2016, and needed to pick a plan.

Also on August 5, 2016, NYSOH issued an enrollment notice, based on your August 4, 2016 plan selection, stating that you were enrolled in an MMC plan, effective September 1, 2016.

On September 17, 2016, NYSOH issued an eligibility redetermination notice stating that you no longer qualified to enroll through NYSOH because “[they] sent you...information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account. However, this information was returned to the Marketplace as undeliverable. Please update your mailing address so you can remain eligible for health coverage through [NYSOH].”

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Also on September 17, 2016, NYSOH issued a disenrollment notice stating that your coverage in your MMC plan would end effective September 30, 2016, because you were no longer eligible to enroll in health insurance through NYSOH.

On October 5, 2016, you spoke with NYSOH's Account Review Unit and appealed being disenrolled for returned mail on the basis that NYSOH's August 4, 2016 update to your mailing address was incorrect.

On October 8, 2016, NYSOH issued an eligibility redetermination notice, based on your September 28, 2016 updated application, stating that you were eligible for Medicaid, effective October 1, 2016.

On October 12, 2016, NYSOH issued an enrollment notice stating that your enrollment in your MMC plan would start November 1, 2016.

On November 18, 2016, NYSOH issued another eligibility redetermination notice stating that you did not qualify for any insurance affordability programs or to purchase a qualified health plan at full cost through NYSOH because "[they] sent you...information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account. However, this information was returned to the Marketplace as undeliverable. Please update your mailing address so you can remain eligible for health coverage through [NYSOH]."

On November 24, 2016, NYSOH issued a notice stating that your enrollment in your MMC plan would end effective November 30, 2016, because you are no longer eligible to enroll in health insurance through NYSOH.

On November 29, 2016, NYSOH issued an eligibility redetermination notice, based on your November 28, 2016 update application, stating that you were eligible for Medicaid, effective December 1, 2016 and needed to pick a plan.

Also on November 29, 2016, NYSOH issued an enrollment confirmation notice stating that your enrollment in your MMC plan would start January 1, 2017.

On January 24, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeal Unit. The Hearing Officer granted your request to have your appeal amended to include review of the November 2016 disenrollment included at the 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) You are seeking to have your MMC plan coverage with Excellus BCBS start as of September 1, 2016, and without interruption of coverage in that plan during October 2016 and December 2016.
- 2) According to your NYSOH account and your testimony, on August 4, 2016, you updated your NYSOH application and reported a change of address. Your NYSOH has an events entry indicated this occurred that date at 10:21 a.m.
- 3) According to the notices issued by NYSOH thereafter on August 5, 2016 and September 17, 2016, the street number on your mailing address was listed as “10” followed by the street name and apartment number listed at the top of this Decision.
- 4) You testified that, at all times relevant, you have always resided and receive your mail at the address with a street number “12” and not “10” and believe the error was made by NYSOH on August 4, 2016 when you updated your address.
- 5) According to your NYSOH account, your mailing address contains the corrected street number of “12;” however, your legal and residence addresses still show the street number of “10.”
- 6) You testified that you have made several attempts to resolve this error to no avail and that you continue to have your coverage in your MMC plan disenrolled for returned mail.
- 7) You testified that you believe that, by NYSOH incorrectly entering the street number on your NYSOH account on August 4, 2016, you have had a series of disenrollments from your MMC plan, which have occurred through no fault of your own.

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

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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); NY Social Services Law § 366(1)(b)).

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 issue under review is whether NYSOH properly disenrolled you from your MMC coverage as of September 30, 2016, and then again as of November 30, 2016.

On August 5, 2016, NYSOH issued an eligibility determination stating that you were eligible for Medicaid, effective August 1, 2016. This determination is not at issue in this appeal and is presumed correct. Most individuals determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage, with limited exceptions, including a lack of residence in NY State.

The record reflects that simultaneous to your Medicaid eligibility determination on August 5, 2016, you enrolled in an MMC with coverage beginning September 1, 2016.

The record contains no evidence that you experienced any of the circumstances that should have ended your 12 months of continuous coverage. NYSOH discontinued your Medicaid eligibility as of September 30, 2016 because of returned mail; however, the record reflects that NYSOH repeatedly entered your address into its system incorrectly. Moreover, the August 5, 2016 eligibility determination notice were issued to an improper address on the basis of a NYSOH representative error.

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You testified credibly, and the record reflects, that you have had continuous NY State residency during the period since the August 5, 2016 notices (and prior to that). Additionally, a review of your testimony and the record indicates that it was NYSOH's failure to properly enter your mailing address that led to the return of the August 5, 2016 notice, and the subsequent termination of your eligibility and coverage as of September 30, 2016, which led to the disenrollment of your MMC during the months of October 2016.

The record also reflects that your MMC enrollment was terminated again effective November 30, 2016 again on the basis of returned mail.

Since all credible evidence in the record confirms that you were eligible for Medicaid as of August 1, 2016, and since the record does not indicate that there were any circumstances that should have given rise to a disruption of your twelve months of continuous coverage, NYSOH improperly discontinued your Medicaid and MMC coverage effective September 30, 2016, and then again on November 30, 2016.

Therefore, the September 17, 2016 and November 18, 2016 eligibility determination notices and corresponding September 17, 2016 and November 24, 2016 disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to facilitate the reinstatement of your MMC plan coverage for the months of October and December 2016, so that there is no gap in your 2016 MMC coverage beginning September 1, 2016.

Decision

The September 17, 2016 and November 18, 2016 eligibility determination notices are RESCINDED.

The September 17, 2016 and November 24, 2016 disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to facilitate the reinstatement of your MMC plan coverage for the months of October and December 2016, such that there is no gap in your 2016 MMC coverage beginning September 1, 2016.

Effective Date of this Decision: January 30, 2017

How this Decision Affects Your Eligibility

Your MMC plan coverage should not have been terminated as of September 30, 2016 and November 30, 2016.

NYSOH will help you to re-enroll into your MMC plan coverage for the months of October and December 2016, and will help you to submit any outstanding medical bills you had for that month to your MMC plan for coverage, as appropriate.

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 September 17, 2016 and November 18, 2016 eligibility determination notices are RESCINDED.

The September 17, 2016 and November 24, 2016 disenrollment notices are RESCINDED.

Your MMC plan coverage should not have been terminated as of September 30, 2016 and November 30, 2016.

NYSOH will help you to re-enroll into your MMC plan coverage for the months of October and December 2016, and will help you to submit any outstanding medical bills you had for that month to your MMC plan for coverage, as appropriate.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

