



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: AP000000012518

[REDACTED]

Dear [REDACTED],

On January 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 14, 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).

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Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012518

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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 child's enrollment in her Fidelis Medicaid Managed Care (MMC) plan was effective November 1, 2016?

Procedural History

On July 13, 2016, you updated your NYSOH account and applied for financial assistance for your newborn child.

On July 14, 2016, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible for Medicaid, effective July 1, 2016. The notice directed you to select a health plan for your child, and to submit her Social Security number and proof of citizenship.

On July 24, 2016, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a UnitedHealthcare MMC plan, effective September 1, 2016. The notice further stated that your child was enrolled into this plan because you had not selected a health plan for her.

On October 13, 2016, you updated your NYSOH account; specifically, you updated your child's health plan enrollment.

That same day, you spoke to NYSOH's Account Review Unit and filed an appeal because your child's enrollment in the Fidelis MMC plan you selected for her on that day began on November 1, 2016, and not on September 1, 2016.

On October 14, 2016, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Fidelis MMC plan, effective November 1, 2016.

Also on October 14, 2016, NYSOH issued a disenrollment notice stating that your child was disenrolled from her UnitedHealthcare MMC plan as of October 31, 2016.

On January 30, 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, and your NYSOH account reflects, that you receive email alerts regarding notices issued in your NYSOH account.
- 2) You testified that you did not receive any email alerts regarding any notice in your NYSOH account telling you that you needed to select a MMC plan for your child, nor any alerts regarding a notice informing you that your child had been enrolled into a UnitedHealthcare MMC plan.
- 3) You testified that you never received a UnitedHealthcare insurance card for your child.
- 4) You testified that you did not know that your child was enrolled in a UnitedHealthcare MMC plan until you received a bill from her pediatrician's office on approximately October 12 or 13, 2016.
- 5) You testified that you specifically selected this pediatrician because they accepted Medicaid, as well as the insurance you had and the insurance your husband had, to avoid any problem with coverage.
- 6) You testified that you called your child's pediatrician's office when you received the bill in October 2016, and were informed that your child now had UnitedHealthcare coverage, and that her "straight" Medicaid would not cover the bill.

- 7) You testified that you immediately asked the pediatrician's office what plans they did accept, and were informed that they accept Fidelis MMC plans.
- 8) You testified that you immediately contacted NYSOH to enroll your child in a Fidelis MMC plan, and your NYSOH account reflects that you did this on October 13, 2016.
- 9) You testified that you have outstanding medical bills for your child from September 13, 2016, October 4, 2016, and October 12, 2016 from her pediatrician.

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

Applicable Law and Regulations

Medicaid Managed Care

With very limited exceptions, most Medicaid eligible individuals in NY State must enroll in an MMC plan to receive health care services (NY Social Services Law § 364-j).

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; 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 child's enrollment in her Fidelis MMC plan was effective November 1, 2016.

With very limited exceptions, individuals who are eligible for Medicaid in NY State must enroll in an MMC plan in order to receive medical services.

You added your child to your NYSOH application on July 13, 2016, and, on July 14, 2016, NYSOH issued a notice stating that your child was eligible for Medicaid as of July 1, 2016, and that you needed to select an MMC plan for her. On July 24, 2016, NYSOH issued a notice stating that, since you had not yet selected a plan, your child had been enrolled into a UnitedHealthcare MMC plan as of September 1, 2016.

However, you testified and your account reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to select a plan for your child, nor one regarding the notice informing you of your child's enrollment into a United Healthcare MMC. There is no evidence in your account showing that any email alert was sent to you regarding either of these notices, that any such electronic notice failed, or that the notices were 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 select an MMC plan for your child, nor did you receive notice that she had been enrolled into a UnitedHealthcare MMC plan.

You first selected an MMC plan for your child on October 13, 2016, and therefore we must assume that the plan selection you made is the selection you would have made had you been timely informed of the need to select a plan for your child, as stated in the eligibility determination.

Had the plan selection been submitted at that time, your child's enrollment in her Fidelis MMC plan would have begun on September 1, 2016.

Therefore, the following changes are made to bring NYSOH's notices into compliance with this decision:

The July 24, 2016 notice of enrollment confirmation is **RESCINDED**;

The October 14, 2016 notice of enrollment confirmation is **MODIFIED** to state that your child's enrollment in her Fidelis MMC plan began on September 1, 2016.

Decision

The July 24, 2016 notice of enrollment confirmation is **RESCINDED**.

The October 14, 2016 notice of enrollment confirmation is **MODIFIED** to state that your child's enrollment in her Fidelis MMC plan began on September 1, 2016.

Your case is **RETURNED** to NYSOH to facilitate correcting your child's MMC plan enrollment, so that her enrollment in her Fidelis MMC plan begins on September 1, 2016.

IMPORTANT: Please don't forget to update the mailing address listed on your account.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

Your child's enrollment in her Fidelis MMC plan should have been effective as of September 1, 2016.

Your case is being sent back to NYSOH to backdate your child's Fidelis MMC plan coverage to September 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 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 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 July 24, 2016 notice of enrollment confirmation is **RESCINDED**.

The October 14, 2016 notice of enrollment confirmation is **MODIFIED** to state that your child's enrollment in her Fidelis MMC plan began on September 1, 2016.

Your case is **RETURNED** to NYSOH to facilitate correcting your child's MMC plan enrollment, so that her enrollment in her Fidelis MMC plan begins on September 1, 2016.

Your child's enrollment in her Fidelis MMC plan should have been effective as of September 1, 2016.

Your case is being sent back to NYSOH to backdate your child's Fidelis MMC plan coverage to September 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]