



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

Notice of Decision

Decision Date: March 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012597

[REDACTED]

Dear [REDACTED]

On February 1, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's December 25, 2015 eligibility determination notice, December 25, 2015 disenrollment notice and October 9, 2016 renewal 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 Date: March 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012597

[REDACTED]

Issues

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

Were the December 25, 2015 eligibility determination notice and the December 25, 2015 disenrollment notice subject to appeal?

Did NYSOH properly determine that you were not eligible to enroll in a Medicaid Managed Care plan from December 1, 2016 through January 31, 2017?

Procedural History

On February 19, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid effective February 1, 2015.

Also on February 19, 2015, NYSOH issued an enrollment confirmation notice confirming your enrollment in a Medicaid Managed Care plan effective April 1, 2015.

On December 18, 2015, NYSOH issued an eligibility determination notice stating that you remain eligible for Medicaid effective December 1, 2016.

On December 25, 2015, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care plan would end effective January 31, 2016.

Also, on December 25, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid Fee-For-Service coverage, effective

February 1, 2016. The notice stated that you did not need to choose a health plan.

On October 9, 2016, NYSOH issued a renewal notice stating that you were still eligible for Medicaid, effective December 1, 2016. The notice stated that the type of Medicaid coverage you are eligible for did not require/allow you to enroll in a health plan. The notice stated “If you want to keep your present health plan for the next year and the information on your application is still accurate, here’s good news! We’ve re-enrolled you in your current health plan for another year and you don’t have to do anything more.”

On October 17, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in Medicaid Fee-For-Service. The notice stated “No Action Required: The type of Medicaid coverage you are eligible for does not require/allow you to enroll in a health plan.”

Also, on October 17, 2016 you spoke to NYSOH’s Account Review Unit and appealed your eligibility insofar as you were unable to enroll in a Medicaid Managed Care plan.

On February 1, 2017, you had a telephone hearing with a Hearing Officer from NYSOH’s Appeals Unit. The record was developed during the hearing, [REDACTED] acted as your Authorized Representative and assisted you with your testimony. The record was developed during the hearing and closed at the end of the hearing.

On February 28, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan, effective March 1, 2017. The notice stated that you were no longer eligible for Medicaid Fee-For-Service effective February 28, 2017.

On March 2, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the Essential Plan with an enrollment start date of March 1, 2017.

Findings of Fact

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

- 1) Your authorized representative testified that you received your renewal from NYSOH dated October 9, 2016 and after reading it you understood it to mean that NYSOH had enrolled you in your previous Medicaid Managed Care Plan (MVP).
- 2) Your authorized representative testified that you indicated that the language in the October 9, 2016 renewal notice stating, “We’ve re-enrolled

you in your current health plan for another year and you don't have to do anything more" was confusing. It is noted that immediately below that paragraph, the notice says, referring to you, "The type of Medicaid coverage you are eligible for does not require/allow you to enroll in a health plan."

- 3) Your authorized representative testified that you received an enrollment confirmation notice dated October 17, 2016 stating that you were enrolled in Medicaid Fee-For-Service coverage.
- 4) Your authorized representative testified that you reviewed the October 9, 2016 renewal notice from NYSOH and did not understand why you were not allowed to enroll in a Medicaid Managed Care plan.
- 5) Your authorized representative testified that he contacted NYSOH on your behalf and was advised that the NYSOH representative could not determine why you were unable to enroll in a Medicaid Managed Care plan.
- 6) Your authorized representative testified that you want to be determined eligible to enroll in a Medicaid Managed Care plan and not be determined eligible only for Medicaid Fee-For-Service coverage.
- 7) NYSOH records include an incident numbered [REDACTED], dated February 21, 2017, that stated "Marketplace consumer requires removal of existing Managed Care exemption to allow them to select a plan. Consumer shows [REDACTED]"
- 8) NYSOH records include an incident numbered [REDACTED], with an action taken on dated February 23, 2017, that stated "Changed end date of exemption to 1/31/17 will rerun eligibility with priority on 2/24/17."
- 9) NYSOH records include an incident numbered [REDACTED], with an action taken on dated February 28, 2017, that stated "Made attempt to reach consumer. The phone was answered however there was no response. Stated my name and NYSOH contact information. When consumer calls please advise her the MC exemption has been removed. Consumer is now EP eligible please assist her with selecting a plan."

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

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)).

Medicaid Managed Care 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)).

Notice of Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)). NYSOH must send a written notice of the determination and if eligibility is denied, the reason for the denial (42 CFR § 435.913). NYSOH must also give applicants timely and adequate notice of proposed action to terminate, discontinue or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid (42 CFR § 435.919(a)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's December 25, 2015 eligibility determination notice and December 25, 2015 disenrollment notice were timely.

On December 18, 2015, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid effective December 1, 2016. On December 25, 2015, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care plan would end effective January 31, 2016. Also, on December 25, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid Fee-For-Service, effective February 1, 2016.

The record reflects that the first time you called NYSOH to file a complaint regarding you being determined ineligible to enroll in a Medicaid Managed Care Plan and eligible for Medicaid Fee-For-Service was October 9, 2016.

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of you being determined ineligible for a Medicaid Managed Care Plan and eligible for Medicaid Fee-For-Service coverage as stated in the December 25, 2015 eligibility determination notice and December 25, 2015 disenrollment notices, an appeal should have been filed by February 23, 2016.

According to the credible evidence in the record, you did not contact NYSOH until October 17, 2016 to make a formal complaint in connection with your eligibility, which is well beyond 60 days from the December 25, 2015 eligibility determination notice and December 25, 2015 disenrollment notice. The December 25, 2015 eligibility determination notice stated "you have 60 days from the date of your eligibility notice to ask for an appeal."

However, the record reflects that you took no steps to challenge the findings contained in the December 25, 2015 eligibility determination notice or December 25, 2015 disenrollment notice on or before February 23, 2016, which was the deadline to appeal those determinations.

Therefore, there has been no timely appeal of the December 25, 2015 eligibility determination notice or December 25, 2015 disenrollment notice, and your appeal of these two notices will not be considered.

The second issue under review is whether NYSOH properly determined that you were ineligible to enroll in a Medicaid Managed Care plan from December 1, 2016 through January 31, 2017.

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).

When an individual applies for insurance through NYSOH, NYSOH must send the individual a written notice of the determination and, if eligibility is denied, the reason for the denial.

NYSOH's October 9, 2016 renewal notice stated that you had continued eligibility for Medicaid Fee-For-Service coverage, effective December 1, 2016 and that you were ineligible to enroll in a Medicaid Managed Care plan. It also stated, "The type of Medicaid coverage you are eligible for does not require/allow you to enroll in a health plan" and does not explain why you were ineligible to enroll in a Medicaid Managed Care plan."

According to NYSOH's records you contacted NYSOH in February 2017 regarding your ineligibility to choose a Medicaid Managed Care plan. Thereafter, NYSOH determined that your NYSOH account contained a Managed Care "exemption" preventing you from enrolling in a Medicaid Managed Care plan. NYSOH changed the end date of the exemption to January 31, 2017 and you were subsequently found eligible for the Essential Plan effective March 1, 2017.

NYSOH records do not indicate a reason the exemption was in your NYSOH account.

Therefore, your case is RETURNED to NYSOH to properly determine your eligibility to enroll in a Medicaid Managed Care plan from December 1, 2016 through January 31, 2017, now that the exemption has been removed.

Decision

Your appeal of the December 25, 2015 eligibility determination notice and December 25, 2015 disenrollment notice is untimely and is DISMISSED.

Your case is RETURNED to NYSOH to properly determine your eligibility to enroll in a Medicaid Managed Care plan from December 1, 2016 through January 31, 2017.

Effective Date of this Decision: March 28, 2017

How this Decision Affects Your Eligibility

Your case is RETURNED to NYSOH to properly determine your eligibility to enroll in a Medicaid Managed Care plan from December 1, 2016 through January 31, 2017.

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 Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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

Your appeal of the December 25, 2015 eligibility determination notice and December 25, 2015 disenrollment notice is untimely and is **DISMISSED**.

Your case is **RETURNED** to NYSOH to properly determine your eligibility to enroll in a Medicaid Managed Care plan from December 1, 2016 through January 31, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



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 مجاناً.

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 महत्वपूर्ण 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 ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 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.

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