



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

Notice of Decision

Decision Date: March 14, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000012720

[REDACTED]

Dear [REDACTED],

On February 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 22, 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000012720



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 spouse was not eligible to enroll in a Medicaid Managed Care plan because she was receiving Medicare effective October 1, 2016?

Procedural History

On December 27, 2015, NYSOH issued an eligibility determination notice based on your December 26, 2015 application. That notice stated you and your spouse were eligible for Medicaid effective December 1, 2015.

Also on December 27, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Medicaid Managed Care plan effective February 1, 2016. The notice stated the type of Medicaid coverage your spouse was eligible for does not require/allow her to enroll in a health plan.

On October 21, 2016, NYSOH received your household's application for financial assistance.

On October 21, 2016, a preliminary eligibility determination was made finding you eligible for Medicaid, and your spouse no longer eligible for Medicaid but that her coverage would continue until January 31, 2017. The determination was effective October 1, 2016.

On October 21, 2016, you spoke to NYSOH's Account Review Unit and appealed the determination that you could not enroll your spouse in a Medicaid Managed Care plan.

On October 22, 2016, an eligibility determination notice was issued stating you were eligible for Medicaid, and your spouse was no longer eligible for Medicaid but that her coverage would continue until January 31, 2017, effective October 1, 2016. The notice stated your spouse no longer qualified for Medicaid because state and federal data sources show she is receiving Medicare and because she is not a parent or caretaker relative of a child younger than 19 years of age. The determination was based on your attested household income of \$0.00.

On October 22, 2016, NYSOH issued an enrollment confirmation notice stating that your enrollment in a Medicaid Managed Care plan would begin February 1, 2016. The notice further stated no action was required for your spouse to enroll in a plan because the type of Medicaid coverage she was eligible for does not require/allow you to enroll in a health plan.

On February 7, 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 account confirms, that you and your spouse were determined eligible for Medicaid effective November 1, 2015.
- 2) Your spouse has been ineligible to select a Medicaid Managed Care plan since November, 2015.
- 3) You testified you and your spouse are not parents or caretaker relatives of a child under the age of 19.
- 4) You testified your spouse has never been certified disabled or received Medicare.
- 5) The record shows an incident was filed on January 22, 2016 in which you requested that your wife be allowed to select a Medicaid Managed Care plan as you believed NYSOH system is incorrect and that your spouse has never been enrolled in Medicare. The incident shows it was closed after a NYSOH representative contacted you and told you to reach out to Medicare and the Social Security Administration to verify her coverage. See Incident [REDACTED]

- 6) You testified that you attempted to request a letter from Medicare and the Social Security Administration stating your spouse was not enrolled or eligible for Medicare, but that they would not send you one because they have no records of her ever receiving that benefit.
- 7) During the hearing, you testified that you and your spouse had never had third party health insurance through an employer.
- 8) After reviewing NYSOH system, the Hearing Officer called you back and again asked you if you had ever had third party health insurance coverage through an employer.
- 9) During the second phone call, you testified that you and your spouse had insurance through your employer through April 1, 2016.
- 10) The NYSOH system is showing your spouse as having active Medicare Part A and Part B coverage.

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 NYSOH 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 (MAGI) 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)).

The first step in identifying whether an applicant is eligible for MAGI-based Medicaid through NYSOH is to determine if he or she meets certain nonfinancial criteria. In general, to qualify for MAGI-based Medicaid through NYSOH, you must either be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B
- A pregnant woman or infant
- A child aged 1-18
- A parent or caretaker relative

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If you fall into one of these categories, NYSOH must determine your eligibility for Medicaid using modified adjusted gross income (MAGI) rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories, you may be eligible for non-MAGI-based Medicaid coverage through your Local Department of Social Services or the Human Resources Administration (N.Y. Soc. Serv. Law § 366(1)(c)).

Medicaid Managed Care Plans

Generally, with regard to enrollment in a Medicaid Managed Care 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 Medicaid Managed Care 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 Medicaid Managed Care plan as soon as possible (GIS 11 MA/025).

Legal Analysis

The issue is whether NYSOH properly determined that your spouse was not eligible to enroll in a Medicaid Managed Care plan because she was receiving Medicare, effective October 1, 2016.

On December 27, 2015, a notice of eligibility determination was issued stating that your spouse was eligible for Medicaid, effective December 1, 2015. However, she was unable to select a Medicaid Managed Care plan at that time.

On October 22, 2016, a notice was issued stating that your spouse was no longer eligible for Medicaid but that her coverage would continue until January 31, 2017. The notice explained this determination was made because state and federal data sources show she was receiving Medicare and because she is not a parent or caretaker relative of a child younger than 19 years of age. An enrollment confirmation notice was also sent stating that your spouse was not eligible to enroll in a Medicaid Managed Care plan.

A person who is Medicaid eligible generally must enroll in a Medicaid Managed Care plan. However, the Medicaid Managed Care program excludes from enrollment consumers who receive Medicare benefits.

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The NYSOH system is showing your spouse as having active Medicare Part A and Part B coverage. You testified that your spouse was never enrolled in Medicare Part A or B.

According to an incident filed on January 22, 2016, you were advised by NYSOH that you need to contact Medicare and the Social Security Administration to verify whether or not she has Medicare coverage.

You testified that you did request a letter from Medicare and the Social Security Administration stating your spouse was not enrolled or eligible for Medicare, but that they would not send you such a letter because they have no records of her ever receiving that benefit.

During the hearing, in addition to questions regarding your spouse being enrolled in Medicare, you were asked about whether or not your spouse ever had third party health insurance. You first testified that you and your spouse were never enrolled in third party health insurance through an employer. After reviewing the NYSOH system, the Hearing Officer called you back and again asked you if you or your spouse were ever enrolled in third party health insurance coverage through an employer. During the second phone call, you testified that you and your spouse had insurance through your employer through April 1, 2016. Since your testimony regarding your spouse's enrollment in third party health insurance was not credible, the Appeals Unit is disinclined to find your testimony in regards to her Medicare coverage credible as well.

As such, the record is devoid of any evidence to demonstrate that your spouse was not enrolled in Medicare and, therefore, the NYSOH system showing that she has active Medicare Part A and B is considered to be credible and the best evidence of record

Therefore, the October 22, 2016 enrollment confirmation notice stating your spouse was not eligible to enroll in a Medicaid Managed Care plan is AFFIRMED.

Decision

The October 22, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: March 14, 2017

How this Decision Affects Your Eligibility

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).

Your spouse is not eligible to select a Medicaid Managed Care plan at this time.

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 October 22, 2016, an enrollment confirmation notice is AFFIRMED.

Your spouse is not eligible to select a Medicaid Managed Care plan at this time.

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Legal Authority

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

A Copy of this Decision Has Been Provided To:

