



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

## Notice of Decision

Decision Date: March 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012859

[REDACTED]

Dear [REDACTED]

On February 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 7, 2016 disenrollment 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: March 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012859

[REDACTED]

## 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 two of your children's enrollment in a Medicaid Managed Care (MMC) plan was effective December 1, 2016?

## Procedural History

On February 5, 2016, NYSOH issued an eligibility determination notice stating in relevant part that two of your children (Marketplace ID #s [REDACTED] and [REDACTED]; hereinafter referred to as "your children") were eligible for Child Health Plus (CHP), effective March 1, 2016, and they were enrolled in a CHP plan at that time.

On September 6, 2016, you updated your family's application and NYSOH redetermined your household's eligibility for financial assistance for health insurance.

On September 7, 2016, NYSOH issued an eligibility redetermination notice, based on that September 6, 2016 updated application, stating in relevant part that your children were eligible for Medicaid effective October 1, 2016. That notice further stated that you did not need to choose a health plan for them.

Also, on September 7, 2016 and October 5, 2016, NYSOH issued enrollment confirmation notices stating in part, that the type of Medicaid coverage your children were eligible for does not require or allow them to enroll in a health plan.

Also on September 7, 2016, NYSOH issued a disenrollment notice stating that your children's coverage in their CHP plan would end effective September 30, 2016.

On October 3, 2016, you uploaded letters from MVP Health Plan showing that your children's coverage through MVP was cancelled as of January 31, 2015.

On October 9, 2016, NYSOH issued an eligibility redetermination notice stating that your children were eligible for Medicaid effective October 1, 2016.

On October 11, 2016, NYSOH issued an enrollment confirmation notice stating in relevant part that you needed to pick a health plan for them.

On October 20, 2016, NYSOH automatically selected an MMC plan for your children.

On October 21, 2016, NYSOH issued an enrollment confirmation notice stating that your children's enrollment in a MMC plan would begin December 1, 2016.

On October 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's enrollment in their MMC plan, insofar as their enrollment did not begin October 1, 2016.

On February 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to February 21, 2017, to allow you to submit supporting documents.

On February 21, 2017, NYSOH Appeals Unit received a facsimile containing the requested documentation. This facsimile was made part of the record as "Appellant's Exhibit # 1" and the record was closed.

## **Findings of Fact**

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

- 1) According to your NYSOH account and your testimony, you submitted an updated application for financial assistance for your family on September 6, 2016. On that date, two of your children were determined eligible for Medicaid.

- 2) You testified that, on September 6, 2016 you attempted to choose an MMC plan for them but were unable to do so because the system was showing they had coverage with a Third-Party Health Insurance plan.
- 3) You testified that you immediately contacted MVP Health Plan and asked for a certificate of insurance termination.
- 4) Per your NYSOH account, the certificates from MVP Health Plan show that coverage for your children started on November 24, 2012 and ended on January 31, 2015. You uploaded these documents to your NYSOH account on October 3, 2016 (see Documents [REDACTED] and [REDACTED]).
- 5) Per your NYSOH account, the active Third Party Health Insurance coverage was removed from your eMedNY account on October 10, 2016.
- 6) Per your NYSOH account, on October 20, 2016, the system automatically assigned your children to the MMC plan that you had earlier requested, with a plan effective date of December 1, 2016.
- 7) You testified that you need to have your children's MMC plan begin at least as of October 1, 2016, because one of your children had a procedure in early October 2016 with a specialist who only accepts the MMC plan that you had originally requested.

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

## **Applicable Law and Regulations**

### Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if that individual was eligible at 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 18 NYCRR § 360-10.3(h),; Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

### Third Party Health Insurance

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).

A person who has primary medical or health care coverage available from or under a third-party insurance provider is not permitted to enroll into a Medicaid Managed Care plan (NY SSL § 364-j(3)(e)(xx); Medicaid Managed Care Model Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019). However, they will remain eligible for fee-for-service Medicaid with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY SSL § 366(4)(c)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined your children were eligible to enroll in a MMC plan as of December 1, 2016, and not an earlier date.

In the September 7, 2016 eligibility redetermination notice, your children at issue were found eligible for Medicaid, effective October 1, 2016. Also on September 7, 2016, a notice was issued stating that the type of Medicaid coverage they were eligible for did not require or allow them to enroll in a health plan.

Generally, when an individual is eligible for Medicaid through NYSOH they are required to enroll in a MMC plan. However, when a person has active coverage in a health insurance plan outside of NYSOH, they are not eligible to enroll in a MMC plan. You testified that you asked NYSOH customer service representative to enroll your children in a specific MMC plan on September 6, 2016, but were blocked from doing so. You were told at that time that you were blocked because the system was showing active Third Party Health Insurance for your children.

You testified that you contacted MVP Health Plan and received certificates of insurance showing that your children had health insurance with MVP Health Plan from November 24, 2012 to January 31, 2015.

Per your NYSOH account, those certificates of insurance from MVP Health Plan were uploaded to your account on October 3, 2016. On October 10, 2016, NYSOH removed from its reporting system, eMedNY, the active Third Party Health Insurance coverage that was showing for your children. Then, on October 20, 2016, NYSOH automatically enrolled your children in the MMC plan that you had asked for on September 6, 2016 with a plan start date effective December 1, 2016.

Generally, the date on which a MMC plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

When NYSOH determines that a person has active coverage in a health insurance plan outside of NYSOH, that person is not eligible to enroll or remain enrolled in a Medicaid Managed Care plan.

As noted above, you were unable to enroll your children into a MMC plan prior to October 20, 2016, due to there being Third Party Health Insurance information showing on your account for them. However, the record reflects that this was in error and was removed on October 10, 2016. Had this error not been on the eMedNY system and reported in your NYSOH account, you would have been able to select an MMC plan for your sons on September 6, 2016. Had you been able to select a MMC plan that day for your children, their coverage could have started the first day of the following month after September 2016; that is, as early as October 1, 2016.

Therefore, the October 21, 2016 enrollment notice is MODIFIED to state that your children's enrollment in their MMC plan is effective as of October 1, 2016.

Your case is RETURNED to NYSOH to enroll your children (Marketplace ID #s [REDACTED] and [REDACTED]) into their MMC plan, effective October 1, 2016, and to notify you accordingly.

## **Decision**

The October 21, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their MMC plan is effective October 1, 2016.

Your case is RETURNED to NYSOH to enroll your two children at issue in their MMC plan effective October 1, 2016, and to notify you accordingly.

**Effective Date of this Decision:** March 29, 2017

## **How this Decision Affects Your Eligibility**

Your children's enrollment in their MMC plan will begin on October 1, 2016.

Your case is being sent back to NYSOH to enroll your children into their MMC plan as of that date. NYSOH will notify you once this has been completed.

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 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 21, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their MMC plan is effective October 1, 2016.

Your case is RETURNED to NYSOH to enroll your two children at issue in their MMC plan effective October 1, 2016, and to notify you accordingly.

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 children's enrollment in their MMC plan will begin on October 1, 2016.

Your case is being sent back to NYSOH to enroll your children into their MMC plan as of that date. NYSOH will notify you once this has been completed.

### **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

