



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: AP000000013009

[REDACTED]

Dear [REDACTED],

On February 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 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: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013009

[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 your enrollment in your Medicaid Managed Care plan was terminated effective October 31, 2016?

Procedural History

On November 7, 2015, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective November 1, 2015.

Also on November 7, 2015, NYSOH issued an enrollment notice confirming your selection of an MMC plan as of November 6, 2016. The notice stated that your MMC plan coverage would begin effective December 1, 2015.

On September 3, 2016, NYSOH issued a renewal notice, stating that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources as of September 2, 2016, NYSOH found that you were eligible to select a qualified health plan (QHP), eligible for an advance premium tax credit (APTC) of up to \$224.76 per month and, if you selected a silver-level plan; eligible for cost sharing reductions (CSR), effective November 1, 2016.

On October 17, 2016, NYSOH issued a disenrollment notice confirming that your MMC plan coverage would end effective October 31, 2016.

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On October 22, 2016 and October 27, 2016, NYSOH issued a renewal notice, stating that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources as of October 5, 2016, NYSOH found that you were eligible to select a QHP, eligible for an APTC of up to \$319.03 per month and, if you selected a silver-level plan; eligible for CSR, effective January 1, 2017.

On November 1, 2016, NYSOH received your updated application for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 per month premium, effective December 1, 2016.

Also on November 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the October 17, 2016 disenrollment notice insofar as it terminated your MMC plan coverage effective October 31, 2016. You were seeking for your MMC plan to end as of November 30, 2016 or, in the alternative, for your Essential Plan to begin effective November 1, 2016, rather than December 1, 2016.

On November 2, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 per month premium, effective December 1, 2016.

Also on November 2, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of November 1, 2016. The notice stated that your Essential Plan coverage would begin effective December 1, 2016.

On February 8, 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 the record reflects, that you could not be sure, but you believed you requested to receive all of your notices from NYSOH via regular mail. However, your application reflects that you requested to receive all notices from NYSOH through electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility, or select a QHP. You further testified that you did not receive any renewal notices by regular mail.

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- 3) You testified that you did not know that you needed to update your account until you contacted your physician during late October 2016 to schedule an appointment for November 3, 2016. It was at that time your physician informed you that your MMC plan coverage had been terminated.
- 4) The record reflects that on November 1, 2016, NYSOH received your updated application for health insurance.
- 5) You testified that you are seeking reinstatement of your MMC plan during the month of November 2016 in case you had incurred any bills relating to your cancer diagnosis during that month or, in the alternative, to seek that your Essential Plan you were subsequently found eligible for take effect November 1, 2016, rather than December 1, 2016.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR §155.335(h)).

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

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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 enrollment in your Medicaid Managed Care plan was terminated effective October 31, 2016.

You were originally found eligible for Medicaid effective November 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's September 3, 2016 renewal notice stating that you were found eligible to enroll in a QHP with tax credits and CSR beginning November 1, 2016.

You also testified that you did not receive the subsequent disenrollment notice issued on October 17, 2016, or the two additional renewal notices issued on October 22, 2016 and October 27, 2016.

You testified and the record 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 update the information in your NYSOH account or that you were found eligible to enroll in a QHP effective November 1, 2016. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was 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 enroll in a QHP, or to update your account between September 16, 2016 and October 15, 2016 to pick a plan.

Since you should not have been disenrolled from your MMC plan without first having received proper notice, we find that you should not have been disenrolled as of October 31, 2016.

The record reflects that you were subsequently found eligible for and enrolled in Essential Plan coverage effective December 1, 2016.

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Accordingly, the October 17, 2016 disenrollment notice is MODIFIED to state that your MMC plan coverage ends effective November 30, 2016.

Your case is RETURNED to NYSOH to reinstated your MMC plan coverage during the month of November 2016.

Decision

The October 17, 2016 disenrollment notice is MODIFIED to state that your MMC plan coverage ends effective November 30, 2016.

Your case is RETURNED to NYSOH to reinstated your MMC plan coverage during the month of November 2016.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

Your enrollment in your Medicaid Managed Care plan should have been terminated no earlier than November 30, 2016.

Your case is being sent back to NYSOH to reinstate you in your MMC plan during the month of November 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)).

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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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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The October 17, 2016 disenrollment notice is MODIFIED to state that your MMC plan coverage ends effective November 30, 2016.

Your enrollment in your Medicaid Managed Care plan should have been terminated no earlier than November 30, 2016.

Your case is being sent back to NYSOH to reinstate you in your MMC plan during the month of November 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

