



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

Notice of Decision

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013443

[REDACTED]

Dear [REDACTED],

On February 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 27, 2016 disenrollment notice and December 12, 2016 enrollment 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.

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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health (NYSOH) properly determine that your qualified health plan coverage ended effective November 30, 2016, as reflected in your NYSOH account enrollment details on November 23, 2016?

Did NYSOH properly determine that your Medicaid Managed Care plan coverage began no earlier than January 1, 2017?

Procedural History

On October 25, 2016, NYSOH received an updated application for health insurance.

On October 26, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for an advance premium tax credit (APTC) of up to \$71.00 per month, effective December 1, 2016.

Also on October 26, 2016, NYSOH issued an enrollment notice confirming your selection of a qualified health plan (QHP) as of October 25, 2016. The notice stated that your coverage and APTC start date was November 1, 2016. Your monthly premium for this plan, after giving effect to the maximum APTC of \$71.00, was \$447.47.

On November 22, 2016, NYSOH received an update to your application for health insurance. In response to your application, NYSOH prepared a

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preliminary eligibility determination stating that you were eligible for Medicaid, effective November 1, 2016.

Also on November 22, 2016, you contacted the NYSOH Account Review Unit and appealed insofar as you were not able to select a Medicaid Managed Care (MMC) plan at that time to begin such coverage effective November 1, 2016.

On November 23, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective November 1, 2016. This notice also stated that you could not enroll in a Medicaid Managed Care (MMC) plan because you were enrolled in other health insurance.

Also on November 23, 2016, NYSOH issued an enrollment notice stating that the type of Medicaid coverage you were eligible for did not allow you to enroll in a health plan.

Finally, on November 23, 2016, your NYSOH enrollment details reflect that your QHP coverage was terminated effective November 30, 2016.

On November 27, 2016, NYSOH issued a disenrollment notice stating that your QHP coverage would end on December 31, 2016.

On November 30, 2016, NYSOH received (1) a screenshot of your United Healthcare (UHC) online account reflecting that your employer-sponsored insurance with UHC ended effective October 31, 2016 and (2) an e-mail chain between you and a UHC representative in which you requested information regarding the premium amount for COBRA coverage to continue your UHC insurance.

On December 1, 2016, NYSOH received a letter issued by UHC, dated December 1, 2016, confirming that your UHC plan coverage ended effective October 31, 2016.

On December 5, 2016, NYSOH redetermined your eligibility based on information contained in your account as of December 5, 2016.

On December 6, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective January 1, 2017.

On December 12, 2016, NYSOH issued an enrollment notice confirming your selection of an MMC plan as of December 11, 2016. The notice stated that your MMC plan coverage would begin effective January 1, 2017.

On February 22, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

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Findings of Fact

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

- 1) The record reflects that you enrolled in a QHP with advanced premium tax credits on October 25, 2016.
- 2) You testified that you paid the \$447.47 premium amount to begin your coverage effective November 1, 2016.
- 3) The record reflects that you further revised your application on November 22, 2016.
- 4) You were found eligible for Medicaid on November 22, 2016. Your Medicaid Fee-For-Service coverage began effective November 1, 2016.
- 5) The record reflects that following the November 22, 2016 update to your account, NYSOH determined you were no longer eligible to remain enrolled in your current health insurance and disenrolled you from your QHP through NYSOH, effective December 31, 2016.
- 6) The record reflects that on November 23, 2016, NYSOH took independent action to revise the termination date of your QHP from December 31, 2016 to November 30, 2016.
- 7) You testified, and provided documentation to NYSOH on November 30, 2016, reflecting that your employer-sponsored insurance coverage with UHC ended effective October 31, 2016.
- 8) You testified that you were unable to select an MMC plan once you became Medicaid eligible because NYSOH saw you as still enrolled in UHC through November 30, 2016.
- 9) You eventually were permitted to select an MMC plan on December 11, 2016.
- 10) You testified that you were seeking not only to cancel your QHP through NYSOH effective November 1, 2016, but also to backdate the start of your MMC plan coverage from January 1, 2017 to November 1, 2016.
- 11) You testified that you were seeking a reimbursement of the \$447.47 premium you paid for the QHP coverage during the month of November 2016, and seeking coverage under your MMC plan for bills you incurred during the months of November and December 2016.

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

Applicable Law and Regulations

Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

If an enrollee is newly eligible for Medicaid, the last day of coverage for the qualified health plan is the day before the Medicaid coverage begins (45 CFR § 155.430(d)(2)(iv)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH permits a qualified health plan to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

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-

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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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your qualified health plan coverage ended effective November 30, 2016, as reflected in your NYSOH account enrollment details on November 23, 2016.

The record reflects that as a result of your application provided to NYSOH on October 25, 2016, you were found eligible to enroll in a QHP and receive an APTC of up to \$71.00 per month, effective November 1, 2016.

On November 22, 2016, you contacted NYSOH to update your application for financial assistance. As a result, you were found eligible for Medicaid effective November 1, 2016. On November 27, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your QHP would end effective December 31, 2016; however, this action was subsequently modified because on November 23, 2016, NYSOH revised the termination date of your QHP coverage to November 30, 2016.

You testified that you are seeking an earlier disenrollment date because you had Medicaid coverage during November 2016 when you were still enrolled in your QHP.

If an enrollee is newly eligible for Medicaid, the last day of coverage through their qualified health plan is the day before the Medicaid coverage begins. Since you were determined eligible for Medicaid November 22, 2015, under the regulations your QHP should have terminated that day. However, NYSOH does not allow for prorated or partial premiums based on the amount of days in a month you were enrolled in a qualified health plan and as such your plan was terminated at the end of the calendar month in which you became eligible for Medicaid, or November 30, 2016.

Therefore, NYSOH properly determined that your plan terminated as of November 30, 2016, and NYSOH's November 27, 2016 disenrollment notice is MODIFIED solely to reflect that your enrollment in the QHP ended November 30, 2016, as effectuated by NYSOH's independent action as of November 23, 2016.

The second issue under review is whether NYSOH properly determined that your enrollment in the MMC plan was effective no earlier than January 1, 2017.

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The record reflects that contacted NYSOH on December 11, 2016 and enrolled into a MMC plan.

You testified that you were unable to select an MMC plan at an earlier date since NYSOH erroneously viewed you as having been covered under your employer-sponsored insurance plan through November 30, 2016.

The record reflects that on November 30, 2016, you provided documentation to NYSOH reflecting that your employer-sponsored insurance plan had ended effective October 31, 2016; however, you were not permitted to select an MMC until December 6, 2016, and ultimately selected a plan on December 11, 2016.

You provided the necessary documentation on November 30, 2016 to confirm that you were no longer enrolled your employer-sponsored insurance plan. It is reasonable to infer that you would have selected your current MMC plan on that date had you been allowed to do so.

The date on which a Medicaid Managed Care 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.

Since we may infer that you would have selected the same MMC plan on November 30, 2016, it should have taken effect on the first day of the second month following after November 1, 2016; that is, on January 1, 2017.

Therefore, the December 12, 2016 enrollment notice stating that your enrollment in your MMC plan would be effective January 1, 2017, was correct and must be AFFIRMED.

Decision

The November 27, 2017 disenrollment notice is MODIFIED solely to reflect that your enrollment in the QHP ended November 30, 2016, as effectuated by NYSOH's independent action as of November 23, 2016.

The December 12, 2016 enrollment notice is AFFIRMED.

Effective Date of this Decision: March 22, 2017

How this Decision Affects Your Eligibility

Your QHP plan issued by NYSOH ended effective November 30, 2016.

You were eligible for Medicaid Fee-For-Service coverage between November 1, 2016 and December 31, 2016.

Your MMC plan coverage began effective January 1, 2017.

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:
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Summary

The November 27, 2017 disenrollment notice is MODIFIED solely to reflect that your enrollment in the QHP ended November 30, 2016, as effectuated by NYSOH's independent action as of November 23, 2016.

The December 12, 2016 enrollment notice is AFFIRMED.

Your QHP plan issued by NYSOH ended effective November 30, 2016.

You were eligible for Medicaid Fee-For-Service coverage between November 1, 2016 and December 31, 2016.

Your MMC plan coverage began effective January 1, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

