



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

Notice of Decision

Decision Date: April 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013753

[REDACTED]

Dear [REDACTED]

On March 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 29, 2016 plan 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.

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

Decision

Decision Date: April 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013753

[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 child's enrollment in his Medicaid Manage Care (MMC) plan ended effective August 31, 2016 and was next effective January 1, 2017?

Procedural History

On December 10, 2015, NYSOH issued an eligibility determination notice, based on your December 9, 2015 application, stating that you were eligible for Medicaid, effective December 1, 2015.

On December 19, 2015, NYSOH issued an enrollment notice confirming the plan you selected on December 18, 2015. The notice stated that you were enrolled in a MMC plan with Excellus BCBS, and that your coverage would start on January 1, 2016.

On May 16, 2016, with the assistance of a certified application counselor (CAC), your newborn child was added to your account and an updated application for financial assistance was submitted on his behalf.

On May 17, 2016, NYSOH issued an eligibility redetermination that in part stated you remained eligible for Medicaid and your child was eligible for Medicaid. This eligibility was effective May 1, 2016.

Also on May 17, 2016, NYSOH issued the following notices:

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- 1) A disenrollment notice confirming your request to end your insurance coverage with your MMC plan. This notice stated your coverage with this MMC plan would end June 30, 2016;
- 2) A disenrollment notice confirming your May 16, 2016 request to end your child's coverage with his MMC plan. This notice stated your child's coverage with Excellus BCBS would end effective June 30, 2016;
- 3) An enrollment notice confirming in part that your enrollment in a MMC plan with Fidelis Care and your child's enrollment in a MMC plan with UnitedHealthcare Community Plan, both effective July 1, 2016; and,
- 4) A cancellation notice stating that your request to cancel insurance coverage for your child with Fidelis Care MMC was received on May 16, 2016. This notice stated that your child would not have coverage with Fidelis Care effective July 1, 2016. The notice stated that your child could continue to access health coverage by using the NY State Common Benefit Identification Card at a provider who accepts Medicaid.

On September 1, 2016, NYSOH issued an eligibility redetermination notice, based on updates made by a NYSOH representative on August 31, 2016, that stated your child remained eligible for Medicaid, effective September 1, 2016.

Also on September 1, 2016, NYSOH issued a disenrollment notice stating that your request to end insurance coverage with your child's MMC plan was received on August 31, 2016. The notice further stated that your child would no longer have coverage with his MMC plan, UnitedHealthcare Community Plan, effective August 31, 2016. The notice stated that your child could continue to access health coverage by using the NY State Common Benefit Identification Card at a provider who accepts Medicaid.

Also on September 1, 2016, NYSOH issued an enrollment notice confirming in part that you were enrolled in a MMC plan with Fidelis effective July 1, 2016 and your child was enrolled in a MMC plan with Excellus BCBS, effective October 1, 2016.

On September 7, 2016, NYSOH issued an eligibility redetermination notice, based on updated information received by NYSOH, that in part stated you and your child remained eligible for Medicaid, effective September 1, 2016.

Also on September 7, 2016, NYSOH issued a disenrollment notice that stated your child's coverage in his MMC plan with Excellus BCBS would end effective September 30, 2016. This was because your child was no longer eligible to remain enrolled in his current plan.

Also on September 7, 2016, NYSOH issued an enrollment notice confirming in part that you were enrolled in a MMC plan with Fidelis Care and your child was enrolled in a MMC plan with Fidelis Care, effective July 1, 2016.

On November 29, 2016, NYSOH issued an enrollment notice, confirming your enrollment as of September 22, 2016 in an MMC plan with Fidelis Care, effective July 1, 2016, and your child's enrollment in an MMC plan with UnitedHealthcare Community Plan, with an effective start date of January 1, 2017.

Also on November 29, 2016, NYSOH issued a notice, based on your November 28, 2016 request, stating that your child's enrollment with his MMC plan with Fidelis Care would end on December 31, 2016.

On December 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's enrollment in his MMC plan with UnitedHealthcare Community Plan, insofar as it terminated on August 31, 2016 and did not begin again until January 1, 2017.

On March 9, 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) According to your NYSOH account and your testimony, while pregnant, you enrolled in a MMC plan with Excellus BCBS with a plan start date of January 1, 2016.
- 2) According to your NYSOH account and your testimony, your child was born on [REDACTED]
- 3) According to your NYSOH account and your testimony, on May 16, 2016, using the services of a CAC, you added your newborn child to the account and updated your application for health insurance.
- 4) According to your NYSOH account and your testimony, on May 16, 2016, you changed your MMC plan from Excellus BCBS to Fidelis Care and requested your child's MMC enrollment in Excellus BCBS be changed to UnitedHealthcare Community Plan.
- 5) You testified that your child's doctor only participated in UnitedHealthcare Community Plan and that is why you asked that his MMC plan be changed from Excellus BCBS.

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- 6) You testified that in September 2016 or October 2016, you took your child to his doctor for treatment.
- 7) You testified that in November 2016, you received a call from the doctor's office and were informed that there was a different health insurance plan showing for your child and that plan was Excellus BCBS. The doctor's office advised you that the doctor did not accept Excellus BCBS and, as a result, the doctor's bills remain unpaid.
- 8) You testified that you contacted the CAC and inquired as to why your child was enrolled in a MMC plan other than the UnitedHealthcare Community Plan that you had selected on May 16, 2016. You testified that the CAC stated that she had not made any changes in your or your child's plan since the enrollment of May 16, 2016.
- 9) You testified that you and the CAC then had numerous phone calls with NYSOH and the health plans and no one could explain to you why your child had been switched out of UnitedHealthcare Community Plan.
- 10) You testified that you never gave anyone permission to change your child's health coverage out of UnitedHealthcare Community Plan into any other health plan.
- 11) According to your NYSOH account and your testimony, you and your family moved out of New York State in January 2017.
- 12) You testified that you want your child's MMC plan with UnitedHealthcare Community Plan which began on July 1, 2016 to run without interruption until January 31, 2017. This is because your child's doctor only participates in UnitedHealthcare Community Plan and there are unpaid medical bills for visits your child had with that doctor during this period.

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

Applicable Law and Regulations

Medicaid Newborn Child

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

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NYSOH must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible for, and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household (42 CFR § 435.117(a); NY Social Services Law § 366-g(3)). An annual redetermination of eligibility must be completed on behalf of the child at which time documentary evidence of citizenship and Social Security number is required (42 CFR § 435.117(d), § 435.920).

Medicaid Managed Care plans operating in the NYSOH Exchange have agreed to enroll and provide coverage for eligible newborn children effective from the time of birth. NYSOH shall update demographic data for the newborn and enroll the newborn in the mother's Medicaid Managed Care plan if the newborn is not already enrolled and send the Medicaid Managed Care plan an 834 electronic enrollment file (Medicaid Managed Care Model Contract (Appendix H-6(3)(a)-(d), effective 3/1/2014 – 2/28/2019).

Medicaid Effective dates

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's enrollment in his MMC plan with UnitedHealthcare Community Plan ended effective August 31, 2016 and was not made effective again until January 1, 2017.

There is not dispute that your MMC coverage with Excellus BCBS began effective January 1, 2016.

According to your NYSOH account and your testimony, your child was born on

██████████

On May 16, 2016, using the services of a CAC, you added your newborn child to your account and updated your account. As a result of that update, NYSOH found that you remained eligible for Medicaid and your child was eligible for Medicaid effective May 1, 2016.

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 your child was added to the account, he was automatically enrolled in the MMC plan, Excellus BCBS, that you were enrolled in at the time of his birth. The record reflects that, on May 16, 2016, when you and the CAC updated the account, you selected new MMC plans for yourself and your child. You selected Fidelis Care for yourself and UnitedHealthCare Community Plan for your child.

Since you selected a different MMC plan for your child on May 16, 2016, the start date of his MMC plan should take effect the first day of the second month following May 2016, that is as of July 1, 2016.

The May 17, 2016 disenrollment notices correctly stated that your and your child's enrollment in Excellus BCBS MMC plan ended effective June 30, 2016. Further, the May 17, 2016 enrollment confirmation notice correctly stated that your MMC plan with Fidelis Care started July 1, 2016 and that your child's MMC plan with UnitedHealthCare Community Plan started July 1, 2016. Therefore, the May 17, 2016 disenrollment and enrollment notices were correct and are AFFIRMED.

According to your NYSOH account, on August 31, 2016, a NYSOH representative made a series of changes which appear to have been made to correct a system error in the MMC plan that your child should have been enrolled in at the time of his birth. The result of these corrections made by NYSOH on August 31, 2016, was that your child was disenrolled from UnitedHealthCare Community Plan MMC without your knowledge or consent.

You credibly testified that you never would have authorized your child to be removed from UnitedHealthcare Community Plan because that was the plan in which his pediatrician participated and that is the reason why you enrolled him in that plan on May 16, 2016.

It appears from the record that the August 31, 2016 system corrections made by a representative of NYSOH resulted in your child being removed from his MMC

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plan with UnitedHealthcare Community plan, which can reasonably be concluded was an unintentional, inadvertent or erroneous action.

Therefore, to bring the events that occurred and notices that were issued because of NYSOH's unintentional, inadvertent or erroneous action, the following changes must be made:

- The September 1, 2016 disenrollment notice stating that your child's coverage with UnitedHealthcare Community Plan would end effective August 31, 2016 is RESCINDED.
- That portion of the September 1, 2016 enrollment confirmation notice as it applies to your child that states his MMC plan with Excellus BCBS starts October 1, 2016 is RESCINDED.
- The September 7, 2016 disenrollment notice stating that your child's coverage with Excellus Health Plan would end effective September 1, 2016 is RESCINDED.
- That portion of the September 7, 2016, enrollment confirmation notice as it applies to your child that states his MMC plan with Fidelis Care started July 1, 2016 is RESCINDED.
- That portion of the November 29, 2016 enrollment confirmation notice as it applies to your child that states his MMC plan with UnitedHealthcare Community Plan starts January 1, 2017 is MODIFIED to state that his coverage under that plan begins effective July 1, 2016 so that his coverage will run continuously through to January 31, 2017 when his eligibility to enroll in health insurance through NYSOH ended because he was no longer eligible due to moving out of New York State.
- Your case is RETURNED to NYSOH to effectuate the above changes to your account and reenroll your child into his MMC plan with UnitedHealthcare Community Plan effective July 1, 2016, which is to run continuously to January 31, 2017, and to notify you accordingly.

Decision

The May 17, 2016 disenrollment and enrollment notices were correct and are AFFIRMED.

The September 1, 2016 disenrollment notice stating that your child's coverage with UnitedHealthcare Community Plan would end effective August 31, 2016 is RESCINDED.

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).

That portion of the September 1, 2016 enrollment confirmation notice as it applies to your child that states his MMC plan with Excellus BCBS starts October 1, 2016 is RESCINDED.

The September 7, 2016 disenrollment notice stating that your child's coverage with Excellus Health Plan would end effective September 1, 2016 is RESCINDED.

That portion of the September 7, 2016, enrollment confirmation notice as it applies to your child that states his MMC plan with Fidelis Care started July 1, 2016 is RESCINDED.

That portion of the November 29, 2016 enrollment confirmation notice as it applies to your child that states his MMC plan with UnitedHealthcare Community Plan starts January 1, 2017 is MODIFIED to state that his coverage under that plan begins effective July 1, 2016 so that his coverage will run continuously through to January 31, 2017 when his eligibility to enroll in health insurance through NYSOH ended because he was no longer eligible due to moving out of New York State.

Your case is RETURNED to NYSOH to effectuate the above changes to your account and reenroll your child into his MMC plan with UnitedHealthcare Community Plan effective July 1, 2016, which is to run continuously to January 31, 2017, and to notify you accordingly.

Effective Date of this Decision: April 28, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

This decision does not change your child's eligibility.

The effective dates of your child's MMC plan with Excellus BCBS is May 1, 2016 through June 30, 2016.

Your case is being sent back to NYSOH to change your child's MMC plan coverage with UnitedHealthcare Community Plan to start July 1, 2016 and run continuously to January 31, 2017. NYSOH will notify you once this has been done.

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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The May 17, 2016 disenrollment and enrollment notices were correct and are AFFIRMED.

The September 1, 2016 disenrollment notice stating that your child's coverage with UnitedHealthcare Community Plan would end effective August 31, 2016 is RESCINDED.

That portion of the September 1, 2016 enrollment confirmation notice as it applies to your child that states his MMC plan with Excellus BCBS starts October 1, 2016 is RESCINDED.

The September 7, 2016 disenrollment notice stating that your child's coverage with Excellus Health Plan would end effective September 1, 2016 is RESCINDED.

That portion of the September 7, 2016, enrollment confirmation notice as it applies to your child that states his MMC plan with Fidelis Care started July 1, 2016 is RESCINDED.

That portion of the November 29, 2016 enrollment confirmation notice as it applies to your child that states his MMC plan with UnitedHealthcare Community Plan starts January 1, 2017 is MODIFIED to state that his coverage under that plan begins effective July 1, 2016 so that his coverage will run continuously through to January 31, 2017 when his eligibility to enroll in health insurance through NYSOH ended because he was no longer eligible due to moving out of New York State.

Your case is RETURNED to NYSOH to effectuate the above changes to your account and reenroll your child into his MMC plan with UnitedHealthcare Community Plan effective July 1, 2016, which is to run continuously to January 31, 2017, and to notify you accordingly.

This decision does not change your eligibility.

This decision does not change your child's eligibility.

The effective dates of your child's MMC plan with Excellus BCBS is May 1, 2016 through June 30, 2016.

Your case is being sent back to NYSOH to change your child's MMC plan coverage with UnitedHealthcare Community Plan to start July 1, 2016 and run

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continuously to January 31, 2017. NYSOH will notify you once this has been done.

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।

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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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