



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

Notice of Decision

Decision Date: April 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013926

[REDACTED]

Dear [REDACTED]

On March 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 8, 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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Decision Date: April 25, 2017

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) provide a timely determination of your Medicaid eligibility as of December 8, 2016?

Did NYSOH properly determine that your Medicaid Managed Care (MMC) plan began January 1, 2017?

Procedural History

On January 7, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid effective December 1, 2015.

On January 9, 2016, NYSOH issued a notice confirming your enrollment in a MMC plan starting February 1, 2016.

On October 10, 2016, NYSOH issued a notice that it was time to renew your health insurance for the next coverage period. That notice stated that, based on information from federal and state sources, your household income was over \$47,080.00 and you no longer qualified for health care coverage under Medicaid, Child Health Plus, the Essential Plan or for tax credits or cost sharing reductions to help pay for health coverage. The notice further stated you qualified to buy a health plan at full cost through NYSOH, effective December 1, 2016. You were directed to select a health plan by November 15, 2016 to continue your coverage.

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On October 17, 2016, NYSOH received your updated application for health insurance.

Also on October 17, 2016, NYSOH issued a disenrollment notice stating your MMC plan would end effective November 30, 2016. This was because you were no longer eligible to remain enrolled in your current health plan.

On October 18, 2016, NYSOH issued a notice stating that your October 17, 2016 application had been reviewed and the income information you provided did not match what NYSOH had obtained from state and federal data sources such that NYSOH was unable to make a determination until you submitted additional income documentation. You had until November 1, 2016 to submit proof of income documentation for your household.

On November 28, 2016, NYSOH issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017. This was because NYSOH did not receive the requested information to verify your income by the due date.

On December 8, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible for Medicaid, effective December 1, 2016.

Also on December 8, 2016, NYSOH issued an enrollment confirmation notice, based on your December 7, 2016 plan selection, that stated your MMC plan enrollment start date was January 1, 2017.

On December 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your MMC plan on January 1, 2017, and not December 1, 2016.

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 held open to March 23, 2017, to allow you to submit supporting documents.

That same day, NYSOH Appeals Unit received by secure facsimile your cover page and four pages of supporting evidence, including: A "Transmission Verification Report" dated 10/17/16 16:36 from [REDACTED] to fax # [REDACTED] with an "OK" result; A "Table 1" indicating expenses for year totaled \$4,135.00 with your NYSOH account # and your signature; A memorandum signed and dated October 17, 2016 stating you are [REDACTED] and earn \$170.00 a month; and, A "Transmission Verification Report" dated 10/17/16 16:36 from [REDACTED] to [REDACTED] with an "OK" result. These documents were collectively made part of the record as "Appellant's Exhibit # 1" and the record was closed.

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Findings of Fact

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

- 1) According to your NYSOH account and your testimony, you receive all your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices telling you that your MMC plan would end effective November 30, 2016.
- 3) According to your NYSOH account and your testimony, you lost full time employment at the end of November 2015 and then received unemployment insurance benefits for 24 weeks. You then began self-employment as a licensed mental health counselor beginning in June 2016.
- 4) According to your NYSOH account, on October 17, 2016, NYSOH received your updated application for health insurance. That application for financial assistance listed a household income of \$9,402.00.
- 5) You testified that, on October 17, 2016 you submitted to NYSOH by facsimile two documents; a memorandum dated October 17, 2016 from you stating you were [REDACTED] and earned \$170.00 a month and a one page table showing your expenses for October 2016, November 2016 and December 2016 with total business expenses for 2016 of \$4,135.00.
- 6) Appellant's Exhibit # 1, that you submitted to the Hearing Officer includes the October 17, 2016 memorandum and the Table of expenses along with two "Transmission Verification Reports" that show you sent two one page documents to the NSYOH facsimile number, [REDACTED], on October 17, 2016 at 16:36 with an "OK" result.
- 7) According to your NYSOH account, there is no record of any documents received by facsimile or other means by NYSOH around the October 17, 2016 time frame.
- 8) According to your NYSOH account, the same documents that you testified you sent on October 17, 2016 to NYSOH by facsimile were mailed by you to NYSOH on November 23, 2016. These documents were marked received on November 25, 2016 and uploaded to your account on December 7, 2016. The only difference in these documents is that the signed memorandum is dated November 16, 2016 instead of October 17, 2016. (see Documents [REDACTED] and [REDACTED])

- 9) You testified that you were not aware that your health plan had terminated effective November 30, 2016 and, had you been aware that you did not have health coverage in December 2016, you would not have gone to the doctor on [REDACTED].
- 10) According to your NYSOH account, on December 8, 2016, you were found eligible for Medicaid Fee-For-Service effective December 1, 2016.
- 11) You testified that the doctor you went to on [REDACTED] does not accept Medicaid Fee-For-Service and you have an unpaid bill for \$150.00 for the medical service provided on that date.
- 12) You testified, and the record reflects, that you selected your MMC plan on December 7, 2016, and that your enrollment was effective on January 1, 2017.
- 13) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable mail.
- 14) You testified that you want your MMC plan to begin on December 1, 2016 because you have unpaid medical bills that you incurred in December 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 twelve 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

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redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

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 Managed Care (MMC) 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, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).

Verification Process

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

Legal Analysis

The first issue under review is whether NYSOH provided you with a timely determination of your Medicaid eligibility as of December 8, 2016.

You were originally found eligible for Medicaid effective December 1, 2015 and your twelve months of Medicaid coverage was due to end November 31, 2016.

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 October 10, 2016 renewal notice stated that your eligibility had been redetermined based on federal and state data that showed your household income was over \$47,080.00 and you were therefor ineligible for Medicaid, Child Health Plus, the Essential Plan, tax credits or cost sharing reductions. However, you were eligible to purchase a health plan at full cost effective December 1, 2016.

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

The record shows that on October 17, 2016, you updated the information in your NYSOH account. That application listed a household income of \$9,402.00. The preliminary eligibility redetermination issued on that date stated that the information you provided did not match what NYSOH obtained from state and federal data sources and that you would need to submit additional information to prove your income.

The record reflects that on October 17, 2016 you submitted to the NYSOH facsimile number, [REDACTED], one document each by two separate facsimiles with a transmittal result of "OK." One document was a memorandum signed and dated October 17, 2016 stating you were self-employed and earned \$170.00 a month. The second document was a table showing your expenses for the months of October 2016, November 2016 and December 2016. There is no indication that NYSOH reviewed these documents.

Thereafter, on November 28, 2016, NYSOH issued the eligibility redetermination notice stating that you were eligible to purchase a qualified health plan at full cost and ineligible for Medicaid because you had not submitted proof of income within the required time frame. However, the credible evidence of record reflects that

you did send proof of income documents to the correct facsimile number listed on NYSOH notices that were successfully transmitted, but not reviewed by NYSOH.

Therefore, it is reasonable to conclude that you timely submitted these two documents by facsimile on October 17, 2016. However, for some reason, NYSOH did not process these documents. While the documents may or may not have been valid proofs of household income, NYSOH should have reviewed the documentation and notified you accordingly.

According to your NYSOH account and your testimony, on November 23, 2016 you mailed the same documents that you sent via facsimile on October 17, 2016 to NYSOH. These documents were marked received by NYSOH on November 25, 2016 and uploaded to your account on December 7, 2016. The only difference in these documents is that the signed memorandum is dated November 16, 2016 instead of October 17, 2016.

According to your NYSOH account, on December 7, 2016, these documents were used to redetermine your eligibility and you were found eligible for Medicaid effective December 1, 2016. You also enrolled in a MMC plan on December 7, 2016 with a plan start date of January 1, 2017.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Here the record reflects that on October 17, 2016, you provided via facsimile substantially the same information that you mailed to NYSOH on November 23, 2016, which was used to redetermine your eligibility for Medicaid on December 7, 2016. However, NYSOH did not process the October 17, 2016 documentation at all and, therefore, did not process it in a timely manner.

As such, the November 28, 2016 eligibility redetermination notice that stated you were not eligible for Medicaid and eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016, because NYSOH did not receive the requested information to verify your income by the due date is **RESCINDED**.

NYSOH next issued an eligibility determination notice on December 8, 2016, that stated you were eligible for Medicaid effective December 1, 2016. Since NYSOH issued this eligibility determination 53 days from the date your application should have been considered complete, that is October 17, 2016, the December 8, 2016 eligibility redetermination notice was untimely.

The second issue is whether NYSOH properly determined that your enrollment in your MMC plan was effective January 1, 2017.

The record reflects that on December 7, 2016 you contacted NYSOH and enrolled into a MMC plan.

Generally, a plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

However, the record reflects that on October 17, 2016 you updated your account and submitted proof of income by facsimile to NYSOH, which was not processed. The same income documentation was mailed to NYSOH on November 23, 2016 and uploaded to your account on December 7, 2016. The documentation that was uploaded on December 7, 2016 and was used to render an eligibility redetermination was substantially the same information as what was sent via facsimile to NYSOH on October 17, 2016.

Therefore, we must assume that, had NYSOH properly reviewed the October 17, 2016 income documentation submitted by facsimile, you would have been found eligible for Medicaid and you would have been allowed to select a MMC plan at that time. Had you selected an MMC plan at that time, it would have gone into effect on the first day of the second month following October 2016; that is, as of December 1, 2016.

Therefore, the December 8, 2016, enrollment notice is MODIFIED to state that you were enrolled in your MMC health plan, with a plan enrollment start date of December 1, 2016.

Decision

The November 28, 2016 eligibility redetermination notice that stated you were not eligible for Medicaid and eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016, because NYSOH did not receive the requested information to verify your income by the due date is RESCINDED.

The December 8, 2016, enrollment confirmation notice is MODIFIED to state that you were enrolled in your MMC health plan, with a plan enrollment start date of December 1, 2016.

Your case is RETURNED to the NYSOH to effectuate this change in coverage, and to notify you accordingly.

Effective Date of this Decision: April 25, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility for Medicaid as of December 1, 2016.

Your case is being sent back to NYSOH to change your enrollment start date in your MMC plan to December 1, 2016. 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

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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):

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 28, 2016 eligibility redetermination notice that stated you were not eligible for Medicaid and eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016, because NYSOH did not receive the requested information to verify your income by the due date is **RESCINDED**.

The December 8, 2016, enrollment confirmation notice is **MODIFIED** to state that you were enrolled in your MMC health plan, with a plan enrollment start date of December 1, 2016.

Your case is **RETURNED** to the NYSOH to effectuate this change in coverage, and to notify you accordingly.

This decision does not change your eligibility for Medicaid as of December 1, 2016.

Your case is being sent back to NYSOH to change your enrollment start date in your MMC plan to December 1, 2016. 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:

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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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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