

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

Notice of Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014557

[REDACTED]

Dear [REDACTED]

On March 30, 2017, you appeared by telephone, along with your attorney, [REDACTED], at a hearing on your appeal of NY State of Health's January 4, 2017 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014557

[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 (MMC) plan was effective February 1, 2017?

Procedural History

On September 16, 2015, NYSOH issued a renewal notice stating that you still qualified to get health care coverage under Medicaid, effective December 1, 2015. The notice also confirmed your re-enrollment into an MMC plan, effective December 1, 2015.

On October 10, 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, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by November 15, 2016, or you might lose the financial assistance you were currently receiving.

No updates were made to your account by November 15, 2016.

On November 17, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you had not

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responded to the renewal notice and had not completed your renewal within the required time frame. This eligibility was effective December 1, 2016.

On November 18, 2016, NYSOH received your updated application for health insurance.

On November 19, 2016, NYSOH issued a notice stating that your November 18, 2016 application had been reviewed, but that more information was needed to confirm the information in your application. The notice directed you to submit documentation of your income by December 3, 2016.

On November 23, 2016, NYSOH issued a disenrollment notice, informing you that your enrollment in your MMC plan was ending, effective November 30, 2016, because you were no longer eligible to enroll in health insurance through NYSOH.

On November 25, 2016, NYSOH uploaded documentation to your NYSOH account, which had been faxed to NYSOH on your behalf.

On December 13, 2016, NYSOH issued a notice stating that the documentation you submitted had been reviewed, but that it was not sufficient to verify the information in your application. The notice directed you to submit documentation of your income by January 2, 2017.

On December 21, 2016, you uploaded documentation to your NYSOH account.

On January 3, 2017, you updated your NYSOH account. That same day, NYSOH prepared a preliminary eligibility determination stating that you were eligible for Medicaid, effective January 1, 2017, and that you were also eligible for Medicaid in the month of December 2016.

Also on January 3, 2017, you spoke to NYSOH's Account Review Unit and filed an appeal, insofar as your enrollment in your MMC plan would begin on February 1, 2017, and not on December 1, 2016.

On January 4, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective January 1, 2017.

That same day, NYSOH issued a notice of eligibility determination stating that you were eligible for retroactive Medicaid in the month of December 2016.

Also on January 4, 2017, an enrollment confirmation notice was issued that stated that you had selected an MMC plan, and that the effective date of that plan was February 1, 2017.

On March 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit, during which [REDACTED] appeared as your attorney and authorized representative. The record was developed during the hearing and held open at the end of the hearing for fifteen days to give you time to submit additional documentation that you wanted to offer to support your testimony. On April 3, 2017 and April 13, 2017, documents were faxed on your behalf to NYSOH's Appeals Unit. The record is now closed.

Findings of Fact

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

- 1) Your attorney testified that, when you first signed up for insurance through NYSOH, you were assisted in enrolling by someone from Fidelis.
- 2) Your attorney testified that this person, a [REDACTED], did not properly create your account, and that [REDACTED] account was listed as your "primary email," instead of [REDACTED] account, which was your correct email.
- 3) You testified that [REDACTED] account was "blocked", and that you kept having to call NYSOH to look up information in your account, but no one seemed to know that [REDACTED] account was "blocked."
- 4) You testified that you would receive emails from NYSOH, but when you would try to read the referenced notices, you could not, so you would have to call NYSOH to find out what the notice said.
- 5) You testified that you thought there was something wrong with your NYSOH account, and that was why you kept having to call in to find out what the notices sent to your email said.
- 6) You testified that you would go to the NYSOH website, but were unable to log in.
- 7) You testified that you would try to use the "forgot password" link on the website, and it would not work.
- 8) The record reflects, that you were originally enrolled to receive email alerts regarding notices in your NYSOH account.
- 9) On November 18, 2016, you sent a four-page fax to NYSOH in connection with your account update of that same day. The second page of the fax consists of a handwritten note which states, in part, "I

missed the cut off to renew by 11-15-16 as I could not log in to “my inbox” to get your renewal request. I called today luckily 11-18-16 and reapplied over the phone and requested to uncheck box for receiving emails, mail only” (Document [REDACTED]).

- 10) Your NYSOH account reflects that you are currently enrolled to receive notices from NYSOH by regular mail, and not enrolled to receive email alerts.
- 11) 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. You also did not receive any renewal notice by regular mail.
- 12) Your attorney testified that you called on November 18, 2016 because you knew that you were approaching the time period for renewing your health insurance.
- 13) You testified that you were not aware until December 20, 2016, when you were in the emergency room, that you did not have coverage.
- 14) You testified that the email that should have been on file for you was [REDACTED]
- 15) Notes entered by NYSOH in Incident [REDACTED] on April 4, 2017 state, “unknown email linked to incorrect account [REDACTED] please update to [REDACTED]”
- 16) Notes entered in Incident [REDACTED] on January 11, 2017 indicate, “Consumer has no access to e-mail attached to the Username/Password as she has informed us that that was generated by the representative she had on her account.”
- 17) Your NYSOH account reflects that your email is currently listed as [REDACTED]
- 18) The record reflects that you have a second, inactive NYSOH account, [REDACTED], that was created on March 25, 2014 by username [REDACTED]. That account listed an email address of [REDACTED]
- 19) Your NYSOH reflects that on November 18, 2016, NYSOH received your updated application for health insurance.

- 20) Your NYSOH account reflects that income documentation was faxed on November 18, 2016, and further documentation was uploaded on December 21, 2016.
- 21) Your NYSOH account reflects that NYSOH did not review the documentation that you uploaded on December 21, 2016, and that your eligibility was not re-determined until you updated your account on January 3, 2017, which resulted in a determination that you were eligible for Medicaid.
- 22) You testified that you are seeking reinstatement in your MMC plan as of December 1, 2016 because you have medical bills from December 2016 and January 2017 that you paid out-of-pocket for, as they were not covered by your Fee-For-Service Medicaid.
- 23) After the hearing, your attorney faxed two sets of documents to NYSOH as follows:
 - a. April 3, 2017: Three-page fax consisting of:
 - i. One-page cover sheet;
 - ii. A two-page letter written by the appellant describing her account of what has transpired with her NYSOH application;
 - b. April 13, 2017: Four-page fax consisting of:
 - i. A one-page cover sheet;
 - ii. A one-page affidavit by [REDACTED] detailing his attempt to log into the appellant's NYSOH account on April 12, 2017;
 - iii. A two-page affidavit by the appellant;

These faxes are marked and entered into the record as "Appellant's Exhibits One" and "Appellant's Exhibit Two," respectively.

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,

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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)).

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 2010,13 ADM-03(III)(F)).

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; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

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 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 MMC plan was effective February 1, 2017.

You were found eligible for Medicaid effective December 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual

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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 there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by November 15, 2016, or your financial assistance might end.

Because there was no timely response to this notice, you were terminated from your MMC plan, effective November 30, 2016.

However, 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. 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.

Additionally, you testified that you have had problems getting access to the notices in your NYSOH account since it was first established. You testified that you received some email alerts, but that you were never able to log into your NYSOH account to read the notices. NYSOH's system also reflects that two accounts were created in your name. The inactive account lists your [REDACTED] address, which you testified was your correct email address, and the active account lists an address that appears to contain a spelling error ([REDACTED] instead of [REDACTED]). Not only is it unclear where this email address came from, but it is also unclear why it remains as the address listed on your account, when the notes entered by NYSOH in their system indicate that your email address was updated to [REDACTED] account.

Therefore, given all of the above, it is concluded that NYSOH did not give you the required notice that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for the upcoming coverage year on November 18, 2016, and therefore we must assume that the information you provided at that time is the information that would have been used, had you been timely informed of the need to update your account, as stated in the renewal notice.

Had the information been submitted within the renewal timeframe, your enrollment in your MMC plan would have begun on December 1, 2016.

Therefore, the January 4, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in your MMC plan was effective December 1, 2016.

Decision

The January 4, 2017 notice of enrollment confirmation is MODIFIED to state that your enrollment in your MMC plan was effective December 1, 2016.

Your case is RETURNED to NYSOH to facilitate correcting your enrollment in your MMC plan to the appropriate date.

Effective Date of this Decision: April 21, 2017

How this Decision Affects Your Eligibility

Your enrollment in your MMC plan should have been effective as of December 1, 2016.

Your case is being sent back to NYSOH to reinstate you in your MMC plan as of December 1, 2016.

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

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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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 4, 2017 notice of enrollment confirmation is MODIFIED to state that your enrollment in your MMC plan was effective December 1, 2016.

Your case is RETURNED to NYSOH to facilitate correcting your enrollment in your MMC plan to the appropriate date.

Your enrollment in your MMC plan should have been effective as of December 1, 2016.

Your case is being sent back to NYSOH to reinstate you in your MMC plan as of December 1, 2016.

Legal Authority

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

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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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