



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

Notice of Decision

Decision Date: April 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014608

[REDACTED]

Dear [REDACTED]

On April 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's termination of your Medicaid coverage, effective November 1, 2016, and failure to allow you to enroll in a Medicaid Managed Care plan as of April 6, 2016.

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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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 discontinue your Medicaid coverage, effective November 1, 2016?

Did NYSOH properly determine that you were not eligible to retroactively enroll in a Medicaid Managed Care (MMC) plan for the period of May 1, 2016 through December 31, 2016?

Procedural History

On January 29, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid because your household income of \$6,624.00 was at or below the allowable income limit. This eligibility was effective as of January 1, 2016.

On June 14, 2016, NYSOH received your updated application for health insurance; specifically, the income information was updated.

On June 15, 2016, NYSOH issued a notice of eligibility determination stating that you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until December 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility was effective as of June 1, 2016.

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On August 27, 2016, NYSOH issued a notice of enrollment confirmation stating that you had been enrolled into an MMC plan with United Healthcare, effective October 1, 2016.

On September 28, 2016, you updated your NYSOH account.

On September 29, 2016, NYSOH issued a notice stating that your September 28, 2016 application had been reviewed, but that more information was needed to confirm the information in your application.

Also on September 29, 2016, NYSOH issued a notice stating that your enrollment in your MMC plan was ending as of October 31, 2016.

On November 9, 2016, you updated your NYSOH account.

On November 10, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan with a \$0.00 monthly premium effective December 1, 2016.

On January 5, 2017, you contacted NYSOH's Account Review Unit and appealed the fact that you had been unable to enroll in an MMC plan of your choosing from May 1, 2016 through November 30, 2016, and that you had been unable to select an Essential Plan for enrollment. You were also appealing that you had not had health insurance coverage since October 31, 2016.

You were subsequently enrolled into an Excellus Blue Cross/Blue Shield Essential Plan, and that enrollment was backdated to January 1, 2017.

On April 3, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, the issues under appeal were modified to reflect that you were no longer appealing regarding your Essential Plan coverage. The remaining issues that you wished to appeal were the fact that you had no health insurance coverage during the month of November 2016, and that you had not been able to enroll in an MMC plan of your choosing at any point in 2016. 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 were found eligible for Medicaid, effective January 1, 2016, in a determination dated January 29, 2016, and that eligibility is not under appeal or review.

- 2) You testified that, in January 2016, you tried to enroll in an MMC plan, but that you were unable to complete the plan selection process online because you received an error message.
- 3) You testified that you thought there might be an issue with your computer or the internet, so you waited and tried again in February 2016, but received the same error message.
- 4) You testified that, after that point, you tried again to enroll in an MMC plan on February 15, 2016, March 1, 2016, and March 15, 2016, but continued to receive the same error message.
- 5) You testified that you first called NYSOH regarding the error message in February or March of 2016, and the person you spoke with told you that they would enroll you in an MMC plan. However, when they tried to enroll you, they received the same error message.
- 6) You testified that the first person you spoke with at NYSOH told you that they did not know why there was an error message, and maybe you should try again at a later point.
- 7) You testified that you called again in March and April 2016, and again the NYSOH representatives received the same error message you had been receiving. You testified that, in April 2016, you were given a tracking number regarding the error, and you believe that number was [REDACTED]
- 8) Notes entered by NYSOH on January 10, 2017 in Incident # [REDACTED] state "Appellant contacted marketplace on 4/6/16, due to not being able to enroll into a MMC plan with Excellus due to "We are Sorry" message at the confirm and check out screen. The appellant had a defect filed [REDACTED] same day."
- 9) On June 14, 2016, your NYSOH application was updated. This resulted in a determination that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until December 31, 2016.
- 10) On August 27, 2016, NYSOH issued a notice stating that you had been enrolled into a United Healthcare MMC plan, effective October 1, 2016, because you had not selected a plan.
- 11) You testified that you remained unable to select a plan and, when you received the notice that NYSOH had enrolled you into a plan, you immediately called NYSOH to inform them that you did not want this enrollment, as your doctors did not accept this MMC plan.

- 12) You testified that the person you spoke with at NYSOH might have offered to change the plan when you called to speak to them, but that, since the error message was still coming up on your account, they were unable to change the enrollment.
- 13) Your NYSOH account reflects that you updated your account again on September 28, 2016. This resulted in a “pending Medicaid” status, and you were asked to provide income documentation.
- 14) Information in your NYSOH account also indicates that, for reasons that are not immediately clear, your fee-for-service Medicaid coverage terminated as of October 31, 2016 after the September 28, 2016 application update, though no notice was issued to inform you that your fee-for-service Medicaid coverage was ending.
- 15) You testified that you did not know that your coverage had ended as of October 31, 2016, and that you have medical bills that are unpaid from the month of November 2016.
- 16) You testified that you are proceeding with this appeal to ensure that, at a minimum, you are reinstated into Medicaid coverage for November 2016 so that your outstanding bills can be covered.
- 17) You testified that you have been extremely frustrated with the process of trying to enroll in coverage through NYSOH, and that you were only able to enroll in an Essential Plan for 2017 after contacting your state Senator’s office and an attorney.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

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Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036).

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Medicaid Managed Care Plans

Generally, with regard to enrollment in an MMC plan, Medicaid recipients, except for those who are eligible for an exemption or an exclusion, must enroll in an MMC plan (18 NYCRR § 360-10.4(a)).

Legal Analysis

The first issue under review is whether NYSOH properly terminated you from your Medicaid coverage, effective November 1, 2016.

You were found eligible for Medicaid as of January 1, 2016, and that eligibility is not under review.

The record reflects that, on June 14, 2016, you updated your NYSOH application, including the income information.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

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On June 15, 2016, NYSOH issued a notice of eligibility determination stating that, based on the information in your June 14, 2016 application, you were no longer eligible for Medicaid, but your eligibility would continue until December 31, 2016 because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date they were determined eligible. Again, this determination is not under appeal.

After this point, your NYSOH account was updated several times, presumably because, as you have credibly testified, you were trying to enroll in an MMC plan. However, when you updated your account on September 28, 2016, this seems to have resulted in your Medicaid eligibility terminating as of October 31, 2016.

Generally speaking, an individual who is eligible for Medicaid will remain in Medicaid coverage for a period of 12 months with very limited exceptions, including becoming incarcerated, moving out of the state, or obtaining third party health insurance. There is no evidence in the record to suggest that any of these circumstances occurred.

For this reason, you should have remained eligible for Medicaid until December 31, 2016, as stated in the June 15, 2016 eligibility determination notice.

Your case is RETURNED to NYSOH to reinstate you in your fee-for-service Medicaid coverage for the months of November and December 2016.

The second issue under review is NYSOH's refusal to allow you to retroactively enroll in an MMC plan for the period of May 1, 2016 through December 31, 2016.

Ordinarily, an individual who is eligible for Medicaid will be required to enroll in an MMC plan. There is no evidence in the record that you were exempt or excluded from enrolling in an MMC plan, nor is there any notice from NYSOH stating that this is the case. Based on your credible testimony, and notes entered by NYSOH regarding Defect [REDACTED], it appears that your inability to enroll in an MMC plan was the result of a system issue, and not related to your eligibility. Indeed, the record reflects that the problem persisted even after you were found eligible for the Essential Plan, and that you were also unable to select an Essential Plan for coverage until February 2017.

You testified that you wanted to enroll in an Excellus Blue Cross/Blue Shield MMC plan, but were never able to because of the system error. As your lack of enrollment was due entirely to a NYSOH system error, and no fault of yours, NYSOH's decision not to allow you to retroactively enroll in an MMC plan was not correct.

Your case is RETURNED to NYSOH so that NYSOH can immediately facilitate your enrollment in an MMC plan of your choosing for the period from May 1,

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2016 to December 31, 2016. NYSOH is directed to conduct follow-up with you to ensure that your coverage for 2017 is in place.

Decision

NYSOH's termination of your fee-for-service Medicaid coverage, effective November 1, 2016, was not correct.

NYSOH's determination that you were not eligible to retroactively enroll in an MMC plan for the period of May 1, 2016 through December 31, 2016 was not correct.

Your case is RETURNED to NYSOH to reinstate you in your fee-for-service Medicaid coverage for the months of November and December 2016, and to facilitate your enrollment in an MMC plan of your choosing for the period of May 1, 2016 through December 31, 2016.

Effective Date of this Decision: April 19, 2017

How this Decision Affects Your Eligibility

Your fee-for-service Medicaid coverage should have continued until December 31, 2016.

You should have been allowed to retroactively enroll in an MMC plan for May 1, 2016 through December 31, 2016.

Your case is being sent back to NYSOH to reinstate your fee-for-service Medicaid coverage for the months of November and December 2016.

NYSOH will promptly contact you to assist you in selecting an MMC plan for enrollment for the period of May 1, 2016 through December 31, 2016, and to ensure that your coverage for 2017 is in place.

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

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

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Summary

NYSOH's termination of your fee-for-service Medicaid coverage, effective November 1, 2016, was not correct.

NYSOH's determination that you were not eligible to retroactively enroll in an MMC plan for the period of May 1, 2016 through December 31, 2016 was not correct.

Your case is RETURNED to NYSOH to reinstate you in your fee-for-service Medicaid coverage for the months of November and December 2016, and to facilitate your enrollment in an MMC plan of your choosing for the period of May 1, 2016 through December 31, 2016.

Your fee-for-service Medicaid coverage should have continued until December 31, 2016.

You should have been allowed to retroactively enroll in an MMC plan for May 1, 2016 through December 31, 2016.

Your case is being sent back to NYSOH to reinstate your fee-for-service Medicaid coverage for the months of November and December 2016.

NYSOH will promptly contact you to assist you in selecting an MMC plan for enrollment for the period of May 1, 2016 through December 31, 2016, and to ensure that your coverage for 2017 is in place.

Legal Authority

We are sending you this notice 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 bεtumi ama wo obi a okyerε 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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