



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

Notice of Decision

Decision Date: May 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014628

[REDACTED]

Dear [REDACTED],

On April 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 17, 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).

This page intentionally left blank.



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

Decision

Decision Date: May 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014628

[REDACTED]

Issues

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

Was your appeal of the August 17, 2016 enrollment confirmation notice stating your enrollment in a Medicaid Managed Care plan became effective October 1, 2016, timely?

Did NY State of Health (NYSOH) properly determine your Medicaid Managed Care plan coverage became effective no earlier than October 1, 2016?

Procedural History

On July 22, 2016, NYSOH received your updated application for health insurance.

On July 23, 2016, NYSOH issued a notice indicating additional information was required to determine whether you, your spouse, and your children were eligible for health insurance. The notice directed you to submit proof of income by August 6, 2016 to confirm your eligibility.

On July 26, 2016, NYSOH received a copy of income documentation you submitted.

On August 2, 2016, NYSOH issued a notice stating the documentation you submitted did not confirm the information in your application. The notice directed you to submit additional proof of your household's income by August 21, 2016 or you might lose your insurance or receive less help paying for your coverage.

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).

On August 9, 2016, you updated your application and uploaded additional income documentation.

On August 10, 2016, NYSOH issued an eligibility determination notice, based on your August 9, 2016 updated application, stating you were conditionally eligible for Medicaid, effective August 1, 2016. The notice directed you to provide proof of your household's income by August 21, 2016 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage. The notice further directed you to "pick a health plan."

On August 16, 2016, NYSOH issued an eligibility determination notice stating you "remain eligible for Medicaid," effective August 1, 2016.

On August 17, 2016, NYSOH issued an enrollment confirmation notice, based on your August 16, 2016 plan selection, stating you were enrolled in a Medicaid Managed Care plan, effective October 1, 2016.

On January 5, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Medicaid Managed Care plan coverage insofar as your coverage through this plan was not effective September 1, 2016.

On February 6, 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 support the following findings of fact:

- 1) Your account confirms you submitted an updated application for financial assistance with health insurance for your family on July 22, 2016. This application indicated you were applying for health insurance.
- 2) NYSOH requested income documentation to confirm your eligibility.
- 3) On July 26, 2016, NYSOH received a copy of income documentation submitted consisting of unsigned tax forms and schedules from your 2015 joint tax return showing income from self-employment. This documentation was invalidated by NYSOH on August 1, 2016 on the grounds you and your spouse attested to being employed and, therefore, you were required to submit four consecutive weekly paystubs.

- 4) You testified you were receiving your notices from NYSOH through the regular mail, but you changed your communication preference to electronic notices in early August 2016.
- 5) On August 9, 2016, you contacted NYSOH and updated your application, indicating for the first time that you were currently pregnant with an anticipated due date of [REDACTED].
- 6) Also on August 9, 2016, you uploaded a full copy of a Form 1040 tax return for the 2015 tax year including the IRS e-file Signature Authorization form.
- 7) On August 10, 2016, NYSOH issued an eligibility determination notice stating you were conditionally eligible for Medicaid, effective August 1, 2016. This notice directed you to “pick a health plan.” You testified you did not receive an email alert regarding this notice nor did you receive the notice by mail and you were unaware you could pick a Medicaid Managed Care plan at that time.
- 8) You testified you were not aware you could pick a Medicaid Managed Care plan until you received the email alert on August 16, 2016 and read the eligibility determination notice dated August 16, 2016 directing you to pick a Medicaid Managed Care plan.
- 9) You testified, and your account confirms, you called NYSOH the same day and selected a Medicaid Managed Care plan. The coverage through this plan became effective October 1, 2016.
- 10) Also on August 16, 2016 you contacted NYSOH and incident # [REDACTED] was created regarding your request to backdate your Medicaid Managed care plan to September 1, 2016. Notes related to this incident indicate you called many times to check the status of this incident and a decision denying your request to backdate your Medicaid Managed Care plan was not reached until January 4, 2017.
- 11) According to your account, on January 5, 2017 a formal appeal regarding the effective date of your Medicaid Managed Care plan was filed on your behalf.
- 12) You testified you are seeking to have your coverage through this plan backdated to September 1, 2016, because you did not receive notice you could pick a health plan until it was too late for that plan to become effective the next month.
- 13) You testified, and your account confirms, your youngest child was born [REDACTED].

- 14) You testified, and your account confirms, you were covered by fee-for-service Medicaid only for August and September 2016.
- 15) You testified you have outstanding medical bills from that time because your medical provider does not accept fee-for-service Medicaid.

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

Applicable Law and Regulations

Timely Appeal Requests

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Verification Process

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

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)).

Medicaid – Effective Dates of Coverage

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)).

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).

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 first issue is whether your appeal of the August 17, 2016 enrollment confirmation notice stating your enrollment in a Medicaid Managed Care plan became effective October 1, 2016 was timely.

According to your account, on August 16, 2016, you selected a Medicaid Managed Care plan for enrollment. That day you learned your coverage through this plan would not become effective until October 1, 2016. Records show that, the same day, you contacted NYSOH and requested the effective date of your Medicaid Managed Care plan be backdated to September 1, 2016. The same records show that you called, no less than ten times, from August through October 2016 to check the status of this backdate request and you were repeatedly advised the request was “still in progress.” According to your account, NYSOH did not deny your request to backdate your Medicaid Managed Care plan coverage until January 4, 2017. You were advised of this decision on January 5, 2017 and you requested to file a formal appeal of this decision the same day.

Pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the effective date of your Medicaid Managed Care plan coverage, as indicated in the August 17, 2016 enrollment confirmation notice, an appeal should have been filed by October 16, 2016. Although a formal appeal was not filed in this case until January 5, 2017, long after the 60-day limit, the evidence clearly establishes the delay was a direct result of NYSOH’s failure to issue a timely decision on your request to backdate your Medicaid Managed Care plan coverage. Your request was filed on August 16, 2016, one day prior to NYSOH issuing the enrollment confirmation notice at issue. Therefore, your August 16, 2016 request to backdate your Medicaid Managed Care plan coverage is deemed an appeal of the start date of your coverage.

Thus, it is concluded your appeal on the issue of the effective date of your Medicaid Managed Care plan coverage is timely.

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).

The second issue under review is whether NYSOH properly determined your enrollment in your Medicaid Managed Care plan became effective no earlier than October 1, 2016.

NYSOH received your family's updated application for financial assistance with health insurance on July 22, 2016. This application indicated you were applying for health insurance. Following this update, NYSOH requested income documentation to confirm your eligibility. NYSOH received documentation you submitted on July 26, 2016, but this documentation was invalidated by NYSOH on the grounds you and your spouse attested to being employed and, therefore, you were required to submit four consecutive weekly paystubs.

On August 9, 2016, you updated your application again, indicating, for the first time, you were pregnant. As a result, you were granted presumptive Medicaid coverage pending verification of your income documentation. Also on August 9, 2016, you uploaded additional income documentation. Following this update, on August 10, 2016, NYSOH issued an eligibility determination notice stating you were conditionally eligible for Medicaid, effective August 1, 2016. This notice directed you to "pick a health plan." You testified you did not receive this notice.

You credibly testified you were receiving your notices from NYSOH through the regular mail, but you changed your communication preference to electronic notices in early August 2016. You testified you did not receive an email alert regarding the August 10, 2016 eligibility determination notice nor did you receive the notice by mail and, thus, you were unaware you could pick a Medicaid Managed Care plan at that time. According to your account, the August 10, 2016 electronic eligibility determination notice posted to your account has never been opened.

Pursuant to the regulations, if an 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. 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.

As discussed above you credibly testified you updated your communication preference with NYSOH to electronic communication in early August 2016. You testified you did not receive an email alert regarding the August 10, 2016 eligibility determination notice directing you to pick a health plan. You further testified you did not receive this notice in the mail either. It is noted that there is no evidence in your account showing that any email alert was sent to you regarding the need to pick a health plan, that any such electronic notice failed, or that the notice was later sent to you by regular mail. Therefore, it is concluded NYSOH failed to provide you with adequate notice that you were permitted to select a health plan as of August 10, 2016.

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).

Your account confirms, NYSOH verified your income documentation and issued an updated eligibility determination stating you were fully eligible for Medicaid and directing you to pick a health plan on August 16, 2016. You testified you received an email alert regarding this notice and your account confirms the electronic notice posted to your account on August 16, 2016 was opened. Your account confirms you selected a health plan the same day and your coverage through that plan became effective October 1, 2016. You testified you are seeking to have your coverage through this plan backdated to September 1, 2016, because you never received notice you were able to select a plan prior to August 16, 2016.

Pursuant to the regulations, the date a Medicaid Managed Care plan enrollment can take effect depends on the day on which it is selected. 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.

As discussed above, the evidence establishes you did not receive adequate notice that you were able to select a health plan on August 10, 2016. Had you been properly advised you could select a health plan on this date, it may be presumed that you would have done so, and the coverage through that plan would have become effective on the first day of the next following month; that is, September 1, 2016.

Therefore, based on NYSOH's failure to provide you with adequate notice of your ability to select a health plan on August 10, 2016, the August 17, 2016 enrollment confirmation notice stating your enrollment in your Medicaid Managed Care plan became effective October 1, 2016 is MODIFIED to reflect the coverage through this plan became effective September 1, 2016.

Decision

Your appeal of the August 17, 2016 enrollment confirmation notice is timely.

The August 17, 2016 enrollment confirmation notice is MODIFIED to reflect your coverage through your Medicaid Managed Care plan became effective September 1, 2016.

Your case is RETURNED to NYSOH to backdate your Medicaid Managed Care plan coverage to September 1, 2016.

Effective Date of this Decision: May 24, 2017

How this Decision Affects Your Eligibility

The effective date of your Medicaid Managed Care plan is September 1, 2016.

Your case is being sent back to NYSOH to ensure you are enrolled in your Medicaid Managed Care plan for the month of September 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
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 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).

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

Your appeal of the August 17, 2016 enrollment confirmation notice is timely.

The August 17, 2016 enrollment confirmation notice is MODIFIED to reflect your coverage through your Medicaid Managed Care plan became effective September 1, 2016.

Your case is RETURNED to NYSOH to backdate your Medicaid Managed Care plan coverage to September 1, 2016.

The effective date of your Medicaid Managed Care plan is September 1, 2016.

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।

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).

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 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.

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).