



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

## Notice of Decision

Decision Date: May 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015022

[REDACTED]

Dear [REDACTED]

On April 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 7, 2016, disenrollment 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: May 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015022



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly disenroll your child from their Medicaid Managed Care (MMC) plan effective November 30, 2016?

## Procedural History

On October 13, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Medicaid effective October 1, 2016.

On October 15, 2016, NYSOH issued an enrollment notice confirming that as of October 14, 2016, your child was enrolled in a MMC plan with an enrollment start date of November 1, 2016.

On December 6, 2016, your NYSOH account was systematically updated.

On December 7, 2016, NYSOH issued three notices:

- (1) An eligibility determination notice stating, in relevant part, that your child remained eligible for Medicaid;
- (2) A disenrollment notice stating that your child's MMC coverage would end November 30, 2016, because records showed that your child was enrolled in other health insurance coverage or Medicare.
- (3) An enrollment notice confirming, in relevant part, that the type of Medicaid coverage your child was eligible for does not require/allow them to enroll in a health plan.

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On December 15, 2016, you uploaded additional documentation to your NYSOH account [REDACTED].

On December 22, 2016, your NYSOH account was updated.

On December 23, 2016, NYSOH issued an eligibility determination notice stating that your child remained eligible for Medicaid effective as of December 1, 2016.

Also on December 23, 2016, NYSOH issued an enrollment notice confirming that your child was enrolled in a MMC health plan with an enrollment start date of February 1, 2017.

On January 21, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the disenrollment of your child's MMC plan.

On April 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at the end of the proceeding.

## **Findings of Fact**

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

- 1) According to your NYSOH account, your child was determined eligible for Medicaid effective October 1, 2016.
- 2) According to your NYSOH account, your child was enrolled in the MMC plan, Fidelis Care, with an enrollment start date of November 1, 2016.
- 3) Your account reflects, that on November 30, 2016 your child was disenrolled from their MMC plan because it was determined that your child was enrolled in third-party health insurance.
- 4) You testified that your child was enrolled in a BlueCross BlueShield (BCBS) health plan as soon as they were born.
- 5) You testified that in October 2016 you requested that BCBS terminate your child's health plan.
- 6) On December 15, 2016, you uploaded a screenshot of a certificate of termination from BlueShield of Northeastern New York. The certificate states that your child was enrolled in that health plan from July [REDACTED] 2016 through November 4, 2016 ([REDACTED]).

- 7) Your NYSOH account reflects that your child was re-enrolled a MMC plan on December 22, 2016, with an enrollment start date of February 1, 2017.
- 8) You testified that you incurred \$575.00 in medical expenses because your child had a gap in their MMC plan.

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

## **Applicable Law and Regulations**

### Enrollment in MMC

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

A “Managed Care Program” is a statewide program in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c)).

### Third-Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider which may be maintained by payment, or part payment, and such payment would be cost-effective may not enroll in a MMC plan (NY SSL § 364-j(3)(e)(xx)).

### MMC Start Date

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; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

## **Legal Analysis**

The issue under review is whether NYSOH properly disenrolled your child from their MMC effective November 30, 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).

In the October 13, 2016 eligibility determination notice, your child was found eligible for Medicaid, effective October 1, 2016. On October 14, 2016 your child was enroll in a MMC plan, with an enrollment start date of November 1, 2016.

Generally, when an individual is eligible for Medicaid through NYSOH, they are required to enroll in a MMC plan. However, when a person has active comprehensive third-party health coverage in a health insurance plan outside of NYSOH and it is determined to be cost-effective, they are not eligible to enroll in a MMC plan.

On December 6, 2016, NYSOH redetermined your household's eligibility for financial assistance with health insurance. On December 7, 2016, NYSOH issued a disenrollment notice stating your child's coverage in their MMC plan would be terminated as of November 30, 2016 because they were enrolled in other health insurance or Medicare.

However, you credibly testified that your child was no longer enrolled in health insurance outside of NYSOH and submitted documentation from BlueShield of Northeastern New York confirming that your child was no longer enrolled in that health insurance plan as of November 4, 2016.

The credible record supports that your child was no longer enrolled in third-party health insurance when NYSOH disenrolled them from their MMC health plan on December 6, 2016. Therefore, your child was incorrectly disenrolled from their MMC plan.

Accordingly, the December 7, 2016, disenrollment notice terminating your child's MMC plan effective November 30, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's MMC plan from December 1, 2016 through January 31, 2017.

## **Decision**

The December 7, 2016, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's MMC plan from December 1, 2016 through January 31, 2017.

**Effective Date of this Decision:** May 11, 2017

## **How this Decision Affects Your Eligibility**

NYSOH improperly disenrolled your child from their MMC plan effective November 30, 2016.

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Your case is being sent back to reinstate your child's MMC plan from December 1, 2016 through January 31, 2017.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777

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).

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

## **Summary**

The December 7, 2016, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's MMC plan from December 1, 2016 through January 31, 2017.

NYSOH improperly disenrolled your child from their MMC plan effective November 30, 2016.

Your case is being sent back to reinstate your child's MMC plan from December 1, 2016 through January 31, 2017.

## **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**



## Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### 中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### 中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### 한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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