



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: AP000000015423

[REDACTED]

Dear [REDACTED]

On May 2, 2017, your spouse, acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health's January 6, 2017 cancellation notice and January 4, 2017 enrollment 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

Decision Date: May 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015423

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine that your children's enrollment in a Medicaid Managed Care plan terminated effective February 1, 2017?

If not, did NYSOH properly determine that your children were enrolled in a Medicaid Managed Care plan effective no earlier than February 1, 2017?

Procedural History

On December 12, 2016, NYSOH received your three applications for health insurance.

On December 13, 2016, in response to the final application received on December 12, 2016, NYSOH issued a notice stating that the information contained in that application did not match information NYSOH received from state and federal data sources. The notice directed you to provide both income documentation and proof of benefit information for third party health insurance for your children by December 27, 2016.

Also on December 13, 2016, NYSOH received two earnings statements issued to you by your employer, [REDACTED] on November 15, 2016 and December 1, 2016.

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On December 14, 2016, NYSOH received (1) a New York State Health Insurance Program (NYSHIP) insurance card reflecting your family's enrollment in the Empire Plan, which did not reference enrollment or projected termination dates, (2) your spouse's Social Security card, and (3) your spouse's U.S. Passport, issued on September 8, 2014, with an expiration date of September 7, 2024.

On December 30, 2016, NYSOH redetermined your household's eligibility based on information contained in your account as of that date.

On December 31, 2016, NYSOH issued an eligibility determination notice stating that your children were each eligible for Medicaid, effective December 1, 2016. The notice also stated that the type of Medicaid coverage your children were eligible for did not require them to enroll in a health plan.

On January 3, 2017, NYSOH received an update to your application for health insurance.

On January 4, 2017, NYSOH issued an eligibility determination notice stating that your children were no longer eligible for Medicaid; however, their Medicaid coverage would continue until November 30, 2017. This was because certain individuals who qualified for Medicaid get coverage for twelve months for the date they were last determined eligible. This eligibility determination was effective January 1, 2017.

Also on January 4, 2017, NYSOH issued an enrollment notice confirming your selection of a Medicaid Manage Care (MMC) plan for your children's coverage as of January 3, 2017. The notice stated that your children's MMC plan coverage would begin effective February 1, 2017.

On January 5, 2017, NYSOH redetermined your household's eligibility based on information contained in your account as of that date.

On January 6, 2017, NYSOH issued an eligibility determination notice stating that your children were no longer eligible for Medicaid; however, their Medicaid coverage would continue until November 30, 2017. This eligibility determination was effective February 1, 2017.

Also on January 6, 2017, NYSOH issue a cancellation notice stating that your children's MMC plan coverage ended effective February 1, 2017 because NYSOH records show that they have other health insurance or Medicare.

On January 20, 2017, NYSOH received a letter issued to you by Empire BlueCross BlueShield, dated January 8, 2017, confirming the termination of your family's coverage under that plan as January 1, 2017.

On January 23, 2017, NYSOH received a letter from you stating that you were the sole provider for your family and that you currently work at the BNC insurance agency with a salary of \$40,000.00.

On January 31, 2017, NYSOH redetermined your household's eligibility based on information contained in your account as of that date.

On February 1, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for Medicaid, effective January 1, 2017. The notice also advised you to select an MMC plan for your children's coverage at that time.

On February 2, 2017, NYSOH issued an enrollment notice stating that your selection of an MMC plan for your children's coverage as of February 1, 2017. The notice stated that your children's coverage under that MMC plan would begin effective March 1, 2017. You spoke to NYSOH's Account Review Unit and appealed the start date of your children's enrollment in their MMC plan, insofar as your enrollment did not begin January 1, 2017.

On April 24, 2017, NYSOH received a completed Authorized Representative Designation Form reflecting that you wanted your spouse, [REDACTED], to act as your Authorized Representative for all matters related to your NYSOH account, including the appeal.

On May 2, 2017, your spouse, acting as your Authorized Representative, 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 supports the following findings of fact:

- 1) Your spouse testified, and your account confirms, that your children were initially found eligible for Medicaid effective December 1, 2016.
- 2) The record reflects that you were initially permitted to select an MMC for your children's coverage on January 3, 2017.
- 3) Your spouse testified, and your account confirms, that on January 6, 2017 your children were disenrolled from your MMC plan because the system determined that your children had active third party health insurance.
- 4) Your spouse testified, and your application reflected, that your children had insurance through your employer until December 31, 2016.

- 5) On December 14, 2016, you provided to NYSOH a picture of the front and back of the NYSHIP insurance card reflecting that your children were dependents under your employer-sponsored health insurance plan. This card did not reference enrollment or projected termination dates.
- 6) On January 20, 2017, you provided to NYSOH a letter issued to you by Empire BlueCross BlueShield, dated January 8, 2017, confirming the termination of your family's coverage under that plan as January 1, 2017.
- 7) The record indicates that the reference to third party health insurance was removed from the system on January 31, 2017.
- 8) Your spouse testified that your children were without an MMC plan between January 1, 2016 and February 28, 2016, and incurred medical bills during that time.
- 9) The record does not contain any information from NYSOH regarding where it had obtained the information that your children were enrolled in third party health insurance.
- 10) The record indicates that your children were reenrolled into a MMC plan on February 1, 2016, which provided a coverage start date of March 1, 2017.

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

Applicable Law and Regulations

Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if that individual was eligible at 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)).

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 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13 ADM-03(III)(F)).

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Continuous Coverage

Most applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace 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 any subsequent Medicaid eligibility determination based on modified adjusted gross income (see 42 CFR § 435.916; NY Social Services Law (NY SSL) § 366(4)(c)).

Third Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider is not permitted to enroll into a Medicaid Managed Care plan (NY SSL § 364-j(3)(e)(xx); Medicaid Managed Care Model Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019). However, they will remain eligible for fee-for-service Medicaid with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY SSL § 366(4)(c)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children’s enrollment in their MMC plan was cancelled effective February 1, 2017.

In the December 31, 2016 notice of eligibility determination, you children were found eligible for Medicaid, effective December 1, 2016. On January 3, 2017, you selected an MMC plan for your children’s coverage, effective February 1, 2017, as is documented by the January 4, 2017 notice of enrollment confirmation.

Generally, when an individual is eligible for Medicaid through NYSOH they are required to enroll in an MMC plan. Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid Social Security number.

On January 5, 2017, NYSOH redetermined your household’s eligibility for financial assistance with health insurance. On January 6, 2017, NYSOH issued a disenrollment notice advising that your children’s coverage in their MMC plan

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would be cancelled as of February 1, 2017 because they were enrolled in a third benefit health insurance or Medicare.

When NYSOH determines that a person has active coverage in a health insurance plan outside of NYSOH, that person is not eligible to be enrolled in a separate health insurance plan.

However, your spouse credibly testified that your children's coverage under their employer-sponsored health insurance ended on December 31, 2016, and had submitted documentation from your employer-sponsored health insurance confirming that their coverage ended as of that date.

Therefore, when NYSOH cancelled your children's MMC plan coverage due to their having third party health insurance, your children did not, in fact, have third party health insurance and the information relied upon by NYSOH in making the determination to terminate their coverage under their MMC plan was incorrect.

Accordingly, the January 6, 2017 cancellation notice cancelling their coverage under their MMC plan, effective February 1, 2017 is **RESCINDED**.

The second issue under review is, if NYSOH had erroneously disenrolled your children from their MMC plan coverage as of February 1, 2016, whether NYSOH properly determined that your children were enrolled in a MMC plan effective February 1, 2017.

The record reflects that you submitted your initial applications on December 12, 2016 in which you were seeking health insurance for your children. In response to these application updates, NYSOH requested that you provide income documentation and proof of your children's benefit information for Third Party Health Insurance by December 27, 2016.

The record reflects that on December 13, 2016, you provided two earnings statements issued to you by your employer, [REDACTED], on November 15, 2016 and December 1, 2016.

The record further reflects that on December 14, 2016, you provided to NYSOH a picture of the front and back of the NYSHIP insurance card reflecting that your children were dependents under your employer-sponsored health insurance plan.

These two sets of documentation were reviewed and verified by NYSOH on January 3, 2017, which ultimately permitted you to select an MMC plan for your children on January 3, 2017.

The now available record reflects that your children were erroneously disenrolled from their MMC plan as of February 1, 2017. Accordingly, since you sufficiently satisfied NYSOH's request for additional documentation to both provide income

and Third Party Health Insurance on December 14, 2016, prior to the requested deadline, you should have been permitted to select a health plan for your children at that time.

The date on which an MMC plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since we may reasonably infer that you would have selected a MMC plan on December 14, 2016, it should have taken effect on the first day of the month following December 2016; that is, on January 1, 2017.

Therefore, the January 4, 2017 enrollment notice is MODIFIED to state that your children's enrollment in their MMC plan is effective January 1, 2017.

Your case is RETURNED to NYSOH to effectuate the above referenced changes to your children's MMC enrollment start date.

Decision

The January 6, 2017 cancellation notice is RESCINDED

The January 4, 2017 enrollment notice is MODIFIED to state that your children's enrollment in their MMC plan is effective January 1, 2017.

Your case is RETURNED to NYSOH to effectuate the above referenced changes to your children's MMC enrollment start date.

Effective Date of this Decision: May 24, 2017

How this Decision Affects Your Eligibility

NYSOH improperly disenrolled your children from their MMC plan as of February 1, 2017.

Your case is being sent back to reinstate your children's MMC plan as of January 1, 2017.

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 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
- By mail at:
NY State of Health Appeals
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The January 6, 2017 cancellation notice is RESCINDED

The January 4, 2017 enrollment notice is MODIFIED to state that your children's enrollment in their MMC plan is effective January 1, 2017.

Your case is RETURNED to NYSOH to effectuate the above referenced changes to your children's MMC enrollment start date.

NYSOH improperly disenrolled your children from their MMC plan as of February 1, 2017.

Your case is being sent back to reinstate your children's MMC plan as of January 1, 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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