



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

Notice of Decision

Decision Date: September 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018393

[REDACTED]
[REDACTED]
[REDACTED]

On August 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 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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Decision

Decision Date: September 25, 2017

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 terminate your Essential Plan coverage, effective February 28, 2017?

Did NYSOH properly determine your enrollment in your Medicaid Managed Care plan became effective no earlier than April 1, 2017?

Procedural History

On December 16, 2016, NYSOH issued a notice of eligibility determination stating you were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on December 16, 2016, NYSOH issued an enrollment notice confirming you were enrolled in an Essential Plan and a dental plan, effective February 1, 2017.

On February 15, 2017, NYSOH received your updated application for financial assistance with health insurance.

On February 16, 2017, NYSOH issued an eligibility determination stating you were eligible for Medicaid, effective February 1, 2017. The notice indicated you were no longer eligible for the Essential Plan, effective January 31, 2017. The notice further directed you to “pick a health plan.”

Also on February 16, 2017, NYSOH issued a disenrollment notice stating your dental plan coverage would end on February 28, 2017, because you were no longer eligible for that plan.

On February 26, 2017, NYSOH issued an enrollment notice, based on a February 25, 2017 automatic plan assignment, confirming you were enrolled in a Medicaid Managed Care plan with Fidelis Care, effective April 1, 2017. The notice stated that you were enrolled in that plan, because you had not selected one yourself.

On April 26, 2017, you spoke to NYSOH's Account Review Unit and appealed the effective date of your Medicaid Managed Care plan insofar as it was not effective February 1, 2017.

On August 9, 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) You testified your appeal only involves your coverage.
- 2) You enrolled in an Essential Plan and a dental plan, effective February 1, 2017.
- 3) You contacted NYSOH on February 15, 2017 to report your pregnancy for the first time and an updated application was submitted on your behalf that day.
- 4) On February 15, 2017, you were determined eligible for Medicaid.
- 5) The February 16, 2017 eligibility determination notice indicated your Medicaid eligibility became effective February 1, 2017. According to that notice, you no longer qualified for the Essential Plan, effective January 31, 2017.
- 6) NYSOH issued a disenrollment notice on February 16, 2017 indicating you were being disenrolled from your dental plan on February 28, 2017, because you were no longer eligible to enroll in the plan, but there is no record of a notice indicating you were being disenrolled from your Essential Plan.

- 7) According to your account, you were automatically enrolled in a Medicaid Managed Care plan with Fidelis Care on February 25, 2017, because you had not selected a health plan prior to that. Coverage through that plan became effective April 1, 2017.
- 8) You testified that you selected Fidelis as your Medicaid Managed Care plan on the phone with a NYSOH representative on February 15, 2017.
- 9) The Appeals Unit reviewed the telephone call recording from February 15, 2017 and concluded the following:
 - a. The representative advised you that you were newly eligible for Medicaid and you had to pick a health plan.
 - b. You stated that you would “take the Fidelis one.”
 - c. The representative indicated she was disenrolling you from your dental plan, because your Medicaid Managed Care plan had dental coverage.
 - d. The representative stated, “I have you with Fidelis with medical for a \$0.00 premium starting March 1, 2017.”
- 10) According to your account, you were enrolled in an Essential Plan, a dental plan, and fee-for-service Medicaid in the month of April 2017. Your account indicates you were covered by fee-for-service Medicaid only in the month of March 2017 and your Medicaid Managed Care plan coverage became effective April 1, 2017.
- 11) You testified your Essential Plan has advised you that you did not have coverage through your Essential Plan in the month of February 2017, because you were covered by fee-for-service Medicaid.
- 12) You testified you have outstanding medical bills from the month of March 2017, because your provider does not accept fee-for-service Medicaid. You testified you may have bills from February 2017, but you are not sure.
- 13) You testified you are seeking to backdate your Medicaid Managed Care plan to February 1, 2017, because your medical providers do 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

Changes in Eligibility for the Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see also 42 CFR § 600.320(c)). For

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updates received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR § 155.420(b)(1)(ii); see also 42 CFR § 600.320(c)).

Medicaid Coverage Start Dates

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)).

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 NYSOH properly terminated your Essential Plan coverage, effective February 28, 2017.

Your account confirms, you were enrolled in an Essential Plan, effective February 1, 2017. You contacted NYSOH on February 15, 2017 and your application was updated to report your pregnancy for the first time. Following this update, your eligibility was redetermined and you were found eligible for Medicaid, effective February 1, 2017.

Pursuant to the above cited regulations, to be eligible for the Essential Plan, applicants must not be otherwise eligible for minimum essential coverage. As discussed above, you were determined eligible for Medicaid, effective February 1, 2017. As Medicaid is considered minimum essential coverage, you were considered no longer eligible to enroll in the Essential Plan as of January 31, 2017.

However, at the time of the February 15, 2017 updated eligibility redetermination, you were already enrolled in an Essential Plan. In accordance with the above regulations, NYSOH must implement any updates in eligibility to the Essential Plan effective the first day of the first following month for changes received by NYSOH from the first to the fifteenth of any month. Because the updated information, i.e., your pregnancy, was reported on February 15, 2017, any change in your eligibility should have been implemented the first day of the

following month; that is, March 1, 2017. Accordingly, your Essential Plan coverage should not have been terminated prior to February 28, 2017.

It is noted that although NYSOH issued a disenrollment notice on February 16, 2017 indicating your dental plan coverage would end on February 28, 2017, there is no record of any notice being issued by NYSOH advising you of the end date of your Essential Plan enrollment. It is further noted that you testified your Essential Plan has advised you that your enrollment ended January 31, 2017, because you were covered by fee-for-service Medicaid, effective April 1, 2017. However, as discussed above, pursuant to the regulations, your Essential Plan enrollment ended no earlier than February 28, 2017, because you updated your application on the fifteenth day of February.

Accordingly, NYSOH properly terminated your enrollment in the Essential Plan on February 28, 2017.

The second issue under review is whether NYSOH properly determined your enrollment in your Medicaid Managed Care plan became effective no earlier than April 1, 2017.

Although your account indicates that a Medicaid Managed Care plan was automatically assigned to you on February 25, 2017 because you had not selected a plan prior to that date, telephone call recordings confirm that you selected a Medicaid Managed Care plan over the phone on February 15, 2017.

Pursuant to the above cited regulations, the date on which a Medicaid Managed Care 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 the evidence establishes you selected Fidelis Care as your Medicaid Managed Care plan on February 15, 2017, that plan should have become effective on first day of the following month; that is, on March 1, 2017.

Therefore, the February 26, 2017 enrollment confirmation notice stating your enrollment in your Medicaid Managed Care plan would be effective April 1, 2017, is MODIFIED to reflect that your enrollment became effective on March 1, 2017.

Decision

Your enrollment in your Essential Plan ended on February 28, 2017.

The February 26, 2017 enrollment confirmation notice is MODIFIED to reflect that your enrollment in your Medicaid Managed Care plan became effective on March 1, 2017.

Your case is RETURNED to NYSOH to facilitate correcting your enrollment dates in accordance with this decision.

Effective Date of this Decision: September 25, 2017

How this Decision Affects Your Eligibility

You were covered by your Essential Plan for the month of February 2017.

Your Medicaid Managed Care plan should have become effective on March 1, 2017.

Your case is being sent back to NYSOH to correct your enrollment dates.

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

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).

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

Your enrollment in your Essential Plan ended on February 28, 2017.

The February 26, 2017 enrollment confirmation notice is MODIFIED to reflect that your enrollment in your Medicaid Managed Care plan became effective on March 1, 2017.

Your case is RETURNED to NYSOH to facilitate correcting your enrollment dates in accordance with this decision.

You were covered by your Essential Plan for the month of February 2017.

Your Medicaid Managed Care plan should have become effective on March 1, 2017.

Legal Authority

We are issuing this determination in accordance with 45 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).

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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a okyerɛ 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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