



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

Notice of Decision

Decision Date: October 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018493

[REDACTED]

Dear [REDACTED],

On August 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 19, 2017 disenrollment notice and the April 29, 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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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 enrollment in an Essential Plan ended April 30, 2017?

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

Procedural History

On February 23, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, for a limited time, effective March 1, 2017. The notice directed you to submit proof of your immigration status by May 23, 2017 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage.

Also on February 23, 2017, NYSOH issued an enrollment notice confirming you were enrolled in an Essential Plan, effective March 1, 2017.

On April 18, 2017, NYSOH systematically redetermined your eligibility.

On April 19, 2017, NYSOH issued an eligibility determination notice stating you were eligible for Medicaid, effective April 1, 2017.

On April 19, 2017, NYSOH issued a disenrollment notice stating your Essential Plan enrollment would end on April 30, 2017, because you were no longer eligible to enroll in the plan.

On April 28, 2017, you were automatically enrolled in a Medicaid Managed Care plan, effective June 1, 2017.

Also on April 28, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not enrolled in a health plan for the month of May 2017.

On August 11, 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) On February 23, 2017, you were determined conditionally eligible to enroll in the Essential Plan pending receipt of documentation to confirm you had a sufficient immigration status and that you had been residing in the United States for longer than five years.
- 2) You enrolled in an Essential Plan, effective March 1, 2017.
- 3) On April 18, 2017 NYSOH verified your immigration documentation. Your eligibility was systematically redetermined the same day and you were found eligible for Medicaid, because you had a sufficient immigration status, your income was under the requisite limit, and you had been residing in the United States for longer than five years.
- 4) As a result of your Medicaid eligibility, you were disenrolled from your Essential Plan, effective April 30, 2017.
- 5) The eligibility determination notice issued by NYSOH on April 19, 2017 directed you to pick a health plan or one would be chosen for you.
- 6) You testified that you were not aware you had to pick a new plan. You testified you must not have received the April 19, 2017 eligibility determination notice on time.
- 7) Your account confirms you receive all your communication from NYSOH by regular mail and there is no record that the April 19, 2017 eligibility determination notice was returned to NYSOH as undeliverable.

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- 8) According to your account, you were automatically enrolled in a Fidelis Care Medicaid Managed Care plan on April 28, 2017, because you had not selected a Medicaid Managed Care plan prior to that time. The coverage through your Medicaid Managed Care plan became effective June 1, 2017.
- 9) You testified you were concerned that you did not get a chance to select a new health plan for yourself, but you were satisfied with the selection of the Fidelis Medicaid Managed Care plan.
- 10) According to your account, you had fee-for-service Medicaid coverage only in the month of May 2017. You testified you received medical treatment in May 2017 and you might have outstanding bills from that time.
- 11) You testified you were having issues with your doctors, because a specialist was recommending treatment that [REDACTED] was refusing to perform alleging that you did not have coverage for such treatment. You were advised that any issues pertaining to payment of claims or benefits covered by your health plan are not properly within the scope of review of the NYSOH Appeals Unit.

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)).

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 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 – Effective 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 under review is whether NYSOH properly determined your enrollment in an Essential Plan ended April 30, 2017.

Your account confirms that you were determined conditionally eligible for the Essential Plan pending receipt of documentation to confirm your immigration status and you enrolled into a plan, effective March 1, 2017. On April 18, 2017, NYSOH verified your immigration documentation. Your eligibility was systematically redetermined the same day and you were found eligible for Medicaid, effective, April 1, 2017, because you had a sufficient immigration status, your income was under the requisite limit, and you had been residing in the United States for longer than five years.

Because of your new Medicaid eligibility, you were disenrolled from your Essential Plan, effective April 30, 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 as of April 1, 2017. As Medicaid is considered minimum essential coverage, you were no longer eligible to enroll in the Essential Plan as of March 31, 2017.

However, at the time of the April 18, 2017 eligibility redetermination, you were already enrolled in an Essential Plan. In accordance with the above regulations, for updates in eligibility for the Essential Plan received after the fifteenth day of the month, NYSOH must implement any resulting changes on the first day of the second following month. Since the eligibility redetermination in this case occurred after the fifteenth day of the month, any change in your eligibility should not have been implemented until June 1, 2017. Accordingly, your Essential Plan coverage should not have been terminated prior to May 31, 2017.

Therefore, the April 19, 2017 disenrollment notice is MODIFIED to reflect that your Essential Plan coverage was terminated, effective May 31, 2017.

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

The eligibility determination notice issued by NYSOH on April 19, 2017 directed you to pick a health plan or one would be chosen for you. Although you testified you were not aware you had to pick a new plan, because you must not have received the April 19, 2017 eligibility determination notice on time, your account confirms that you receive all your communication from NYSOH by regular mail and there is no evidence that the April 19, 2017 eligibility determination notice was returned to NYSOH as undeliverable. Accordingly, the evidence establishes that NYSOH provided you with proper notice of your updated eligibility determination and that you needed to select a new plan.

Your account confirms that you were automatically enrolled in a Fidelis Care Medicaid Managed Care plan on April 28, 2017, because you had not selected a Medicaid Managed Care plan prior to that time. You testified that you were concerned that you did not get a chance to select a new health plan for yourself, but you were satisfied with the selection of the Fidelis Medicaid Managed Care plan. The coverage through your Medicaid Managed Care plan became effective June 1, 2017.

Pursuant to the 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

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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 your Medicaid Managed Care plan was not selected until April 28, 2017, after the fifteenth day of the month, that plan properly became effective the first day of the second following month; that is, on June 1, 2017. However, as discussed above you should have been covered by your Essential Plan for the month of May 2017.

Therefore, the April 29, 2017 enrollment confirmation notice stating you were enrolled in a Fidelis Care Medicaid Managed Care plan, effective June 1, 2017, is correct and is AFFIRMED.

Decision

The April 19, 2017 disenrollment notice is MODIFIED to reflect that your Essential Plan coverage was terminated, effective May 31, 2017.

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan for the month of May 2017.

The April 29, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: October 04, 2017

How this Decision Affects Your Eligibility

You should not have been disenrolled from your Essential Plan for the month of May 2017.

Your case is being sent back to NYSOH to reinstate your Essential Plan coverage for the month of May 2017.

Your Medicaid Managed Care plan properly became effective on June 1, 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.

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).

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

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Summary

The April 19, 2017 disenrollment notice is MODIFIED to reflect that your Essential Plan coverage was terminated, effective May 31, 2017.

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan for the month of May 2017.

The April 29, 2017 enrollment confirmation notice is AFFIRMED.

You should not have been disenrolled from your Essential Plan for the month of May 2017.

Your Medicaid Managed Care plan properly became effective on June 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 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 sre wo, fre 1-855-355-5777. y&b&tumi ama wo obi a okyer& 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.