



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

## Notice of Decision

Decision Date: October 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020755

[REDACTED]

Dear [REDACTED]

On October 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 15, 2017 and July 22, 2017 enrollment confirmation notices.

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: October 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020755

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that your family's enrollment in your Empire Blue Cross/Blue Shield Medicaid Managed Care (MMC) plan was effective September 1, 2017?

## Procedural History

On July 5, 2017, you filed an application for financial assistance with the cost of health insurance, on behalf of yourself, your spouse, and your child, through NYSOH. You also uploaded documentation to your NYSOH account.

On July 6, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to submit documentation to confirm your income by July 20, 2017.

On July 6, 2017, NYSOH again determined your family's eligibility.

On July 7, 2017, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your child were eligible for Medicaid, effective July 1, 2017.

On July 12, 2017, NYSOH issued a notice of enrollment in the plan you selected on July 11, 2017, stating that you, your spouse, and your child were enrolled in

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an Empire Blue Cross/Blue Shield MMC plan, and that your coverage would start on August 1, 2017.

On July 14, 2017, updates were made to your NYSOH account.

On July 15, 2017, NYSOH issued a disenrollment notice stating that your family's enrollment in your Blue Cross/Blue Shield MMC plan would end, effective August 1, 2017, because you asked NYSOH to end your coverage on July 14, 2017.

Also on July 15, 2017, NYSOH issued a notice of enrollment confirmation, confirming that you, your spouse, and your child were enrolled into a Fidelis MMC plan, beginning August 1, 2017.

On July 21, 2017, you updated your family's MMC enrollment and re-selected an Empire Blue Cross/Blue Shield MMC plan.

That same day, you spoke to NYSOH's Account Review Unit and appealed the start date of your family's re-enrollment in your MMC plan, insofar as it did not begin on August 1, 2017.

On July 22, 2017, NYSOH issued a disenrollment notice, stating that your family's enrollment in your Fidelis MMC plan would end, effective September 1, 2017, because you asked NYSOH to end your coverage on July 21, 2017.

Also on July 22, 2017, NYSOH issued an enrollment confirmation notice, confirming your family's enrollment in your Empire Blue Cross/Blue Shield MMC plan, beginning September 1, 2017.

On October 16, 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 submitted an application to NYSOH for financial assistance on July 5, 2017.
- 2) You testified that you started to do an application online, but could not confirm your identity, so you called NYSOH and were advised to go to a "navigator." You testified that you were advised that it did not matter which insurance company the "navigator" worked for.

- 3) You testified that you went to Fidelis and were assisted by someone there who helped you finish your application.
- 4) Your NYSOH account reflects that a [REDACTED]” from Fidelis Care NY is listed as an Application Counselor, authorized to assist in that capacity as of July 5, 2017.
- 5) You testified that, while you were with the application counselor, you reviewed the coverage that Fidelis offered and realized that none of your family’s doctors were covered by Fidelis.
- 6) You testified that you did not enroll in a plan on July 5, 2017, but instead went and did your own research, and enrolled your family into an Empire Blue Cross/Blue Shield MMC plan.
- 7) Your NYSOH account reflects that you selected this plan for enrollment on July 11, 2017.
- 8) You testified that you enrolled by calling NYSOH, and that you never spoke to the application counselor after you left Fidelis’ office [REDACTED]
- 9) You testified that you then received a notice in the mail stating that your Empire Blue Cross/Blue Shield enrollment was ending, and that your family was now enrolled in a Fidelis MMC plan.
- 10) You testified that you called NYSOH immediately and were informed that your enrollment had been changed by your application counselor.
- 11) Your NYSOH account reflects that, on July 14, 2017, someone with the user name [REDACTED]” deleted your family’s Blue Cross/Blue Shield enrollment, and re-enrolled your family in a Fidelis MMC plan.
- 12) You testified that you called the application counselor from Fidelis and that she was unable to give you a logical explanation for why she changed your family’s enrollment. You testified that she apologized for causing any problem.
- 13) You testified, and the record reflects, that you called NYSOH on July 21, 2017 and re-selected an Empire Blue Cross/Blue Shield MMC plan for enrollment, and that your enrollment was effective on September 1, 2017.
- 14) You testified that your family did not use the Fidelis MMC coverage in the month of August 2017, but that you did incur medical expenses that you had to pay out of pocket because your family saw their providers, who do not take Fidelis.

- 15) You testified that you want your Empire Blue Cross/Blue Shield plan to be reinstated for August 2017 so that you can be reimbursed for the expenses you incurred.
- 16) You testified that you find it very disconcerting that a private company could disenroll you from your insurance plan and re-enroll you in their own coverage.

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 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)).

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 determined that your family's re-enrollment in your Empire Blue Cross/Blue Shield MMC plan was effective September 1, 2017.

The record reflects that you selected an Empire Blue Cross/Blue Shield plan for enrollment on July 11, 2017, and that enrollment was to take effect as of August 1, 2017. However, on July 14, 2017, the application counselor from Fidelis who assisted you with your initial application updated your family's MMC plan enrollment, and selected a Fidelis plan for your family instead. According to the July 15, 2017 enrolment confirmation notice, this plan was to take effect on August 1, 2017. You updated your family's enrollment again on July 21, 2017, and re-selected the Empire Blue Cross/Blue Shield plan.

Ordinarily, 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.

On July 21, 2017, you re-selected your Empire Blue Cross/Blue Shield plan, so it properly took effect on the first day of the second month following after July: that is, on September 1, 2017.

However, you credibly testified that you never asked or authorized the Fidelis application counselor to disenroll you and your family from your Blue Cross/Blue Shield MMC plan, and re-enroll you in a Fidelis MMC plan. You testified that, on the day you initially filed your application, you reviewed the Fidelis MMC plan's coverage with the application counselor, and determined that you would not select that plan, as your family's doctors did not accept it. You testified that you did your own research, and selected a Blue Cross/Blue Shield plan on July 11, 2017, based on the fact that your providers accepted this coverage. You testified that, after you received the July 15, 2017 notices telling you that you and your family were going to be enrolled in a Fidelis MMC plan, you called the application counselor, and she was unable to provide a reasonable explanation for changing your family's enrollment, and apologized to you for causing any problems.

Since you did not authorize the application counselor to change your family's enrollment, your MMC plan enrollment in your Empire Blue Cross/Blue Shield plan should have remained in effect with no gap.

Therefore, the July 15, 2017 disenrollment notice is **RESCINDED**, as is the July 15, 2017 notice confirming your family's enrollment in a Fidelis MMC plan.

The July 22, 2017 enrollment confirmation notice is **MODIFIED** to state that your family's enrollment in your Empire Blue Cross/Blue Shield MMC plan began on August 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate you, your spouse, and your child in your Empire Blue Cross/Blue Shield MMC plan, as of August 1, 2017.

## **Decision**

The July 15, 2017 disenrollment notice is **RESCINDED**.

The July 15, 2017 enrollment confirmation notice is **RESCINDED**.

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 July 22, 2017 enrollment confirmation notice is MODIFIED to state that you, your spouse, and your child were enrolled in an Empire Blue Cross/Blue Shield MMC plan, beginning August 1, 2017.

Your case is RETURNED to NYSOH to reinstate you, your spouse, and your child in your Empire Blue Cross/Blue Shield MMC plan as of August 1, 2017.

NYSOH will notify you in writing when your family's enrollment has been reinstated.

**Effective Date of this Decision:** October 19, 2017

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

This decision does not change your eligibility.

Your family should not have been disenrolled from your Empire Blue Cross/Blue Shield MMC plan.

Your case is being sent back to NYSOH to reinstate you, your spouse, and your child in your Empire Blue Cross/Blue Shield MMC plan as of August 1, 2017.

NYSOH will notify you in writing when your family's enrollment has been updated.

### **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)).

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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

### **Summary**

The July 15, 2017 disenrollment notice is RESCINDED.

The July 15, 2017 enrollment confirmation notice is RESCINDED.

The July 22, 2017 enrollment confirmation notice is MODIFIED to state that you, your spouse, and your child were enrolled in an Empire Blue Cross/Blue Shield MMC plan, beginning August 1, 2017.

Your case is RETURNED to NYSOH to reinstate you, your spouse, and your child in your Empire Blue Cross/Blue Shield MMC plan as of August 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).

NYSOH will notify you in writing when your family's enrollment has been reinstated.

This decision does not change your eligibility.

Your family should not have been disenrolled from your Empire Blue Cross/Blue Shield MMC plan.

Your case is being sent back to NYSOH to reinstate you, your spouse, and your child in your Empire Blue Cross/Blue Shield MMC plan as of August 1, 2017.

NYSOH will notify you in writing when your family's enrollment has been updated.

### **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&btumi 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.

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