



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

## Notice of Decision

Decision Date: November 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020979

[REDACTED]

Dear [REDACTED],

On October 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 1, 2017 plan 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: November 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020979

[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 enrollment in your Medicaid Managed Care plan was effective September 1, 2017?

## Procedural History

On October 20, 2015, NYSOH issued an eligibility determination notice, based on your October 19, 2015 application, stating in part, that you were eligible for Medicaid, effective December 1, 2015. You were subsequently enrolled in a Medicaid Managed Care (MMC) plan with Health Insurance Plan of Greater New York (HIPGNY) with a plan enrollment start date of December 1, 2015.

On July 11, 2017, NYSOH issued a disenrollment notice stating that your enrollment with your MMC plan with HIPGNY would end on July 31, 2017. This was based on your July 10, 2017 request to end that coverage.

Also on July 11, 2017, NYSOH issued a plan enrollment notice confirming in part that you were enrolled in a MMC plan with Empire BlueCross BlueShield (BCBS) with a plan enrollment start date of August 1, 2017.

On August 1, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your MMC plan with Empire BCBS would end on August 31, 2017. This was based on your July 31, 2017 request to end that coverage.

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).

Also on August 1, 2017, NYSOH issued a plan enrollment notice confirming in part that you were enrolled in a MMC plan with HIPGNY with an enrollment start date of September 1, 2017.

Also on August 1, 2017, NYSOH issued a notice confirming that on July 31, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your MMC plan with HIPGNY, insofar as it did not begin August 1, 2017.

On October 12, 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 supports the following findings of fact:

- 1) You testified that your children's doctor was no longer going to participate in HIPGNY and was changing to Empire BCBS. You testified that you wanted to keep it simple and have one health plan for the family so you decided to change MMC plans also.
- 2) You testified that someone at the office of your primary care physician (PCP) told you that they accepted Empire BCBS so, on July 10, 2017, you contacted NYSOH and requested to change your MMC plan from HIPGNY to Empire BCBS, with an enrollment start date in the latter MMC plan of August 1, 2017.
- 3) You testified that you made this selection after someone with NYSOH told you that your PCP was in the Empire BCBS network.
- 4) According to the telephone call record of July 10, 2017, there was no exchange about whether your PCP was in network for the Empire BCBS plan.
- 5) According to the telephone call record of July 10, 2017, the NYSOH customer service representative informed you that it was your responsibility to contact your doctors to confirm what plans they participated in.
- 6) You testified that, after changing plans on July 10, 2017 and on or around July 31, 2017, you were told by Empire BCBS that your PCP was not in their network.

- 7) According to your NYSOH account and your testimony, on July 31, 2017, you changed your MMC plan from Empire BCBS back to HIPGNY.
- 8) According to your NYSOH account and your testimony, NYSOH informed you that the change would be effective September 1, 2017.
- 9) You testified that you saw your PCP in August 2017, who did not participate in Empire BCBS at that time such that your bill for services that month were not covered by Empire BCBS.
- 10) You testified that you want your MMC plan with HIPGNY to begin on August 1, 2017, so that your August 2017 office visit to your PCP doctor will be covered by HIPGNY.

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)).

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 issue under review is whether NYSOH properly determined that your enrollment in the MMC plan with HIPGNY was effective September 1, 2017, and not August 1, 2017.

The record reflects that you were determined eligible for Medicaid, effective December 1, 2015, and were enrolled in a MMC plan with HIPGNY effective December 1, 2015.

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According to your NYSOH account and your testimony, you contacted NYSOH on July 10, 2017, and requested to cancel your MMC plan with HIPGNY and selected Empire BCBS as your MMC plan. You testified that you needed to change your children's doctor to Empire BCBS and to keep matters simple you decided to change to Empire BCBS also. You testified that your PCP doctor's office told you that they accepted Empire BCBS. You testified that someone with NYSOH also told you that your PCP was in the Empire BCBS network. However, the telephone call recording of July 10, 2017, indicates that you requested to have your plan changed to Empire BCBS, but at no time were told by the NYSOH customer service representative that your PCP participated in that plan. Therefore, the best evidence supports that you selected Empire BCBS for yourself to keep things simple and were not misinformed by NYSOH representatives, agents, or its instrumentalities as to your PCP's participation in that plan.

According to your NYSOH account and your testimony, on July 31, 2017, you contacted NYSOH and asked to cancel your enrollment in Empire BCBS and to be re-enrollment in HIPGNY.

The date on which a 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 31, 2017, you selected a MMC plan with HIPGNY, so it properly took effect on the first day of the second month after July 2017; that is, on September 1, 2017.

Therefore, the August 1, 2017 plan enrollment notice stating that your enrollment in your MMC plan with HIPGNY would be effective September 1, 2017, was correct and must be AFFIRMED.

## **Decision**

The August 1, 2017 plan enrollment notice is AFFIRMED.

**Effective Date of this Decision: November 22, 2017**

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

This decision does not change your eligibility.

You had MMC coverage under Empire BCBS for the month of August 2017.

The effective date of your MMC plan with HIPGNY is September 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.

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 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 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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- By fax: 1-855-900-5557

## **Summary**

The August 1, 2017 plan enrollment notice is AFFIRMED.

This decision does not change your eligibility.

You had MMC coverage under Empire BCBS for the month of August 2017.

The effective date of your MMC plan with HIPGNY is September 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。我们可以为您免费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.

### (Bengali)

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1-855-355-5777

### **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. y&btumi 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.

### **אַײַדיש (Yiddish)**

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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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