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

Notice of Decision

Decision Date: November 07, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000021328

[redacted]

Dear [redacted],

On October 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 9, 2017 eligibility determination and enrollment 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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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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 determine that you were no longer eligible to enroll in a Medicaid Managed Care (MMC) plan?
>
> Did NYSOH properly determine that your Medicaid coverage would continue until November 30, 2017?

Procedural History

On October 10, 2016, NYSOH issued a renewal notice stating, in relevant part, that you were re-enrolled in your MMC plan with an enrollment start of December 1, 2016.

On May 8, 2017, your account was updated.

On May 9, 2017, NYSOH issued an eligibility determination notice stating in part that you were no longer eligible for Medicaid because state and federal data sources show that you were receiving Medicare and were not a parent or caretaker of a child younger than 19 years of age. Your Medicaid coverage would continue until November 30, 2017; however, the type of coverage you were eligible for did not require or allow you to enroll in a health plan.

On May 9, 2017, NYSOH issued an enrollment notice stating in part that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan.

On August 2, 2017, your NYSOH account was systemically updated.

On August 3, 2017, NYSOH issued an eligibility determination notice stating in part, that you were no longer eligible for Medicaid because state and federal data sources show that you were receiving Medicare and were not a parent or caretaker of a child younger than 19 years of age. Your Medicaid coverage would continue until November 30, 2017; however, individuals who have Medicaid cannot be enrolled in a MMC plan.

On August 3, 2017, NYSOH issued a plan enrollment notice stating in part that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan.

On August 7, 2017, your NYSOH account was updated.

On August 8, 2017, NYSOH issued an eligibility determination notice stating in part that you were no longer eligible for Medicaid because state and federal data sources show that you were receiving Medicare and were not a parent or caretaker of a child younger than 19 years of age. Individuals who have other health insurance or Medicare cannot be enrolled in a MMC plan.

Also on August 8, 2017, issued an enrollment notice stating in part that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan.

On August 9, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as coverage in your MMC plan was discontinued.

On October 18, 2017, you had a telephone hearing with a Hearing Officer from the 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 you are seeking to continue your MMC coverage, through UnitedHealthcare of New York, Inc (UHC).

2) On October 10, 2016, NYSOH issued a notice stating that you were eligible for Medicaid coverage and enrolled in a MMC plan, effective December 1, 2016 (*see* [redacted]).

3) On May 9, 2017, NYSOH issued notices stating that state and federal data sources showed that you were receiving Medicare. Further, the

type of coverage you were eligible for did not require or allow you to enroll in a health plan (*see* [redacted]).

4) You testified that the notices issued by NYSOH state that your Medicaid coverage would continue until November 30, 2017.

5) On July 11, 2017, NYSOH issued you a notice stating that you eligible to receive reimbursement of your Medicare Part B premiums, effective July 1, 2017 (*see* [redacted]; uploaded 8/31/2017).

6) You testified you were contacted by your therapist and were informed that UHC was no longer processing your medical claims.

7) You testified that you believe you were enrolled in Medicare, Parts A and B, as of May 1, 2017.

8) You testified you have outstanding medical bills from May 1, 2017, through August 31, 2017.

9) According your NYSOH account, your MMC plan ended as of June 30, 2017.

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

Applicable Law and Regulations

Medicaid Eligibility

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

Medicaid Continuous Coverage:

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage. This twelve-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 a subsequent Medicaid eligibility determination

based on modified adjusted gross income (*see* 42 CFR § 435.916(a); N.Y. Soc. Serv. Law § 366(4)(c)).

In the following situations, individuals are not entitled to receive continuous coverage:

- Unable to locate;
- Death;
- Consumer requests to have his/her Medicaid closed;
- Failure to provide or cooperate in obtaining a Social Security Number, if otherwise required;
- Failure to provide documentation of citizenship after the reasonable opportunity period;
- Moved out of State;
- Coverage established under MAGI in error;
- Undocumented pregnant women (only get 60 days post-partum);
- Failure to comply with absent parent (IV-D) requirements; and
- Individuals receiving treatment in a setting where Medicaid eligibility is not available

(*see* 42 CFR § 435.916(a); N.Y. Soc. Serv. Law § 366(4)(c); GIS 15 MA/22).

Medicaid Managed Care (MMC)

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

The Partnership Plan Medicaid Section 1115 Demonstration, awarded to the New York State Department of Health by Centers for Medicare and Medicaid Services (CMS), contains Special Terms and Conditions, setting forth the state's obligations to CMS during the term of the demonstration (Project No. 11-W-00114/2).

A "Managed Care Program" is a program in a social services district in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c)).

MMC - Exclusions

NYSOH is responsible for determining the Exemption and Exclusion status of individuals determined to be eligible for Medicaid under Title 11 of the Social Service Law (SSL). Excluded means an individual eligible for Medicaid under

Title 11 of the SSL determined by NYSOH to be in a category of persons, specified in Section 364-j of the SSL and/or New York State's Operational Protocol for the Partnership Plan, that are precluded from participating in the MMC Program (*see* Medicaid Managed Care Model Contract Appendix H pgs.3-4, effective 3/1/2014 – 2/28/2019).

On July 22, 2015, an updated list of populations that are exempt or excluded from enrollment in a MMC was provided by the Office of Health Insurance Programs (General Information System (GIS) 15 MA/12). Attachment 1 of that publication includes a list of populations that are excluded from enrollment in a MMC plan. "Medicare recipients are excluded from MMC but can enroll in Medicaid Advantage or MLTC."

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were no longer eligible to be enrolled in a MMC plan.

Generally, when an individual is eligible for Medicaid through NYSOH, they are required to enroll in a MMC plan. NYSOH is responsible for determining when a Medicaid recipient is excluded from enrolling in a MMC. When a Medicaid enrollee is a recipient of Medicare, they are not eligible to enroll in a MMC plan.

On May 8, 2017, your NYSOH account was updated. Based on that update, on May 9, 2017, NYSOH issued notices stating that state and federal data sources showed that you were receiving Medicare, and that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan (*see* [redacted]).

You testified that you believe you were enrolled in Medicare, Parts A and B, as of May 1, 2017. Further, on July 11, 2017, NYSOH issued you a notice stating that you eligible to receive reimbursement of your Medicare Part B premiums, effective July 1, 2017 (*see* [redacted]; uploaded 8/31/2017).

The credible evidence reflects that you are currently enrolled in Medicare Parts A and B. Therefore, you are not eligible to enroll in a MMC through NYSOH. The May 9, 2017, eligibility and enrollment notices are AFFIRMED insofar as those notices state that you were no longer eligible to enroll in a MMC plan.

The second issued under review is whether NYSOH properly determined that your Medicaid coverage would end as of November 30, 2017.

You were determined eligible for Medicaid and enrolled in a MMC plan, effective December 1, 2016.

Generally, once individuals are determined eligible for Medicaid, they are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. This twelve-month period is based on the effective date of the Medicaid eligibility determination and is known as “continuous coverage.”.

On May 8, 2017, your account was updated. Based on that update, on May 9, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that you were no longer eligible for Medicaid because state and federal data sources show that you were receiving Medicare and were not a parent or caretaker of a child younger than 19 years of age. However, your Medicaid coverage would continue until November 30, 2017.

You were determined eligible for Medicaid coverage as of December 1, 2016. Therefore, your twelve months of continuous coverage should end as of November 30, 2017, barring any of the situations stated above.

Therefore, the May 8, 2017, eligibility determination is AFFIRMED insofar as it stated that your Medicaid coverage would continue until November 30, 2017.

During the hearing, you testified that incurred expenses for medical appointments for the months of May, June, July, and August 2017. Your case will be REFERRED to New York State Department of Health, Office of Health Insurance Programs, Stakeholder Relations and Exchange Support to facilitate the possible payment or reimbursement for expenses that should have been covered by Medicaid.

Decision

The May 9, 2017, eligibility determination is AFFIRMED.

The May 9, 2017, enrollment notice is AFFIRMED.

Your case will be REFERRED to New York State Department of Health, Office of Health Insurance Programs, Stakeholder Relations and Exchange Support to facilitate the possible payment or reimbursement for expenses that should have been covered by Medicaid.

Effective Date of this Decision: November 07, 2017

How this Decision Affects Your Eligibility

You are ineligible to be enrolled in a MMC plan through NYSOH.

Your Medicaid coverage will continue until November 30, 2017, barring any situation that you would end your twelve months of continuous coverage.

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

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).

- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The May 9, 2017, eligibility determination is AFFIRMED.

The May 9, 2017, enrollment notice is AFFIRMED.

Your case will be REFERRED to New York State Department of Health, Office of Health Insurance Programs, Stakeholder Relations and Exchange Support to facilitate the possible payment or reimbursement for expenses that should have been covered by your Medicaid coverage.

You are ineligible to be enrolled in a MMC plan through NYSOH.

Your Medicaid coverage will continue until November 30, 2017, barring any situation that you would end your twelve months of continuous coverage.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

[redacted]

Getting Help in a Language Other than English

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).

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 مجانًا.

বাংলা (Bengali)

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).

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।

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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)

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).

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.

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).