



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

Notice of Decision

Decision Date: November 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021932

[REDACTED]

[REDACTED]

On November 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: November 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021932



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 United Healthcare (UHC) Medicaid Managed Care (MMC) plan was effective October 1, 2017?

Procedural History

On June 6, 2017, you updated your NYSOH application.

On June 7, 2017, NYSOH issued a notice of eligibility determination based on your June 6, 2017 application, stating that you were conditionally eligible for Medicaid, effective June 1, 2017. The notice directed you to provide documentation of your income by June 21, 2017. The notice also advised you that you needed to pick a health plan. Page four of the notice advised you that if you did not select a health plan, one would be chosen for you.

On June 15, 2017, you uploaded documentation to your NYSOH account.

On June 16, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective June 1, 2017. The notice again directed you to pick a health plan, and again informed you that one would be chosen for you if you did not make a selection.

On June 26, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrolment in a WellCare MMC plan, beginning August 1, 2017. The notice

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stated that you had been enrolled into this plan because you did not select a health plan.

On August 28, 2017, a new MMC plan was selected on your behalf.

On August 29, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrolment in a UHC MMC plan, beginning October 1, 2017.

Also on August 29, 2017, your certified application counselor (CAC) spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your UHC MMC plan, insofar as it did not begin September 1, 2017.

On November 2, 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 updated application to NYSOH on June 6, 2017, and indicated in that application that you were pregnant.
- 2) You testified that you applied with the assistance of a CAC, and your NYSOH account confirms that a [REDACTED] is listed on your account as a CAC.
- 3) You testified that your CAC told you that you were eligible for "straight" Medicaid and that you did not need to pick a plan.
- 4) You testified that you then received a notice from NYSOH, around the end of June 2017, stating that you did need to pick a plan.
- 5) Your NYSOH account reflects that eligibility determinations were sent to you on June 7 and June 16, 2017, and that both directed you to select a health plan.
- 6) You testified that you attempted to contact your CAC when you received the notice(s), but were unable to reach her.
- 7) You testified that you did not try to contact NYSOH directly at that time.
- 8) Your NYSOH account reflects that no plan selection was made on your behalf and, on June 26, 2017, NYSOH sent you an enrollment confirmation notice informing you that you had been enrolled into a WellCare MMC plan,

and that you had been placed into this plan because you did not select a health plan.

- 9) You testified that you never received this enrollment confirmation notice.
- 10) Your NYSOH account reflects, and you confirmed in your testimony, that you receive notices from NYSOH by regular mail.
- 11) No notices issued to you from your NYSOH account have been returned to NYSOH as undeliverable.
- 12) You testified that you found out in mid-July that you were enrolled in a WellCare MMC plan when your doctor's office called you to tell you that they did not accept this plan.
- 13) You testified that you were confused because you thought that you were on "straight" Medicaid.
- 14) You testified that you called your CAC, and that she told you she would make sure that you were enrolled into a UHC plan instead, and that your coverage would start on August 1, 2017.
- 15) The "Events" tab in your NYSOH account reflects that your CAC accessed your NYSOH account on July 6, 2017 [REDACTED] but no changes were made to your enrollment on that day.
- 16) You testified that you postponed your appointment until [REDACTED] because you thought you would have coverage through UHC as of August 1, 2017.
- 17) You testified that your doctor then called you on [REDACTED] and told you that you were not on a UHC plan.
- 18) You testified that you called NYSOH yourself on August 1, 2017 and were told that you were never enrolled into a UHC plan, and that the only thing they could do for you was enroll you for September 1, 2017.
- 19) The "Events" tab in your NYSOH account reflects that a NYSOH representative accessed your NYSOH account on August 1, 2017, but no change was made to your enrollment.
- 20) You testified that you went to your doctor's appointment anyway on [REDACTED], and paid out of pocket, and that you scheduled another appointment for [REDACTED].

- 21) You testified that, a week prior to your [REDACTED] appointment, you called your CAC to make sure that you were enrolled in a UHC plan, and that she checked and said you were not, but that she would try to take care of the issue.
- 22) You testified that your CAC called you back and said that NYSOH claimed that there was nothing that could be done to give you coverage as of September 1, 2017.
- 23) Your NYSOH account reflects that, on August 28, 2017, your CAC accessed your account and updated your MMC plan enrollment.
- 24) On August 29, 2017, NYSOH issue a notice of enrollment confirming informing you that you were enrolled in a UHC MMC plan, beginning October 1, 2017.
- 25) You testified that you contacted NYSOH yourself and were told that there was nothing that could be done except to appeal.
- 26) You testified that you had [REDACTED] doctor visit in August and [REDACTED] in September that you had to pay for out of pocket, totaling \$325.00, and that you therefore would like your UHC MMC plan coverage to be backdated to August 1, 2017.
- 27) After the hearing, the Hearing Officer listened to recordings of several phone calls both you and your CAC had with NYSOH in the month of August 2017. The following findings of fact are taken from these recordings:
 - a. Phone Call from August 1, 2017:
 - i. On August 1, 2017, you informed the NYSOH agent with whom you spoke that you had never been told that you needed to enroll in a plan, and that you need your UHC coverage to be in effective as of August 1, 2017;
 - ii. The NYSOH agent told you that you would not be able to get coverage for August 1, 2017, only September 1, 2017 because your CAC never finished your enrollment;
 - iii. You stated that there was nothing the agent could do for you, and the call was ended;
 - b. Phone Call from August 2, 2017 – [REDACTED]:
 - i. Your CAC spoke with NYSOH on August 2, 2017 and stated that she must have chosen the wrong plan for you, and that she wanted to have your UHC plan coverage backdated to August 1, 2017;

- c. Second phone call from August 2, 2017 – [REDACTED]:
 - i. Your CAC spoke to the Account Review Unit (ARU) and informed them that she chose the wrong plan for you, but that you had changed your enrollment yesterday, and now your new enrollment would not start until September 1;
 - ii. The NYSOH agent pulled up your NYSOH account and confirmed your WellCare enrollment as of August 1, 2017;
 - iii. Your CAC told the NYSOH agent that she was updating your enrollment, but that it would not go into effect until September 1, 2017;
 - iv. The NYSOH agent informed your CAC that you did not meet the criteria for a change to the start date of your coverage, and that you could file an appeal;
- d. Phone calls from August 28, 2017 – [REDACTED]:
 - i. Your CAC called NYSOH on August 28, 2017 to say that she knew she had selected a UHC plan for you to start on September 1, 2017, but that the system was showing an October 1, 2017 start date;
 - ii. The NYSOH agent informed your CAC that she had never completed the confirmation process to update your plan enrollment when she accessed your account previously;
 - iii. Your CAC was transferred to the Account Review Unit and was told again that she did not confirm and checkout the UHC plan selection, and the ARU agent offered to have a supervisor call her;
- e. Phone calls from August 29, 2017 – [REDACTED]:
 - i. Your CAC called again and asked this time if your enrollment in WellCare could be cancelled for September 2017, so that you would have straight Medicaid only;
 - ii. The NYSOH agent said that they could not put you into straight Medicaid only, and that an appeal would need to be filed for any backdating of your coverage;
 - iii. Your CAC was transferred to ARU, and she was informed that as long as your doctor accepted “straight” Medicaid, he could bill “straight” Medicaid instead of WellCare;
 - iv. Your CAC stated that she made a small, honest mistake, and that you really need the backdating of your coverage because you were pregnant;
 - v. The ARU agent filed a formal appeal request on your behalf while on the phone with your CAC;
- f. Phone calls from August 29, 2017 – Appellant:
 - i. You contacted NYSOH to ask about your appeal, and were transferred to the ARU;
 - ii. The ARU agent told you that your UHC plan would not start until October 1, 2017, and that the enrollment was never fully selected for that plan until August 28.

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 enrollment in your UHC MMC plan was effective October 1, 2017.

You were found conditionally eligible, and then eligible, for Medicaid in notices dated June 7, 2017 and June 16, 2017. Both of those notices advised you to select a health plan, or one would be selected for you. No plan selection was made.

You testified that, when you updated your application with your CAC in June 2017, she told you that you would have “straight” Medicaid, and did not need to select a plan. You testified that you received mail from NYSOH advising you that you needed to pick a plan, and that you called your CAC, but were unable to reach her. You did not call NYSOH at that time. Since NYSOH sent you two notices advising you to select a plan, you are considered to have been on notice that you needed to select an MMC plan and that, if you did not do so, one would be selected for you.

On June 26, 2017, NYSOH sent you a notice informing you that you had been enrolled into a WellCare MMC plan, beginning August 1, 2017, and that you had been enrolled into this plan because you had not selected a plan for yourself.

You testified that you did not receive this notice. You testified, and your NYSOH account confirms, that you receive notices from NYSOH in the regular mail. No notices sent to you by NYSOH have been returned as undeliverable. Therefore, you are deemed to have been on notice by the end of June 2017 that you had been enrolled into a WellCare MMC plan.

You testified that you found out about this enrollment when your doctor's office called you in July and told you that they do not accept WellCare. You testified that you contacted your CAC, and that she told you that she would make sure that you were enrolled into a UHC plan instead.

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.

Your CAC accessed your NYSOH account on July 6, 2017 and again on August 2, 2017; however, she did not complete plan enrollments for you on either of those dates. Based on the recordings of the phone calls she had with NYSOH, it appears that she started to change your enrollment on those dates, but failed to complete the process. Your NYSOH account reflects that it was not until August 28, 2017 that your CAC successfully updated your enrollment, and enrolled you into a UHC MMC plan.

Since your CAC selected your UHC MMC plan on August 28, 2017, it would ordinarily properly take effect on the first day of the second month following after August: October 1, 2017.

However, the recordings of your phone call with NYSOH on August 1, 2017, and your CAC's phone calls with NYSOH on August 2, 2017, indicate that NYSOH should have updated your enrollment at that time, and did not. In each of the calls, it was conveyed to NYSOH by both you and your CAC that you believed you had enrolled in a UHC plan, and that you were calling to request a backdate. The NYSOH agents pulled up your account each time, and could clearly see that your enrollment had not, in fact, been updated, but failed to inform you, or your CAC, that you were mistaken in this belief. Had the NYSOH agents informed you of this, you or your CAC could have updated your enrollment at that time, and you would have received a September 1, 2017 start date to your UHC MMC plan.

Therefore, the August 29, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in your UHC MMC plan began on September 1, 2017.

Your case is RETURNED to NYSOH to disenroll you from your WellCare MMC plan for the month of September 2017, and backdate your UHC MMC plan enrollment to September 1, 2017.

Decision

The August 29, 2017 enrollment confirmation notice is MODIFIED to state that you were enrolled in your UHC MMC plan as of September 1, 2017.

Your case is RETURNED to NYSOH to disenroll you from your WellCare MMC plan for the month of September 2017, and to backdate your UHC MMC plan enrollment start date to September 1, 2017.

Effective Date of this Decision: November 10, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your UHC MMC plan should have been September 1, 2017.

Your case is being sent back to NYSOH to disenroll you from WellCare for the month of September 2017, and backdate your UHC MMC plan enrollment start date to 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 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 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 August 29, 2017 enrollment confirmation notice is MODIFIED to state that you were enrolled in your UHC MMC plan as of September 1, 2017.

Your case is RETURNED to NYSOH to disenroll you from your WellCare MMC plan for the month of September 2017, and to backdate your UHC MMC plan enrollment start date to September 1, 2017.

This decision does not change your eligibility.

The effective date of your UHC MMC plan should have been September 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).

Your case is being sent back to NYSOH to disenroll you from WellCare for the month of September 2017, and backdate your UHC MMC plan enrollment start date to 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)

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 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.

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.