



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: November 16, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021989



On October 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 31, 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  
PO 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 16, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021989



## 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 you and your family's enrollment in your Medicaid Managed Care (MMC) plan was effective October 1, 2017?

## Procedural History

On July 10, 2017, you submitted an application for financial assistance with health insurance on behalf of yourself, your spouse, and your two children.

On July 27, 2017, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your children were eligible for Medicaid, effective July 1, 2017. The notice further stated that you needed to pick a health plan, or one would be chosen for you.

On August 6, 2017, NYSOH issued a notice of enrollment confirmation, confirming that you, your spouse, and your children had been enrolled into a Fidelis MMC plan, beginning September 1, 2017. The notice stated that you and your family had been enrolled into this plan because you did not select a health plan.

On August 30, 2017, you updated your family's MMC plan enrollments and selected a CDPHP MMC plan.

Also on August 30, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your family's enrollment in your CDPHP MMC plan, insofar as it did not begin September 1, 2017.

On August 31, 2017, NYSOH issued a notice of enrollment confirmation, confirming your family's enrollment in a CDPHP MMC plan, beginning October 1, 2017.

Also on August 31, 2017, NYSOH issued a disenrollment notice stating that you and your family were disenrolled from your Fidelis MMC plan, effective September 30, 2017.

On October 30, 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 10, 2017, and you and your family were found eligible for Medicaid in a notice dated July 27, 2017, effective July 1, 2017.
- 2) The July 27, 2017 eligibility determination advised you that you needed to select an MMC plan for yourself, your spouse, and your children.
- 3) You testified that you received the letter stating that you needed to select a plan, and that you called NYSOH to pick a health plan. You testified that you did this on August 5, 2017, and that you were told your coverage would begin on September 1, 2017.
- 4) You testified that you then received a notice toward the end of August 2017 advising you that you and your family had been enrolled into a Fidelis MMC plan, effective September 1, 2017.
- 5) Your NYSOH account reflects that a notice of enrollment confirmation was issued on August 6, 2017 stating that you and your family were enrolled in a Fidelis MMC plan, beginning September 1, 2017, because you had not selected a health plan.
- 6) You testified that you called NYSOH and were told that you had been enrolled into Fidelis because you had not selected an MMC plan.

- 7) You testified that you informed NYSOH that you had picked a CDPHP plan, and that it would start on September 1, 2017.
- 8) You testified that one of the NYSOH representatives you spoke with acknowledged that they could see in the system that you had picked a plan, but told you that the enrollment had not gone through.
- 9) You testified that you were told you would have to appeal if you wanted your CDPHP MMC plan to begin on September 1, 2017.
- 10) You testified that you do not have any medical bills from the month of September 2017, but are appealing because you want an acknowledgment that you are right.
- 11) After the hearing, the Hearing Officer listened to a recording of a phone call you had with a NYSOH agent on July 28, 2017. The following findings of fact are taken from that recording:
  - a. You informed the agent that you were calling because you received a notice stating that you needed to select a health plan;
  - b. The NYSOH agent advised you that she could assist you, but advised you to contact your providers before you selected a plan;
  - c. You informed the agent that you wanted to go ahead and select a plan immediately;
  - d. The agent advised you that you could choose a Fidelis, MVP, CDPHP, or United HealthCare plan;
  - e. You selected CDPHP for yourself, your spouse, and your two children;
  - f. The NYSOH agent informed you that your MMC plan coverage would begin on September 1, 2017;
  - g. The NYSOH agent then explained to you that you could use your "straight" Medicaid coverage in July and August, and provided you with your family's Medicaid ID numbers.

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)).

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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 you and your family's enrollment in your CDPHP MMC plan was effective October 1, 2017.

Your NYSOH account reflects that you were sent an eligibility determination notice advising you to select an MMC plan, and that this notice was dated July 27, 2017.

You testified that you received this notice and contacted NYSOH to enroll in an MMC plan. You testified that you chose a CDPHP plan, and that the person you spoke with confirmed that your coverage would begin on September 1, 2017.

However, NYSOH's system did not reflect that you chose an MMC plan so, on August 6, 2017, NYSOH issued an enrollment confirmation notice informing you that you and your family were enrolled into a Fidelis MMC plan, beginning September 1, 2017, because you did not select a plan for enrollment. You testified that you received this notice in late August and immediately contacted NYSOH. Your NYSOH account reflects that, on August 30, 2017, you selected a CDPHP MMC plan for your family.

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 August 30, 2017, you selected a CDHP MMC plan, so, ordinarily, it would properly take effect on the first day of the second month following August: that is, on October 1, 2017.

However, a review of your phone conversation with a NYSOH agent on July 28, 2017 confirms your testimony that you in fact selected a CDPHP MMC plan. The NYSOH agent you spoke with on July 28 confirmed your selected and informed

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you that your coverage would begin on September 1, 2017. Nevertheless, it appears that the agent failed to complete the enrollment process, and your family's enrollment in a CDPHP MMC plan was never finalized.

Since the record confirms that it was the NYSOH agent's error that led your family to be automatically enrolled into a Fidelis MMC plan, instead of the CDPHP plan that you selected, the August 6, 2017 enrollment confirmation notice is RESCINDED.

The August 31, 2017 enrollment confirmation notice is MODIFIED to state that you, your spouse, and your children were enrolled in a CDPHP MMC plan, beginning September 1, 2017.

Your case is RETURNED to NYSOH to disenroll you and your family from the Fidelis MMC plan in the month of September 2017, and backdate your CDPHP MMC plan enrollment to September 1, 2017.

## **Decision**

The August 6, 2017 enrollment confirmation notice is RESCINDED.

The August 31, 2017 enrollment confirmation notice is MODIFIED to state that you, your spouse, and your children were enrolled in a CDPHP MMC plan, beginning September 1, 2017.

Your case is RETURNED to NYSOH to disenroll you and your family from the Fidelis MMC plan in the month of September 2017, and to backdate your household's CDPHP MMC plan enrollment to September 1, 2017.

**Effective Date of this Decision:** November 16, 2017

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

This decision does not change your eligibility.

The effective date of you and your family's enrollment in your CDPHP MMC plan should have been September 1, 2017.

Your case is being sent back to NYSOH to disenroll you, your spouse, and your children from the Fidelis MMC plan for the month of September 2017, and to backdate your CDPHP MMC plan enrollment to September 1, 2017.

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## **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
- By mail at:

NY State of Health Appeals  
PO Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The August 6, 2017 enrollment confirmation notice is RESCINDED.

The August 31, 2017 enrollment confirmation notice is MODIFIED to state that you, your spouse, and your children were enrolled in a CDPHP MMC plan, beginning September 1, 2017.

Your case is RETURNED to NYSOH to disenroll you and your family from the Fidelis MMC plan in the month of September 2017, and to backdate your household's CDPHP MMC plan enrollment to September 1, 2017.

This decision does not change your eligibility.

The effective date of you and your family's enrollment in your CDPHP MMC plan should have been September 1, 2017.

Your case is being sent back to NYSOH to disenroll you, your spouse, and your children from the Fidelis MMC plan for the month of September 2017, and to backdate your CDPHP MMC plan enrollment 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 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 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&etumi 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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