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

Notice of Decision

Decision Date: December 14, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000023434

[redacted]

[redacted],

On December 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 2, 2017 eligibility determination 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 NY State of Health number 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: December 14, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000023434

[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 you were no longer eligible to enroll in a Medicaid Managed Care (MMC) plan as of October 2, 2017?

Procedural History

According to your NYSOH account, on April 17, 2017, you updated your application for health insurance and were determined to remain eligible for Medicaid. That same day, you re-enrolled in an MMC plan effective June 1, 2017.

On September 12, 2017, NYSOH issued a disenrollment notice, based on a September 11, 2017 system update, stating that your enrollment in your MMC plan would end October 31, 2017. This was because federal and state data sources showed you were already enrolled in or eligible for Medicare.

On September 23, 2017, NYSOH issued a plan enrollment notice stating that you were enrolled in an MMC plan, effective November 1, 2017. This was because you did not select an MMC plan and a plan was selected for you.

On October 2, 2017, NYSOH issued an eligibility determination notice stating that you remain eligible for Medicaid as of December 1, 2017. The notice stated that the type of Medicaid coverage you are eligible for does not require or allow you to enroll in a health plan.

On October 3, 2017, NYSOH issued a disenrollment notice, based on an October 2, 2017 system update, stating that your enrollment in your MMC plan would end October 31, 2017. This was because federal and state data sources showed you were already enrolled in or eligible for Medicare.

On October 5, 2017, NYSOH issued a notice stating that you eligible to receive reimbursement of your Medicare Part B premiums, effective December 1, 2017. The notice stated that enrollment in Medicare is a condition of Medicaid eligibility.

On October 17, 2017, you contacted NYSOH's Account Review Unit and requested an appeal insofar as coverage in your MMC plan was discontinued.

On October 18, 2017, you submitted a copy of your application to terminate Medicare benefits [redacted]

On December 8, 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 were re-enrolled in an MMC plan effective June 1, 2017.

2) On September 12, 2017, NYSOH issued a disenrollment notice stating that you were not eligible for Medicaid because based on information from federal and state data sources, you were already enrolled in or eligible for a public insurance program such as Medicare. Due to several system updates, your enrollment in your MMC plan ended effective November 30, 2017.

3) According to your testimony and supporting documentation, at the time you were disenrolled from your MMC plan, you were enrolled in Medicare and had requested that your Medicare coverage be terminated. You provided documentary proof that you received a refund for your premium payments already made to the Social Security Administration [redacted]

4) You testified that you are seeking to continue your MMC coverage because you have special medical needs and the MMC plan is a better plan than what is offered through Medicare.

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 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 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 an MMC plan. NYSOH is responsible for determining when a Medicaid recipient is excluded from enrolling in an MMC plan.

However, when a Medicaid enrollee is entitled to or enrolled in Medicare, they are not eligible to enroll in a MMC plan.

On September 11, 2017, your NYSOH account was updated. Based on that update, on September 12, 2017, NYSOH issued disenrollment notice stating your MMC plan would be terminated because federal and state data sources showed that you were receiving Medicare. Due to several system updates, your enrollment in your MMC plan ended effective November 30, 2017.

As such, NYSOH issued two notices on October 2, 2017 and October 3, 2017, stating that you remained eligible for Medicaid; however, that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan and that you would be disenrolled from your MMC plan on November 30, 2017.

According to your testimony and supporting documentation, at the time you were disenrolled from your MMC plan, you were enrolled in Medicare and had requested that your Medicare coverage be terminated. You provided documentary proof that you received a refund for your premium payments already made to the Social Security Administration [redacted]

Since one of the criteria for Medicaid eligibility is that you not be entitled to or enrolled in Medicare benefits under part A or B, and the evidence reflects that you are currently eligible for enrollment in Medicare Parts A and B, and that you voluntarily declined enrollment, you are not eligible for Medicaid. Likewise, you are not eligible to enroll in an MMC plan through NYSOH.

As such, the October 2, 2017, eligibility determination notice is AFFIRMED insofar as you were determined no longer eligible to enroll in a MMC plan.

Decision

The October 2 and 3, 2017 eligibility determination notices are AFFIRMED.

Effective Date of this Decision: December 14, 2017

How this Decision Affects Your Eligibility

You are not eligible to be enrolled in Medicaid.

You are not eligible to be enrolled in an MMC plan through NYSOH.

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 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 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 October 2 and 3, 2017 eligibility determination notices are AFFIRMED.

You are not eligible to be enrolled in Medicaid.

You are not eligible to be enrolled in an MMC plan through NYSOH.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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).

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 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 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 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)

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).

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