



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

## Notice of Decision

Decision Date: December 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023577

[REDACTED]

Dear [REDACTED] [REDACTED]

On December 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 30, 2017 eligibility determination and disenrollment 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 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: December 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023577

[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 and properly end your coverage effective September 30, 2017?

## Procedural History

On March 9, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective January 1, 2017.

On March 19, 2017, NYSOH issued a plan enrollment notice confirming that as of March 18, 2017, you were enrolled in an MMC plan with an enrollment start date of May 1, 2017.

On August 29, 2017, your NYSOH account was systemically updated.

On August 30, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that you remained eligible for Medicaid, effective October 1, 2017. The notice further stated that the type of Medicaid coverage you were eligible for did not require nor allow you to enroll in a health plan.

Also on August 30, 2017, NYSOH issued a disenrollment notice stating that your MMC coverage would end September 30, 2017, because records showed that you had other health insurance or Medicare. Individuals who have other health insurance or Medicare cannot be enrolled in an MMC plan.

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On October 20, 2017, your NYSOH account was systemically updated.

Also on October 20, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as you were not enrolled in an MMC plan during the months of October 2017 and November 2017.

On October 21, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective October 1, 2017. The notice instructed you to provide proof your income by November 4, 2017, to confirm your eligibility.

Also on October 21, 2017, NYSOH issued a plan enrollment notice confirming that as of October 20, 2017, you were enrolled in an MMC plan with an enrollment start date of December 1, 2017.

On October 26, 2017, additional documentation was uploaded to your NYSOH account (see Document [REDACTED]).

On December 18, 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 proceeding.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account, you were enrolled in an MMC plan, through Affinity Health Plan, Inc., with an enrollment start date of May 1, 2017.
- 2) According to your NYSOH account, on August 29, 2017, NYSOH determined that you were enrolled in third-party health insurance and discontinued your MMC coverage effective September 30, 2017.
- 3) You testified that you went to [REDACTED] appointment in October 2017 and were informed that your health insurance was no longer active.
- 4) You testified that you contacted NYSOH and were informed by a representative that your private health insurance coverage, through [REDACTED] (Empire), was still active.
- 5) You testified that you contacted Empire and were informed by a representative that your COBRA coverage was mistakenly never cancelled.

- 6) On October 26, 2017, a letter from Empire was uploaded to your account. The letter states that your health insurance was effective July 1, 2012, and ended as of June 30, 2013 (see Document [REDACTED]).
- 7) According to your NYSOH account, you were re-enrolled in an MMC plan on October 20, 2017, with an enrollment start date of December 1, 2017.
- 8) You testified that you want your MMC plan to be reinstated for the months of October 2017 and November 2017, to cover any medical expenses you incurred in those months.

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

## **Applicable Law and Regulations**

### Enrollment in 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.

A “Managed Care Program” is a statewide program 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)).

### Third-Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider which may be maintained by payment or part payment, and such payment would be cost-effective, may not enroll in an MMC plan (NY SSL § 364-j(3)(e)(xx)).

### MMC Start Date

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)).

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## Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible to be enrolled in an MMC plan and properly ended your coverage effective September 30, 2017.

As stated in the March 9, 2017 and March 19, 2017 notices, you were found eligible for Medicaid and were enrolled in a MMC plan, with an enrollment start date of May 1, 2017.

Generally, when an individual is eligible for Medicaid through NYSOH, they are required to enroll in an MMC plan. However, when a person has comprehensive third-party health coverage and that coverage is determined to be cost-effective, they are not eligible to enroll in an MMC plan.

On August 29, 2017, your eligibility for financial assistance and enrollment in health insurance was redetermined. On August 30, 2017, NYSOH issued notices stating that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan. Based on that redetermination, your MMC coverage was discontinued as of September 30, 2017.

You testified that you contacted NYSOH and were informed by a representative that your private health insurance coverage, through Empire, was still active. You credibly testified that you then contacted Empire and were informed by a representative that your COBRA coverage was mistakenly never cancelled. On October 26, 2017, a letter from Empire was uploaded to your NYSOH account stating that your health insurance was effective July 1, 2012, and ended as of June 30, 2013 (see Document [REDACTED]).

The credible record supports that you were no longer enrolled in third-party health insurance when NYSOH ended your MMC health plan on September 30, 2017. However, NYSOH relied upon the statewide reporting system, which showed you had active third-party health insurance with Empire. The record reflects that this was because Empire had mistakenly not discontinued your coverage nor reported that it had ended as of June 30, 2013 to the state-wide reporting system. As a result, your MMC plan was registering as active when NYSOH took the action it did on August 29, 2017, as stated in the August 30, 2017 eligibility determination and disenrollment notices.

Since this was in error, the August 30, 2017 eligibility determination and disenrollment notices are RESCINDED insofar as those notices state that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan.

The record reflects that you were re-enrolled in a MMC plan with an enrollment start date of December 1, 2017. Therefore, your case is RETURNED to NYSOH to reinstate your MMC plan from October 1, 2017 through November 30, 2017, and to notify you accordingly.

## **Decision**

The August 30, 2017 eligibility determination and disenrollment notices are RESCINDED insofar as those notices state that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan.

Your case is RETURNED to NYSOH to reinstate your MMC plan from October 1, 2017 through November 30, 2017, and to notify you accordingly.

**Effective Date of this Decision:** December 21, 2017

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

Your MMC plan coverage was improperly discontinued as of September 30, 2017.

Your case has been sent back to reinstate your MMC plan from October 1, 2017 through November 30, 2017. NYSOH will notify you once this has been done.

## **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:

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 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 30, 2017 eligibility determination and disenrollment notices are **RESCINDED** insofar as those notices state that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan.

Your case is **RETURNED** to NYSOH to reinstate your MMC plan from October 1, 2017 through November 30, 2017, and to notify you accordingly.

Your MMC plan coverage was improperly discontinued as of September 30, 2017.

Your case has been sent back to reinstate your MMC plan from October 1, 2017 through November 30, 2017. NYSOH will notify you once this has been done.

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).



## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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**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.

### 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 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 bɛtumi ama wo obi a okyerɛ 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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