



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

Notice of Decision

Decision Date: January 25, 2018

NY State of Health Account [REDACTED]
Appeal Identification Number: AP000000024209

[REDACTED]
[REDACTED],

On January 18, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 16, 2017 disenrollment and November 1, 2017 eligibility determination 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024209

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly end your Medicaid Managed Care (MMC) plan coverage as of October 31, 2017?

Did NYSOH properly determine you eligible for the Medicaid Premium Assistance Program, effective November 1, 2017?

Procedural History

On March 18, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective as of March 1, 2017.

On March 30, 2017, NYSOH issued a plan enrollment notice confirming that as of March 29, 2017, you were enrolled in a MMC plan with an enrollment start date of May 1, 2017.

On June 7, 2017, NYSOH issued a plan enrollment notice confirming that as of June 6, 2017, you were enrolled in a MMC plan with an enrollment start date of April 1, 2017.

On September 15, 2017, your NYSOH account was systemically updated.

On September 16, 2017, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective as of November 1, 2017. The

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notice stated that the type of Medicaid you were eligible for did not require or allow you to enroll in a health plan.

Also on September 16, 2017, NYSOH issued a disenrollment notice stating that your MMC coverage would end on October 31, 2017, because the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a plan.

On November 1, 2017, NYSOH issued a notice stating that Medicaid would reimburse you for your monthly Medicare Part B premiums, effective November 1, 2017 ([REDACTED])

On November 9, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal relative to your eligibility for the Medicaid Premium Assistance Program from September 1, 2017, through October 31, 2017.

On January 4, 2018, NYSDOH'S Third Party Liability Unit evidence packet was uploaded to your NYSOH account [REDACTED]. This eleven-page packet has been made part of the record as "NYSDOH Exhibit 1."

On January 8, 2018, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You stated that you did not know if you wanted to proceed with the hearing. The hearing was adjourned until January 18, 2018, and you agreed to waive formal notice of the adjourned hearing.

On January 18, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, you waived formal notice of the hearing, the record was developed and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account, you were determined eligible for Medicaid, effective March 1, 2017.
- 2) According to your NYSOH account, you were enrolled in a MMC plan from April 1, 2017, through October 31, 2017.
- 3) On September 15, 2017, your NYSOH account was systemically updated to reflect that you were receiving "Medicare Public MEC."
- 4) On September 27, 2017, you submitted a notice of award from the Social Security Administration. The notice stated that you were entitled

to hospital insurance under Medicare beginning May 2014 and medical insurance under Medicare beginning August 2017 (see Document [REDACTED])

- 5) On November 1, 2017, NYSOH issued a notice stating that Medicaid will reimburse you for your monthly Medicare Part B premiums, effective November 1, 2017 [REDACTED]
- 6) You testified that you are seeking to be reimbursed for the Medicare Part B premiums (medical insurance) for the months of September 2017 and October 2017.
- 7) According to NYSDOH'S Third Party Liability Unit evidence packet:

It is [their department's] policy to not reimburse Medicare Part B premiums while an individual is enrolled in Medicaid Managed Care. It is not cost effective for Medicaid to pay the monthly Medicaid Managed Care premium and the Medicare Part B premium for the same months of coverage. Once an individual is disenrolled from Medicaid Managed Care, our department will begin reimbursing their Medicare Part B premiums

(NYSDOH Exhibit 1, p. 2).

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

Applicable Law and Regulations

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. It states in relevant part that, “Medicare recipients are excluded from MMC but can enroll in Medicaid Advantage or MLTC.”

An individual’s effective date of disenrollment is the first day of the first full month after the individual is otherwise ineligible to be enrolled in a MMC plan, pursuant to the Model Contract, state or federal law (Medicaid Managed Care Model Contract Appendix H pg. 16).

Medicaid Premium Reimbursement

When a Medicaid eligible individual has third party health insurance in force, the Medicaid program may determine to pay part all cost of the premiums when payment of the premium is determined to be cost-effective. By paying the premium, the Medicaid program may cost avoid claims that would otherwise be covered by Medicaid (see NYS Social Services Law § 367-a(1)(b), 18 NYCRR § 360-7.5(g)).

Payment of Medicare part B premiums will be made by Medicaid if a Medicaid recipient is a qualified Medicare beneficiary, pursuant to 18 NYCRR § 360-7.7(g). Payment of the part B premium begins in the month following the month in which the qualified Medicare beneficiary applies for Medicaid payment of the premiums (18 NYCRR § 360-7.8(b)(5)).

Legal Analysis

The first issue under review is whether NYSOH properly ended your MMC plan coverage as of October 31, 2017.

You were determined eligible to receive Medicaid and enrolled in a MMC plan as of April 2017. On September 15, 2017, your NYSOH account was systemically updated to reflect that you were enrolled in Medicare.

Generally, an individual who is Medicaid eligible must enroll in a MMC plan; however, individuals who are receiving Medicare benefits are ineligible to be enrolled in a MMC plan. If an individual is determined ineligible to enroll in a MMC plan, their disenrollment must be the first day of the first full month after the individual is otherwise ineligible to be enrolled.

The record reflects that as of September 15, 2017, NYSOH became aware that you were receiving Medicare benefits. Since they were aware as of September 15, 2017, your MMC enrollment should have been discontinued the first day of the following month; that is on October 1, 2017.

Therefore, September 16, 2017 disenrollment notice is MODIFIED to state that your MMC coverage ended as of September 30, 2017.

The second issue under review is whether NYOSH properly determined you eligible for the Medicaid Premium Assistance Program, effective November 1, 2017.

An individual who is eligible for Medicaid may be eligible to be reimbursed for the payment of their third-party health insurance premiums, if the payment is cost-effective and so reduces the cost of providing Medicaid services.

NYSDOH'S Third Party Liability Unit determined that it was not cost-effective for Medicaid to pay the monthly MMC premium and the Medicare Part B premium for the same months of coverage. Once an individual is disenrolled from Medicaid Managed Care, their department begins reimbursing their Medicare Part B premiums (see NYSDOH Exhibit 1, p. 2).

Based on the analysis above, the disenrollment of your MMC plan should have been effective September 30, 2017. NYSDOH relied upon your enrollment in a MMC plan for not reimbursing you for your Medicare Part B premiums in the months of September 2017 and October 2017. Since, by this Decision, you were not eligible to be enrolled in a MMC plan for the month of October 2017 and your disenrollment from your MMC plan is being modified to end as of September 30, 2017, you were eligible to receive reimbursement of your Medicare Part B premiums for the month of October 2017.

Therefore, the November 1, 2017, eligibility determination notice is MODIFIED to state that Medicaid will reimburse you for your monthly Medicare Part B premiums, effective October 1, 2017.

Your case is RETURNED to NYSOH to: (1) end your MMC plan coverage as of September 30, 2017; and (2) facilitate reimbursement of your Medicaid Part B premium for the month of October 2017.

Decision

The September 16, 2017 disenrollment notice is MODIFIED to state that your MMC plan coverage ended as of September 30, 2017.

The November 1, 2017, eligibility determination notice is MODIFIED to state that Medicaid will reimburse you for your monthly Medicare Part B premiums, effective October 1, 2017.

Your case is RETURNED to NYSOH to: (1) end your MMC plan coverage as of September 30, 2017; and (2) facilitate reimbursement of your Medicaid Part B premium for the month of October 2017.

Effective Date of this Decision: January 25, 2018

How this Decision Affects Your Eligibility

Your MMC plan coverage ended as of September 30, 2017.

You were eligible to receive reimbursement of your Medicare Part B premiums, effective October 1, 2017.

Your case is being sent back to NYSOH to facilitate these changes. NYSOH will notify you once completed.

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

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 16, 2017 disenrollment notice is MODIFIED to state that your MMC plan coverage ended as of September 30, 2017.

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The November 1, 2017, eligibility determination notice is MODIFIED to state that Medicaid will reimburse you for your monthly Medicare Part B premiums, effective October 1, 2017.

Your case is RETURNED to NYSOH to: (1) end your MMC plan coverage as of September 30, 2017; and (2) facilitate reimbursement of your Medicaid Part B premium for the month of October 2017.

Your MMC plan coverage ended as of September 30, 2017.

You were eligible to receive reimbursement of your Medicare Part B premiums, effective October 1, 2017.

Your case is being sent back to NYSOH to facilitate these changes. NYSOH will notify you once completed.

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&btumi ama wo obi a okyerε 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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