



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

Notice of Decision

Decision Date: December 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025086

[REDACTED]

Dear [REDACTED],

On December 12, 2017, you appeared by telephone at an expedited hearing on your appeal of NY State of Health's October 3, 2017 disenrollment notice and November 18, 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 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: December 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025086

[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 their coverage effective October 31, 2017?

Procedural History

On January 5, 2017, NYSOH issued a renewal notice that contained an eligibility determination stating that you qualified for health care coverage under Medicaid, effective March 1, 2017.

On January 18, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an MMC plan with Fidelis Care, effective, March 1, 2017.

On October 3, 2017, NYSOH issued a disenrollment notice stating that your MMC coverage would end on October 31, 2017, because records showed that you have other health insurance or Medicare and, therefore, cannot be enrolled in a MMC plan.

On November 18, 2017, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective November 1, 2017, because information showed you have other health insurance or Medicare and individuals with such coverage cannot be enrolled in an MMC plan. The notice further stated that you can get services covered by Medicaid by using your NYS Benefit Identification card at any provider who takes Medicaid.

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On November 30, 2017, an appeal request was submitted with NYSOH's Account Review Unit insofar as you were not enrolled in a MMC plan during the months of November 2017 and December 2017.

On December 8, 2017, your request for an expedited appeal was granted and a hearing was scheduled for December 12, 2017, with your consent and without formal notice of hearing.

On December 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. () assisted. Through sworn testimony you waived formal written notice of the hearing. The record was developed during the hearing and held open until December 27, 2017 to allow you to submit supporting documentation.

On December 19, 2017, the Appeals Unit received a six-page facsimile from you. These documents were made part of the record collectively as "Appellant's Exhibit A" and the record was closed that same day.

Findings of Fact

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

- 1) According to your NYSOH account, you were eligible for Medicaid as of March 1, 2017, and were enrolled in a MMC plan, through Fidelis Care, with an enrollment start date of March 1, 2017.
- 2) Your NYSOH account indicates that, on October 3, 2017, NYSOH determined that you were enrolled in third-party health insurance and discontinued your MMC coverage effective October 31, 2017.
- 3) Your NYSOH account, indicates that, as of November 1, 2017, you had coverage through Medicaid Fee-For-Service and could seek medical treatment and care from a Medicaid provider only.
- 4) On December 5, 2017, you submitted a medical needs statement from your treating medical provider, which demonstrated an emergent need for medical treatment and care from an MMC provider. On that basis, your expedited hearing was scheduled for and heard on December 12, 2017.
- 5) Also on December 5, 2017, you submitted a copy of your official NYS Identification Card issued "11-06-12" with an expiration date of "08-01 21," which has the same address as listed on your NYSOH account and noted in the address line above.

- 6) You testified and the Appeal Summary confirms that you were a victim of identity theft and another individual had health insurance coverage, under the same name, date of birth, and Social Security Number as you, with Blue Cross Blue Shield of Georgia (BCBS of GA) and Express Scripts (see Evidence Packet, Appeal Summary, dated 12/08/2017, p. 2).
- 7) You testified that, in 2013, you reported to the police an Identity Theft incident, and provided a copy of the police report, complaint and affidavit (see Appellant's Exhibit A, pp. 2, 4-6). You testified the identity theft has not yet been resolved.
- 8) According to that police report, your name, date of birth, and Social Security number are being used by someone without your permission and this person is travelling in the states of North Carolina, Georgia, Kansas, New Jersey, and Ohio. You stated you have "never lived or visited not worked in any of these states" (see Appellant's Exhibit A, pp. 5-6).
- 9) You testified to questions posed by the Hearing Officer that:
 - a) You have been a victim of identity theft since 2009, but only learned about it in 2012, and filed a police report on February 19, 2013;
 - b) You have never lived in the State of Georgia, USA;
 - b) You have never worked for a Georgia-based, USA company in any capacity;
 - c) You have never worked for any company in [REDACTED], Georgia, USA;
 - d) You have never worked for a company known as [REDACTED] out of [REDACTED], Georgia;
 - e) You do not have any immediate family members with the same name who live in Georgia.
 - f) You have not in the past and do not now have health insurance coverage with BCBS of GA or Express Scripts.
- 10) You are seeking to have your coverage in your Fidelis Care MMC plan restored so that you can get necessary medical treatment and care, and prescription medications.

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 a 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible to be enrolled in an MMC plan such that your coverage ended effective October 31, 2017.

As stated in the January 18, 2017 plan enrollment notice, you were enrolled in an MMC plan with an enrollment start date of March 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 or remain enrolled in an MMC plan.

On or about October 3, 2017, NYSOH received information that you had third-party-health-insurance or Medicare such that you were no longer eligible to remain enrolled in an MMC plan. On October 3, 2017, NYSOH issued a disenrollment notice to this effect, but no corresponding eligibility determination notice was issued at that time.

On November 18, 2017, NYSOH issued the eligibility determination notice stating that you remained eligible for straight Medicaid, effective November 1, 2017, because information showed you have other health insurance or Medicare and individuals with such coverage cannot be enrolled in an MMC plan. The notice further stated that you could get services covered by Medicaid by using your NYS Benefit Identification card at any provider who takes Medicaid; that is, Medicaid Fee-For-Service.

However, you testified that you were a victim of identity theft and submitted supporting documents to show that you had filed a police report, complaint and affidavit on February 19, 2013 (see Appellant's Exhibit A). You further testified that your identity theft complaint has not yet been resolved.

You also provided your official NYS Identification Card as proof that you have resided in New York since 2012 at your current address, as noted in the address line of this Decision.

You further credibly testified that you have never worked for a Georgia-based company nor lived or worked in Georgia, USA. The information obtained from NYSOH indicates that the individual with the same name, date of birth, and Social Security Number as you, has employer-sponsored health insurance coverage with a Georgia-based company, [REDACTED], through BCBS of GA and Express Scripts. You testified that you never worked for Plateau Excavation and have not in the past and do not now have health insurance coverage with BCBS of GA or Express Scripts. In fact, the record indicates that you had coverage in a Fidelis MMC plan as of March 1, 2017, which reverted to Medicaid Fee-For-Service as of November 1, 2017, because of the third-party-health-insurance information.

Lastly, you credibly testified that you have no immediate relatives living in Georgia with the same or similar name, such that there is nothing to indicate a mistake in identity was made.

Based on the totality of the evidence, it is concluded that you did not in the past and do not currently have health insurance coverage with BCBS of GA or Express Scripts. As such, your disenrollment from your Fidelis MMC plan as of November 1, 2017, was based on erroneous information; albeit, by no fault of NYSOH.

Therefore, in the interest of justice and based on the best supporting evidence of record, the October 3, 2017 disenrollment notice and the November 18, 2017 eligibility determination notice are RESCINDED insofar as those notices stated you could not remain enrolled in an MMC plan because you had third-party health insurance and, therefore, only qualified for Medicaid Fee-For-Service.

Your case is RETURNED to NYSOH to reinstate your MMC plan as of November 1, 2017, and ongoing for the remainder of the current 12 month coverage period through February 28, 2018, provided no disqualifying events occur in the future, and to notify you accordingly.

Decision

The October 3, 2017 disenrollment notice and the November 18, 2017 eligibility determination notice are RESCINDED insofar as those notices stated you could not remain enrolled in an MMC plan because you had third-party health insurance and, therefore, only qualified for Medicaid Fee-For-Service.

Your case is RETURNED to NYSOH to reinstate your MMC plan as of November 1, 2017, and ongoing for the remainder of the current 12-month coverage period through February 28, 2018, provided no disqualifying events occur before then, and to notify you accordingly.

Effective Date of this Decision: December 20, 2017

How this Decision Affects Your Eligibility

The information relied upon by NYSOH was incorrect as you were a victim of identity theft such that you were incorrectly disenrolled from your MMC plan as of October 31, 2017.

Your case has been sent back to reinstate coverage in your MMC plan as of November 1, 2017, and for the remainder of the 12 month coverage period through February 28, 2018, provided no disqualifying events occur before then. 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.

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).

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

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Summary

The October 3, 2017 disenrollment notice and the November 18, 2017 eligibility determination notice are **RESCINDED** insofar as those notices stated you could not remain enrolled in an MMC plan because you had third-party health insurance and, therefore, only qualified for Medicaid Fee-For-Service.

Your case is **RETURNED** to NYSOH to reinstate your MMC plan as of November 1, 2017, and ongoing for the remainder of the current 12-month coverage period through February 28, 2018, provided no disqualifying events occur before then, and to notify you accordingly.

The information relied upon by NYSOH was incorrect as you were a victim of identity theft such that you were incorrectly disenrolled from your MMC plan as of October 31, 2017.

Your case has been sent back to reinstate coverage in your MMC plan as of November 1, 2017, and for the remainder of the 12-month coverage period through February 28, 2018, provided no disqualifying events occur before then. NYSOH will notify you once this has been done.

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 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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