



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

## Notice of Decision

Decision Date: December 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021717 and AP000000025114

[REDACTED]

[REDACTED]

[REDACTED]

On November 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 14, 2017 eligibility determination and disenrollment notices and the November 21, 2017 disenrollment 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.

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 sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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## Decision

Decision Date: December 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021717 and AP000000025114

[REDACTED]

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your enrollment in your Medicaid Managed Care plan ended effective July 31, 2017, and again on December 1, 2017?

## Procedural History

On June 16, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your June 15, 2017 application, stating that you were eligible for Medicaid, effective June 1, 2017.

Also on June 16, 2017, a plan enrollment notice was issued confirming your selection of a Medicaid Managed Care (MMC) Plan with an effective date of July 1, 2017.

On June 27, 2017, NYSOH issued a notice stating that you have changed your mailing address to [REDACTED]

On July 14, 2017, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, and could not enroll

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in a qualified health plan at full cost. This was because notices sent to you by NYSOH were returned to NYSOH as undeliverable. Your eligibility ended July 14, 2017.

Also on July 14, 2017, NYSOH issued a disenrollment notice stating that your coverage in your MMC plan would end on July 31, 2017. This was because you were no longer eligible to remain enrolled in health insurance through NYSOH.

On August 9, 2017, NYSOH issued an eligibility determination notice, based on your August 8, 2017 updated application, stating that you were eligible for Medicaid, effective August 1, 2017.

Also on August 9, 2017, a plan enrollment notice was issued confirming your selection of a MMC Plan with an effective start date of September 1, 2017.

Also on August 9, 2017, NYSOH issued a notice stating that you have changed your mailing address to [REDACTED]

On August 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the July 14, 2017 disenrollment notice insofar as your enrollment in your MMC plan ended on July 31, 2017, resulting in a gap in MMC coverage for the month of August 2017.

On October 5, 2017, NYSOH issued a notice stating that NYSOH received information from the United States Postal Service (USPS) that your address has changed.

On October 16, 2017, NYSOH issued a notice stating that you updated your mailing address in your account.

On October 19, 2017, NYSOH issued an eligibility determination notice, based on your October 18, 2017 updated application, stating that you were eligible for Medicaid effective as of October 1, 2017.

Also on October 19, 2017, a plan enrollment notice was issued confirming your selection of an MMC Plan with an effective start date of November 1, 2017.

Also on October 19, 2017, October 28, 2017, and November 10, 2017, NYSOH issued notices stating that NYSOH received information from the USPS that your address has changed.

On October 28, 2017, NYSOH issued a notice confirming your request to receive notices via electronic mail.

On November 7, 2017 and November 28, 2017, NYSOH issued notices stating that you updated your mailing address in your account.

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On November 21, 2017, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, and could not enroll in a qualified health plan at full cost. This was because notices sent to you by NYSOH were returned to NYSOH as undeliverable. Your eligibility ended November 21, 2017.

Also on November 21, 2017, NYSOH issued a disenrollment notice stating that your coverage in your MMC plan would end on December 1, 2017. This was because you were no longer eligible to remain enrolled in health insurance through NYSOH.

On November 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your request to amend your appeal to include your November 21, 2017 disenrollment notice was granted and testimony was received. The record was developed during the hearing and held open to allow you time to submit supporting documentation.

On December 1, 2017, you submitted proof of state residency including mail delivered to your home, a copy of your renewed NYS driver's license and registration, and a certificate of completion of your [REDACTED]. These documents were made part of the record as "Appellant's Exhibit A." The record closed that day.

## **Findings of Fact**

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

- 1) According to your NYSOH account and your testimony, you updated your application for health insurance through NYSOH on June 15, 2017 and October 18, 2017. On June 16, 2017, NYSOH issued three notices that were returned as undeliverable on June 22, 2017. Additionally, notices dated June 27, 2017 and July 1, 2017 were returned as undeliverable on July 10, 2017. On November 17, 2017, three notices dated October 19, 2017 were also returned as undeliverable.
- 2) The returned mail resulted in you being terminated from your MMC Plan, effective July 31, 2017 and December 1, 2017, respectively.
- 3) You testified that you realized that you were being disenrolled from your MMC plan when you went to see your doctor and he advised you that you were not covered.

- 4) According to your NYSOH account, on August 8, 2017, NYSOH received your updated application for health insurance. You selected your MMC plan that day and your enrollment was effective on September 1, 2017.
- 5) You testified that, although NYSOH issued a change of address notice on June 27, 2017, this was not truly a change of address. You further testified that you always utilized your [REDACTED] address but that you updated your account once again because of prior issues with your mail being returned.
- 6) You further testified that you gave your local Department of Social Services [REDACTED], which ended October 2016, and that despite making sure your address was correct with NYSOH, mail was still sent by NYSOH to [REDACTED].
- 7) According to your NYSOH account, NYSOH received information from the USPS on four different occasions indicating that your address had changed. The record additionally indicates that you attempted to update your address in your NYSOH account on five occasions beginning June 26, 2017.
- 8) You testified that you have resided in the same address since 2012 and have never had any issues with receiving your mail except for notices from NYSOH and NYS Department of Motor Vehicles. You believe this is due to a computer glitch somewhere that is causing some of your notices to be sent to an old address and others were mistakenly forwarded by the USPS to that old address.
- 9) You further testified that, although you had your mail forwarded over a year ago and the post office was not supposed to be forwarding your mail as of June 2017. You testified that you spent over 40 minutes on the phone with the USPS to deactivate the forwarding address and correct the situation.
- 10) Your submitted documentation shows that you received notices in the mail from NYSOH that reflected your correct address on the envelope, as well as mail from the Social Security Administration, your doctor's offices, and financial institutions. These documents further show that you have recently renewed your NYS driver's license and registration [REDACTED]
- 11) According to your NYSOH account, your June 16, 2017 notices and [REDACTED]

27, 2017, the July 1, 2017 and two other October 19, 2017 notices were addressed to [REDACTED]

- 12) You testified that you want your MMC plan reinstated for the month of August 2017 and December 2017 because this error should be fixed. Additionally, you went to [REDACTED] in August 2017 and you have an outstanding medical bill for that month.
- 13) You testified that you changed your mailing address to a [REDACTED] [REDACTED] because of all the issues you are having receiving mail from NYSOH.
- 14) According to your NYSOH account, on October 28, 2017, you updated your preferences to begin receiving notices from NYSOH via email.

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)).

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)).

Medicaid Managed Care 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, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).



## State Residency Requirement

To be eligible for enrollment in a MMC plan through the New York State of Health, an applicant must be a resident of New York State (NY Public Health Law § 2510(6)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your MMC plan ended effective July 31, 2017, and again on December 1, 2017.

According to your NYSOH account, on June 16, 2017 and October 19, 2017, NYSOH issued three notices each of those days that were returned as undeliverable on June 22, 2017 and November 17, 2017, respectively. Additionally, further notices, dated June 27, 2017 and July 1, 2017, were returned as undeliverable on July 10, 2017.

On November 17, 2017, three notices dated October 19, 2017 were also returned as undeliverable.

A review of the record reflects that there were many other notices returned as undeliverable despite some of these notices being addressed to the correct address and others to an incorrect address.

On June 15, 2017 and October 18, 2017, prior to these notices being returned to NYSOH, you updated your account and were found eligible for and enrolled in a MMC plan as of July 1, 2017 and again as of December 1, 2017. You were subsequently disenrolled both times under the returned mail rule on the basis that you did not meet the state residency requirement. As such, on July 14, 2017 and November 21, 2017, NYSOH issued eligibility determination and disenrollment notices, stating respectively that you were no longer eligible to enroll in Medicaid and your coverage in your MMC plan would end effective July 31, 2017 and December 1, 2017, respectively.

Although the record indicates that your returned mail was initially caused by a forwarding request you made to the USPS, you credibly testified that you spoke to the USPS for 40 minutes to ensure that your mail be delivered to your [REDACTED] address. As such, it is reasonable to conclude that all these notices were returned as undeliverable through no fault of your own, and quite possibly as the result of an error of NYSOH or the USPS. Therefore, it is also reasonable to conclude that your disenrollment from your MMC plan was in error and the July 14, 2017 and November 21, 2017 eligibility determination and disenrollment notices must be RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your MMC plan for the months of August 2017 and December 2017, and to notify you accordingly.

## **Decision**

The July 14, 2017 and November 21, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your MMC plan for the months of August 2017 and December 2017, and to notify you accordingly.

It is noted that this Decision resolves your second appeal filed November 30, 2017, and designated as [REDACTED] regarding your MMC plan start date of January 1, 2018, such that no further action is required by NYSOH on that appeal.

**Effective Date of this Decision:** December 12, 2017

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

Your case is being sent back to NYSOH to reinstate you in a MMC plan for the months of August 2017 and December 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 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 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 July 14, 2017 and November 21, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your MMC plan for the months of August 2017 and December 2017, and to notify you accordingly.

It is noted that this Decision resolves your second appeal filed November 30, 2017, and designated as [REDACTED], regarding your MMC plan start date of January 1, 2018, such that no further action is required by NYSOH on that appeal.

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).

Your case is being sent back to NYSOH to reinstate you in a MMC plan for the months of August 2017 and December 2017. 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:**

[REDACTED]

[REDACTED]

## **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)**

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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।

### **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 b e tumi ama wo obi a okyer e 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 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.

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**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.