



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

Notice of Decision

Decision Date: February 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025237

[REDACTED]

[REDACTED]

On February 7, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's June 4, 2017 renewal notice, June 18, 2017 notice of plan enrollment, and November 9, 2017 notice of plan enrollment.

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: February 16, 2018

NY State of Health Account ID: [REDACTED]
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Issues

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

Was your appeal of New York State of Health's June 4, 2017 renewal notice and June 18, 2017 notice of plan enrollment timely?

Did NY State of Health (NYSOH) properly determine that your newborn's enrollment in his Medicaid Managed Care plan was effective December 1, 2017?

Procedural History

On June 4, 2017, NYSOH issued a renewal notice which stated that you were eligible to enroll in the Essential Plan, effective August 1, 2017 with a \$20.00 monthly premium.

On June 18, 2017, NYSOH issued a notice of enrollment stating that you were enrolled in an Essential Plan with a \$20.00 monthly premium, effective August 1, 2017.

On [REDACTED] you updated your application for financial assistance to include your newborn child.

On November 9, 2017, NYSOH issued a notice of eligibility determination, based on your [REDACTED] application. That notice stated your newborn was eligible for Medicaid, effective October 1, 2017. That notice also stated that you were eligible for Medicaid, effective November 1, 2017.

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Also on November 9, 2017, NYSOH issued a notice of enrollment in the plan you selected on October 31, 2017, stating that you and your newborn were enrolled in a Medicaid Managed Care plan, and that coverage for both of you would begin effective December 1, 2017.

On December 4, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your newborn's enrollment in his Medicaid Managed Care plan, insofar as it did not begin as of date of his birth or the next day, November 1, 2017.

On February 7, 2018, 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 support the following findings of fact:

- 1) You testified that you are disputing your newborn's enrollment start date in his Medicaid Managed Care plan.
- 2) The record reflects that on June 4, 2017, NYSOH issued a renewal notice stating that you were eligible for the Essential Plan beginning August 1, 2017, and that on June 18, 2017, NYSOH issued a notice of plan enrollment stating you were enrolled in an Essential Plan with a \$20.00 monthly premium beginning August 1, 2017.
- 3) You testified, and the record reflects, that you have elected to receive all your notices from NYSOH by email.
- 4) You testified that you did not know you were determined eligible for or enrolled in an Essential Plan because you did not receive either the June 4, 2017 renewal notice or the June 18, 2017 enrollment notice.
- 5) You testified that you discovered that you were enrolled in an Essential Plan during a routine monthly check-up with your doctor during your pregnancy. You testified that you could not recall the date this occurred.
- 6) The record does not contain any notices, incidents or notes stating that you did not pay your monthly premium to your Essential Plan.
- 7) The record reflects that your eligibility for and enrollment in the Essential Plan was continuous and uninterrupted from August 1, 2017 until November 1, 2017, at which time you were enrolled in fee-for-service Medicaid.

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- 8) The record reflects that you first contacted NYSOH to file a formal appeal regarding your enrollment in the Essential Plan, instead of a Medicaid Managed Care plan, on December 4, 2017.
- 9) Your newborn was born on [REDACTED].
- 10) You testified, and the record reflects, that on [REDACTED] you contacted NYSOH and added your newborn to your NYSOH account.
- 11) Your newborn was eligible for Medicaid on October 1, 2017, and that his enrollment in a Medicaid Managed Care Plan began December 1, 2017.
- 12) On the date of your newborn's birth, [REDACTED], you were enrolled in the Essential Plan.
- 13) You testified that you are seeking his start date in his Medicaid Managed Care plan to begin on the day of his birth, [REDACTED], or the next day, November 1, 2017. You testified this is because you enrolled him the earliest day possible, on the date of his birth, and that you did not know the Medicaid Managed Care plan start date differed from fee-for-service Medicaid coverage.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

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)).

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; 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 for Newborns

Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth (42 CFR § 435.117(a), N.Y. Soc. Serv. Law § 366-g(3)). Additionally, Medicaid Managed Care plans are contractually obligated to provide coverage to eligible newborns based on the transaction date of the enrollment of the newborn (Medicaid Managed Care Model Contract (Appendix H-6 effective 3/1/2014 – 2/28/2019)).

Legal Analysis

The first issue is whether your appeal of NYSOH's June 18, 2017 renewal notice and June 18, 2017 enrollment confirmation notice was timely.

On June 16, 2017, NYSOH issued a renewal notice stating that you were eligible for the Essential Plan, effective August 1, 2017. On June 18, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan, effective August 1, 2017. The record reflects that you first contacted NYSOH to file a formal appeal regarding your enrollment in the Essential Plan, instead of a Medicaid Managed Care plan, on December 4, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

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For an appeal to have been valid on the issue of your enrollment in the Essential Plan rather than a Medicaid Managed Care plan, an appeal should have been filed by August 17, 2017. The record reflects that you filed your appeal on December 4, 2017, which is beyond the 60-day deadline. You testified that you could not have made a timely appeal because you did not receive proper notice from NYSOH.

You testified that you elected to receive email alerts from NYSOH. You testified that NYSOH did not properly notify you that you were enrolled in the Essential Plan because you did not receive an email alert from NYSOH notifying you that there were notices in your NYSOH account, and therefore you did not know you were enrolled in the Essential Plan. You testified that you did not discover you were enrolled in the Essential Plan until you went to the doctor for a routine monthly check-up for your pregnancy.

However, the evidence contradicts this testimony. The record reflects that you were enrolled in an Essential Plan with a \$20.00 monthly premium on August 1, 2017. There is no evidence in the record that your premiums were not paid. According to your NYSOH account, your enrollment and coverage in the Essential Plan was continuous and uninterrupted. Your NYSOH account does not contain any notices, incidents or notes indicating that your coverage in the Essential Plan ended or was otherwise suspended for failure to pay your monthly premiums to your Essential Plan. Based on this evidence, it is reasonable to conclude that you knew you were required to pay your monthly premiums and the premiums were paid. It is also reasonable to conclude, since you knew you had to pay your monthly premiums and those premiums were paid, that you received the June 4, 2017 renewal notice and the June 18, 2017 plan enrollment notice from NYSOH instructing you to do so.

Accordingly, the record reflects that NYSOH properly notified you on June 4, 2017 that you were eligible for the Essential Plan, and on June 18, 2017 that you were enrolled in an Essential Plan. The record also reflects that you filed your appeal on December 4, 2017, which is more than 60 days from the June 4, 2017 and June 18, 2017 notices. Therefore, your appeal of these notices is untimely and is DISMISSED.

The second issue is whether NYSOH properly determined that your newborn's enrollment in his Medicaid Managed Care plan was effective December 1, 2017.

Your newborn was born on [REDACTED]. You testified, and the record reflects, that on [REDACTED], you added your newborn to your NYSOH account, and enrolled him into a Medicaid Managed Care plan. You testified that because you enrolled your newborn into a Medicaid Managed Care plan on the date of his birth, the earliest possible day you could have done so, that you believe his Medicaid Managed Care start day should have started as of the date of his birth, or the next day, November 1, 2017.

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In New York State, Medicaid coverage must be provided to a newborn child born to a woman who has been determined eligible for, and is receiving, Medicaid on the date of the newborn's birth. The record reflects that on the date of your newborn's birth, you were enrolled in the Essential Plan. As discussed above, your ability to appeal your enrollment in the Essential Plan rather than a Medicaid Managed Care plan is untimely. Therefore, your newborn was not mandated to receive coverage through a Medicaid Managed Care plan as of his date of birth.

Since your newborn was not mandated to receive coverage through a Medicaid Managed Care Plan as of the day of his birth, the date on which his Medicaid Managed Care plan takes effect depends on the day you selected a plan for enrollment. A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since you selected a plan for enrollment on [REDACTED], your newborn's enrollment would properly take effect on the first day of the second month following October; that is December 1, 2017.

Therefore, the November 9, 2017 notice of plan enrollment stating your newborn's enrollment in his Medicaid Managed Care plan was effective December 1, 2017 is correct and must be AFFIRMED.

Decision

Your appeal of the June 16, 2017 renewal notice and June 18, 2017 notice of plan enrollment is DISMISSED.

The November 9, 2017 notice of plan enrollment is AFFIRMED.

Effective Date of this Decision: February 16, 2018

How this Decision Affects Your Eligibility

NYSOH properly found that your newborn's Medicaid Managed Care plan start date was effective December 1, 2017.

If You Disagree with this Decision (Appeal Rights)

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).

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 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

Your appeal of the June 16, 2017 renewal notice and June 18, 2017 notice of plan enrollment is DISMISSED.

The November 9, 2017 notice of plan enrollment is AFFIRMED.

NYSOH properly found that your newborn's Medicaid Managed Care plan start date was effective December 1, 2017.

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 1-855-355-5777번으로 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. yEbEtumi ama wo obi a okyerE 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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