



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

Notice of Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026319

[REDACTED]

Dear [REDACTED],

On February 28, 2018, your spouse appeared by telephone as an Authorized Representative at a hearing on your appeal of NY State of Health's December 23, 2017 eligibility determination notice and December 27, 2017 plan enrollment 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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Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026319

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine that you, your spouse and children were eligible for Medicaid and enrolled in fee-for-service Medicaid, effective December 1, 2017?

Did NYSOH properly determine that enrollment for you, your spouse and children in your Medicaid Managed Care plan was effective February 1, 2018?

Procedural History

On November 1, 2017, an application for financial assistance was submitted on behalf of your entire household, including you, your spouse and your children. That application was submitted through NYSOH Account ID [REDACTED].

No notices were issued by NYSOH as a result of that application.

On December 22, 2017, an application for financial assistance was submitted on behalf of your entire household, including you, your spouse and your children. That application was submitted through NYSOH Account ID [REDACTED].

On December 23, 2017, NYSOH issued an eligibility determination notice, based on your December 22, 2017 application, stating that you, your spouse and your children were eligible for Medicaid, effective December 1, 2017. This notice directed you to select a health plan.

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On December 26, 2017, you selected a Medicaid Managed Care plan on behalf of yourself, your spouse and your children.

That day, a preliminary determination was prepared, stating that you, your spouse and your children were eligible to enroll in a Medicaid Managed Care Plan, effective February 1, 2018.

Also on December 26, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the Medicaid eligibility start date and Medicaid Managed Care plan enrollment start date did not both begin on January 1, 2017.

On December 27, 2017, NYSOH issued a plan enrollment notice confirming that you, your spouse and your children were enrolled in a Medicaid Managed Care plan, and that coverage would begin on February 1, 2018.

On February 28, 2018, your spouse 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) Your spouse testified that you are seeking this appeal on behalf of your entire household because you want your Medicaid eligibility start date, and Medicaid Managed Care plan enrollment start date, to begin the same day; that is, January 1, 2018.
- 2) Your spouse testified that you first applied for health insurance on behalf of your entire household, including yourself, your spouse and your children on November 1, 2017 under your NYSOH account in existence at that time (██████████).
- 3) According to NYSOH Account ID ██████████, the application lists you as the account holder, and includes your spouse and your children as household members.
- 4) According to that NYSOH account, on November 1, 2017 at 11:38:2 AM an event titled "Application" was created in the Events Tab.
- 5) Your spouse testified that there was a technical issue when you submitted the application on November 1, 2017.
- 6) Your spouse testified that he continued to attempt to resolve this issue numerous times by contacting NYSOH by telephone during the months of

November 2017 and December 2017. Your spouse further testified that he spoke with several different NYSOH representatives, but the problem was not resolved until December 22, 2017.

- 7) Your spouse testified that, on December 22, 2017, you or he spoke with a NYSOH representative over the telephone, and that representative told you or him that there was a defect on your NYSOH Account ID [REDACTED] and advised you to create a new account.
- 8) On December 22, 2017, NYSOH Account ID [REDACTED] was created. You are listed as the account holder on that account, and your spouse and children are listed as household members.
- 9) Your spouse testified that, after this new account was created, you and your family were able to submit an application for financial assistance for health insurance.
- 10) On December 26, 2017, Incident [REDACTED] was created. The description in that incident reads in relevant part that, "there was a defect on original application [REDACTED] that is still unresolved which caused appellant to create new acct and be given 2/1 start date".
- 11) According to your new NYSOH account and your spouse's testimony, a Medicaid Managed Care plan was selected for your household on December 26, 2017.
- 12) Your spouse testified that, to avoid a gap in health insurance coverage during the time you were unable to enroll in health insurance through NYSOH, you and/or he enrolled your family into third-party health insurance during the months of November 2017 and December 2017.
- 13) Your spouse testified this third-party health insurance was active until December 31, 2017, at which time it ended.
- 14) Your spouse testified that you are not seeking coverage for you household for the months of November 2017 or December 2017, because you were all enrolled in active third-party health insurance during that time.

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)).

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)).

Third Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider is not permitted to enroll into a Medicaid Managed Care plan (NY Social Services Law (NY SSL) § 364-j(3)(e)(xx); Medicaid Managed Care Model Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019). However, they will remain eligible for fee-for-service Medicaid with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY SSL § 366(4)(c)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you, your spouse and your children's eligible for Medicaid and enrolled in fee-for-service Medicaid, effective December 1, 2017.

You submitted an application for financial assistance for health insurance on behalf of yourself, your spouse and your children on December 22, 2017. Your spouse testified that you, your spouse and your children are not seeking fee-for-service Medicaid for the month of December 2017, because you purchased third-party health insurance for your family during that month.

However, fee-for-service Medicaid goes into effect the first day of the month in which an application was submitted as long as an individual was eligible for Medicaid during that month. Fee-for service Medicaid coverage applies to individuals who already have third-party health insurance if found eligible for Medicaid at any time in that month. In such cases, the fee-for-service Medicaid coverage is secondary to the primary third-party health insurance.

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 spouse credibly testified that your family was enrolled in third-party health insurance from November 1, 2017 through December 31, 2017. According to your NYSOH account, you submitted an application for Medicaid during December 2017, and you, your spouse and your children were determined eligible for Medicaid. As such, NYSOH properly determined that you, your spouse and your children were eligible for Medicaid and enrolled in fee-for-service Medicaid beginning December 1, 2017.

Therefore, the December 23, 2017, NYSOH eligibility determination notice is **AFFIRMED**.

The second issue under review is whether NYSOH properly determined you're your family's enrollment in a Medicaid Managed Care Plan was effective February 1, 2018.

The date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the 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 first selected a Medicaid Managed Care plan for yourself, your spouse and your children on December 26, 2017, ordinarily the effective date would be the first day of the second month following December 2017; that is, as of February 1, 2018.

However, the credible evidence of record demonstrates that you were not able to select a Medicaid Managed Care plan for yourself, your spouse and your children at an earlier date in NYSOH Account ID [REDACTED], through no fault of your own.

You testified, and the credible evidence of record corroborates, that:

- 1) You submitted an application for health insurance for yourself, your spouse and your children on November 1, 2017, through your then online marketplace account, NYSOH Account ID [REDACTED];
- 2) There was a defect on NYSOH Account ID [REDACTED], which prevented you from enrolling yourself and your family into health insurance through NYSOH, as referenced in Incident [REDACTED];
- 3) You were unable to enroll yourself or your family into health insurance through NYSOH until December 22, 2017, when you created a new account, NYSOH Account ID [REDACTED].
- 4) You, your spouse and your children applied, and were found eligible for, Medicaid on December 23, 2017; and,

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- 5) You selected a Medicaid Managed Care plan for enrollment for you, your spouse and your children on December 26, 2017.

As already noted above, your spouse also testified that in order to prevent a gap in coverage during the months of November 2017 and December 2017, you enrolled yourself, your spouse and your children were enrolled in private, third-party health insurance plan. That third-party health insurance plan was active beginning November 1, 2017 through December 31, 2017.

When a person has active coverage in a health insurance plan outside of NYSOH, they are not eligible to enroll in a Medicaid Managed Care plan. Instead, they are covered under fee-for-service Medicaid, or simply Medicaid, and not Medicaid through a Medicaid Managed Care plan. Once an individual no longer has active coverage in a health insurance plan outside of NYSOH, they then become eligible to enroll in a Medicaid Managed Care plan.

Since you, your spouse and your family had third party health insurance until December 31, 2017, the earliest date you would have been eligible to enroll in a Medicaid Managed Care plan is January 1, 2017.

Based on your testimony and the credible evidence of record, it is reasonable to conclude that, but for the defect on NYSOH Account ID [REDACTED], you would have selected a plan for enrollment as early as November 1, 2017, and that you would have enrolled your family in a Medicaid Managed Care plan at the earliest date possible; that is, as of January 1, 2018.

Therefore, the December 27, 2017 plan enrollment notice is MODIFIED to state that enrollment for you, your spouse and your children in your Medicaid Managed Care plan is effective January 1, 2018.

Your case is RETURNED to NYOSH to effectuate these changes and notify you accordingly.

Decision

The December 23, 2017 eligibility determination notice is AFFIRMED.

The December 27, 2017 plan enrollment notice is MODIFIED to state that enrollment for you, your spouse and your children in your Medicaid Managed Care plan is effective January 1, 2018.

Your case is RETURNED to NYSOH to effectuate these changes and notify you accordingly.

Effective Date of this Decision: March 12, 2018

How this Decision Affects Your Eligibility

NYSOH properly determined that you, your spouse and your children were eligible for Medicaid beginning December 1, 2017, and had coverage through fee-for-service Medicaid.

Your case is being sent back to NYSOH to enroll you, your spouse and your children in your Medicaid Managed Care plan effective January 1, 2018. NYSOH will notify you once this is 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:

- 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 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 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 December 23, 2017 eligibility determination notice is **AFFIRMED**.

The December 27, 2017 plan enrollment notice is **MODIFIED** to state that enrollment for you, your spouse and your children in your Medicaid Managed Care plan is effective January 1, 2018.

Your case is **RETURNED** to NYSOH to effectuate these changes and notify you accordingly.

NYSOH properly determined that you, your spouse and your children were eligible for Medicaid beginning December 1, 2017, and had coverage through fee-for-service Medicaid.

Your case is being sent back to NYSOH to enroll you, your spouse and your children in your Medicaid Managed Care plan effective January 1, 2018. NYSOH will notify you once this is 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 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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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