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

Notice of Decision

Decision Date: May 9, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000026809

[redacted]

Dear [redacted]

On March 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 12, 2017 disenrollment notice and the November 18, 2017 enrollment confirmation 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
P.O. Box 11729
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Decision

Decision Date: May 9, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000026809

[redacted]

Issues

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

Was your appeal of the September 12, 2017 disenrollment notice timely?

Did NYSOH properly determine your Medicaid Managed Care plan enrollment with MVP became effective no earlier than January 1, 2018?

Procedural History

On September 12, 2017, NYSOH issued a notice stating the income information in your application did not match information received from state and federal data sources. The notice directed you to submit proof of your income to verify the information in your application by September 26, 2017 or NYSOH would not be able to determine your eligibility for health coverage.

Also on September 12, 2017, NYSOH issued a disenrollment notice stating your Medicaid Managed Care plan (MMC) enrollment with MVP would end on September 30, 2017, because you were no longer eligible to enroll in the plan.

On November 7, 2017, NYSOH systematically redetermined your eligibility for health coverage.

On November 8, 2017, NYSOH issued an eligibility determination notice stating you were eligible for Medicaid, effective October 1, 2017. The notice directed you to “pick a health plan” or “one [would] be chosen for you.”

On November 18, 2017, NYSOH issued an enrollment notice, based on a November 17, 2017 automatic plan assignment, confirming you were enrolled in a MMC plan with MVP, effective January 1, 2018.

On January 5, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your MVP MMC coverage was not effective earlier than January 1, 2018.

On March 28, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

Findings of Fact

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

1) You were enrolled in a MMC with MVP in 2017.

2) On September 11, 2017, your application was updated to renew your coverage for the upcoming coverage year. That application indicated your expected annual income was $11,400.00 consisting solely of [redacted] income you receive.

3) According to your account, NYSOH was unable to verify the income information in your application and you were placed in a pending Medicaid status with documentation of your income requested before NYSOH could determine your eligibility for the new coverage year.

4) You were disenrolled from your MMC, effective September 30, 2017.

5) You submitted documentation in September, October, and November 2017 including a single personal check from 2014 for a [redacted] payment, a letter from your tenant, and a lease agreement from 2013. These documents were subsequently invalidated by NYSOH. Additional documentation of your income was requested.

6) On November 7, 2017, you uploaded a copy of a signed lease agreement from 2017. NYSOH verified that documentation the same day and confirmed the income information in your prior application.

7) NYSOH systematically redetermined your eligibility on November 7, 2017 and found you eligible for Medicaid, effective October 1, 2017.

8) The November 8, 2017 eligibility determination notice directed you to “pick a health plan” and indicated that if you did not choose a plan one would be chosen for you.

9) According to your account, on November 17, 2017 you were automatically assigned MVP as your MMC, because no enrollment requests had been received. Your coverage thorough that plan became effective January 1, 2018.

10) You appealed the effective date of your MVP MMC coverage. You testified you are seeking to backdate your coverage to October 1, 2017, because you have outstanding medical bills from the months of October, November, and December 2017.

11) You testified that you contacted NYSOH on November 9, 2017 and you were told that you were currently enrolled in a MMC plan with MVP. You testified that you subsequently sought medical treatment in November and December 2017 based on that assurance from the NYSOH representative.

12) The Appeals Unit reviewed the recording of a November 9, 2017 telephone call and confirmed the following:

    a. You stated you were calling, because you were considering changing your plan to Fidelis. You asked the representative how it would affect your coverage if you switched plans.

    b. You stated that you had recently received a notice indicating your MVP coverage had “started again” October 1, 2017.

    c. The representative put you on hold to “look into your account.” The representative came back on the line and stated that if you changed your plan it would not take effect right away. The representative stated that “you would still have your current plan until the end of the month” and your new plan “would kick in” on December 1, 2017.

    d. You asked, “If I change my plan, MVP would go to the end of the month and then I would get Fidelis?” The representative responded “Yes.”

    e. You asked the representative if you could switch your plan online at a later time and the represented advised that you could.

13) According to your account, you contacted NYSOH on December 13, 2017 to switch your MMC to Fidelis. You were enrolled in a Fidelis plan, effective January 1, 2018 and your MVP enrollment was cancelled as a result.

14) Your account confirms that you had fee for service Medicaid coverage throughout all of 2017, but that your MVP MMC coverage was terminated on September 30, 2017 and you did not have MMC coverage for the months of October, November, and December 2017.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). NYSOH must make its "redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency" (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR §155.335(h)).

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 2010,13 ADM-03(III)(F)).

Medicaid Managed Care (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; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

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) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505, 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 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)).

Legal Analysis

The first issue under review is whether your appeal of the September 12, 2017 disenrollment notice was timely.

You were enrolled in a MMC plan with MVP in 2017. On September 11, 2017, your application was updated to renew your coverage for the upcoming coverage year. According to your account, NYSOH was unable to verify the income information in your application and you were placed in a pending Medicaid status with documentation of your income requested before NYSOH could determine your eligibility for the new coverage year. You were disenrolled from your MMC plan, effective September 30, 2017. You appealed insofar as you had a gap in your MMC plan coverage for the months of October, November, and December 2017.

Pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the September 30, 2017 disenrollment from your MMC plan, as stated in the September 12, 2017 disenrollment notice, an appeal should have been filed by November 11, 2017. The record reflects that the appeal in this matter was not filed until January 5, 2018, after the 60-day timeframe in which to appeal the September 12, 2017 disenrollment notice.

Since the evidence establishes that you did not appeal the September 12, 2017 disenrollment notice within the 60-day regulatory time frame and there is no evidence in the record to justify tolling the deadline, your appeal of the September 30, 2017 disenrollment from your MVP MMC plan must be DISMISSED.

The second issue under review is whether NYSOH properly determined your reenrollment in your MMC plan with MVP became effective no earlier than January 1, 2018.

As discussed above, you were placed in a pending Medicaid status following your September 11, 2017 application with documentation of your income requested prior to NYSOH determining your eligibility for the new coverage term. According to your account, on November 7, 2017, sufficient documentation of your income was received by NYSOH and your eligibility was redetermined the same day. You were found eligible for fee for service Medicaid coverage, effective October 1, 2017; however, since your MMC plan coverage had previously been terminated, effective September 30, 2017, you were required to select a new MMC plan.

Although your account indicates that you did not select a MMC plan for enrollment prior to November 17, 2017, a review of the telephone call recording from November 9, 2017 confirms that you were under the impression that your MMC plan coverage had been reinstated for October 1, 2017 along with your fee-for service coverage and that you did not have to select a new plan. That recording further confirms that the NYSOH representative put you on hold to “look into” your account; however, that representative failed to ever advise you that you were not currently enrolled in a MMC plan. Rather that representative stated that if you switched your MMC plan, “you would still have your current plan until the end of the month.” It is concluded that it was an error on the part of the NYSOH representative to not recognize and properly advise you that you were not currently enrolled in an MMC and assist you in selecting a plan that day.

Had you been properly advised by the NYSOH representative on November 9, 2017 that you were not currently enrolled in a MMC plan it is assumed that you would have selected a new plan that day.

Pursuant to the regulations, the date on which a MMC plan can take effect depends on the day a plan is selected 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.

Had you been properly assisted by the NYSOH representative in selecting a new health plan on November 9, 2017, your coverage through that plan could have become effective on the first day of the next following month; that is, on December 1, 2017, because that plan would have been selected before the fifteenth day of the month.

Therefore, the record supports a MODIFICATION of the November 18, 2017 enrollment notice stating your MVP MMC plan enrollment was effective January 1, 2018, to reflect that the coverage became effective on December 1, 2017.

Your case is RETURNED to NYSOH to correct your enrollment.

It is noted that you subsequently switched your MMC plan on December 13, 2017 to Fidelis and that coverage became effective January 1, 2018. The effective date of that coverage is not under review and, thus, will not be disturbed.

Decision

Your appeal of the September 12, 2017 disenrollment notice is DISMISSED.

The November 18, 2017 enrollment confirmation notice is MODIFIED to reflect your enrollment in the MVP MMC plan was effective December 1, 2017.

Your case is RETURNED to NYSOH to reinstate you in your MVP MMC plan for the month of December 2017.

Effective Date of this Decision: May 9, 2018

How this Decision Affects Your Eligibility

The Appeals Unit will not review the September 30, 2017 disenrollment from your MVP MMC plan, because there was no timely appeal of that notice.

Your subsequent MVP enrollment should have become effective December ,1 2017.

Your case is being sent back to NYSOH to correct your enrollment in accordance with this decision.

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 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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

Your appeal of the September 12, 2017 disenrollment notice is DISMISSED.

The November 18, 2017 enrollment confirmation notice is MODIFIED to reflect your enrollment in the MVP MMC was effective December 1, 2017.

Your case is RETURNED to NYSOH to reinstate you in your MVP MMC plan for the month of December 2017.

The Appeals Unit will not review the September 30, 2017 disenrollment from your MVP MMC plan, because there was no timely appeal of that notice.

Your subsequent MVP enrollment should have become effective December ,1 2017.

Your case is being sent back to NYSOH to correct your enrollment in accordance with this decision.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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)

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ 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 کرم1-855-355-5777 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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