

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

## Notice of Decision

Decision Date: April 16, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027022

[REDACTED]

[REDACTED],

On March 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 22, 2017 disenrollment notice and December 20, 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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## Decision

Decision Date: April 16, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027022

[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 your enrollment in a Medicaid Managed Care plan terminated effective September 30, 2017?

Did NYSOH properly determine that your enrollment in a Medicaid Managed Care resumed effective February 1, 2018?

## Procedural History

On July 9, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective July 1, 2017. The notice stated that you needed to submit proof of income and benefit information for third party health insurance by July 23, 2017.

On July 14, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid effective July 1, 2017.

On July 15, 2017, NYSOH issued an enrollment notice confirming your enrollment in a Medicaid Managed Care (MMC) plan, with a plan enrollment start date of August 1, 2017.

On September 19, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

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On September 22, 2017, NYSOH issued a disenrollment notice stating that your MMC plan would end on September 30, 2017. The notice stated this was because records show you have other health insurance or Medicare. Individuals who have other health insurance or Medicare cannot be enrolled in a MMC plan.

On September 30, 2017 and November 1, 2017, NYSOH issued eligibility determination notices stating that you would remain eligible for Medicaid, effective October 1, 2017; however, you were unable to select a MMC plan as the system was showing that you had other full benefit health insurance or Medicare.

On December 5, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid, however your Medicaid coverage would continue until June 30, 2018. This was because certain individuals who qualified for Medicaid get twelve continuous months of coverage from the date they were last determined eligible. The notice stated that information showed you have other health insurance or Medicare. Individuals who have health insurance or Medicare cannot be enrolled in a MMC plan. This eligibility was effective December 1, 2017.

On December 16, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid, however your Medicaid coverage would continue until June 30, 2018. This was because certain individuals who qualified for Medicaid get twelve continuous months of coverage from the date they were last determined eligible. The notice advised you to pick a health plan. This eligibility was effective December 1, 2017.

On December 19, 2017, you selected a MMC plan for enrollment.

On December 20, 2017, NYSOH issued an enrollment confirmation notice stating that your enrollment in a MMC plan would begin February 1, 2018.

On January 10, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your MMC plan, insofar as your enrollment did not begin October 1, 2017.

On March 6, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to March 20, 2018, to allow you to submit supporting documents.

As of March 20, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## Findings of Fact

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

- 1) You testified, and your account confirms, that you were determined eligible for Medicaid effective July 1, 2017.
- 2) According to your NYSOH account, you selected a MMC plan on July 14, 2017 and were enrolled in a plan with a start date of August 1, 2017.
- 3) According to your NYSOH account on September 19, 2017 you were disenrolled from your MMC plan because the system determined that you had active third-party health insurance.
- 4) You testified that you previously lived in [REDACTED] and relocated to [REDACTED] [REDACTED] in June 2017.
- 5) You testified that you previously had insurance through the [REDACTED] [REDACTED] with Excellus BlueCross BlueShield.
- 6) You testified that you thought your coverage through the [REDACTED] [REDACTED] ended September 30, 2017.
- 7) You testified that the [REDACTED] Excellus BlueCross BlueShield never sent you documentation regarding the cancellation date of your coverage with them.
- 8) You testified that you tried repeatedly to obtain cancellation documentation from both the [REDACTED] or the health plan but have never received anything.
- 9) Notes related to your NYSOH account indicate that on October 20, 2017, NYS Department of Health representatives contacted [REDACTED] Excellus BlueCross BlueShield and were told that your plan was still active with them as of that date.
- 10) You testified that you were without a MMC Care plan during the period of October 1, 2017 to January 31, 2018 and you were [REDACTED] and incurred medical bills during that period.
- 11) The record indicates that the third-party health insurance was removed from the system on December 14, 2017.
- 12) You testified, and your NYSOH account reflects, that you selected a MMC plan on December 19, 2017.

13) You testified that you were seeking for your MMC plan coverage to begin no later than October 1, 2017.

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 that individual was eligible at 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 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13 ADM-03(III)(F)).

### Continuous Coverage

Most applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage,” and is set based on the start date of the original Medicaid eligibility determination or the date of any subsequent Medicaid eligibility determination based on modified adjusted gross income (see 42 CFR § 435.916; NY Social Services Law (NY SSL) § 366(4)(c)).

### 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 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 for review is whether NYSOH properly determined that your enrollment in your MMC plan was terminated effective September 30, 2017.

In the July 9, 2017, eligibility determination notice, you were found conditionally eligible for Medicaid, effective July 1, 2017. That notice stated in part that you needed to provide proof of benefit information for third-party health insurance by July 23, 2017. On July 13, 2017, you selected a MMC plan, effective August 1, 2017, as is documented by the July 15, 2017 enrollment confirmation notice.

Generally, when an individual is eligible for Medicaid through NYSOH they are required to enroll in a MMC plan. Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid Social Security number.

On September 19, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance. On September 22, 2017, NYSOH issued a disenrollment notice advising that your coverage in your MMC plan would be terminated as of September 30, 2017 because you had full benefit health insurance or Medicare.

When NYSOH determines that a person has active coverage in a health insurance plan outside of NYSOH, that person is not eligible to enroll or remain enrolled in a MMC plan.

You testified that you previously lived in [REDACTED] in June 2017. You previously had insurance through the [REDACTED] with Excellus BlueCross BlueShield. You testified that you thought your coverage through the [REDACTED] ended September 30, 2017 however, [REDACTED] Excellus BlueCross BlueShield never sent you documentation regarding the cancellation date of your coverage with them. You testified that you tried repeatedly to obtain cancellation documentation from both the [REDACTED] [REDACTED] or the health plan but have never received anything. The record is devoid of any documentation regarding the date the [REDACTED] coverage with Excellus BlueCross BlueShield ended.

Notes related to your NYSOH account indicate that on October 20, 2017, NYS Department of Health representatives contacted [REDACTED] Excellus BlueCross BlueShield and were told that your plan was still active with them as of that date.

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).

Therefore, NYSOH correctly cancelled your coverage in your MMC plan effective September 30, 2017 due to your having third-party health insurance since that coverage was in effect during the time you were receiving Medicaid coverage from NYSOH.

Accordingly, the September 22, 2017 disenrollment notice stating your coverage in your MMC plan would end on September 30, 2017 because records showed you have other health insurance or Medicare is AFFIRMED. The September 30, 2017 eligibility determination notice as related to your eligibility for Medicaid, effective October 1, 2017, is AFFIRMED.

The second issued under review is whether NYSOH properly determined that your MMC plan coverage resumed, effective February 1, 2018.

The record indicates that the third-party health insurance was removed from the system on December 14, 2017. According to your NYSOH account and your testimony, you selected a MMC plan on December 19, 2017.

The date on which an MMC 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.

On December 19, 2017, you selected a MMC plan, so it properly took effect on the first day of the second month following December 2017; that is, on February 1, 2018.

Therefore, the December 20, 2017 enrollment notice stating that your enrollment in your MMC plan would be effective February 1, 2018, was correct and must be AFFIRMED.

## **Decision**

The September 22, 2017 disenrollment notice stating your coverage in your MMC plan would end on September 30, 2017 is AFFIRMED.

The September 30, 2017 eligibility determination notice as related to your eligibility for Medicaid, effective October 1, 2017, is AFFIRMED.

The December 20, 2017 enrollment notice stating that your enrollment in your MMC plan would be effective February 1, 2018, is AFFIRMED.



**Effective Date of this Decision:** April 16, 2018

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

You were disenrolled from your MMC plan coverage effective September 30, 2017.

You remained eligible for Medicaid Fee-For-Service coverage between October 1, 2017 and January 31, 2018.

You reenrolled in your MMC plan coverage effective February 1, 2018.

## **If You Disagree with this Decision (Appeal Rights)**

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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:

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).

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 September 22, 2017 disenrollment notice stating your coverage in your MMC plan would end on September 30, 2017 is AFFIRMED.

The September 30, 2017 eligibility determination notice as related to your eligibility for Medicaid, effective October 1, 2017, is AFFIRMED.

The December 20, 2017 enrollment notice stating that your enrollment in your MMC plan would be effective February 1, 2018, is AFFIRMED.

You were disenrolled from your MMC plan coverage effective September 30, 2017.

You remained eligible for Medicaid Fee-For-Service coverage between October 1, 2017 and January 31, 2018.

You reenrolled in your MMC plan coverage effective February 1, 2018.

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 issuing this determination in accordance with 45 CFR § 155.545.

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**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 1-855-355-5777 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 sre wo, fre 1-855-355-5777. ye bεtumi ama wo obi a okyerε 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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