



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

Notice of Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027150

[REDACTED]

Dear [REDACTED],

On March 15, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 2, 2017 eligibility determination 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
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Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027150

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that you were not eligible to enroll in a Medicaid Managed Care (MMC) plan, as of December 2, 2017?

Procedural History

On July 12, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective July 1, 2017. The notice directed to submit documentation of your household income by July 26, 2017 to confirm your eligibility.

Also on July 12, 2017, NYSOH issued a notice of enrollment confirming your spouse's enrollment in an Essential Plan, and stating that no action was required on your part, as the type of Medicaid you were eligible for did not require or allow you to enroll in a health plan.

On July 13, 2017, income documentation was uploaded to your NYSOH account, and NYSOH redetermined your eligibility.

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

On July 20, 2017, you uploaded a copy of the front and back of an insurance identification card showing your enrollment in coverage in a platinum plan with Empire Blue Cross/Blue Shield, effective June 1, 2017.

On July 24, 2017, NYSOH redetermined your eligibility.

On July 25, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective July 1, 2017. The notice further stated that you were not eligible to enroll in an MMC plan because you had other full benefit health insurance or Medicare.

On October 24, 2017, NYSOH issued a renewal notice stating that, based on information from state and federal data sources, NYSOH could not determine whether you qualified for financial assistance with health insurance for 2018. The notice directed you to update your NYSOH application between November 16, 2017 and December 15, 2017.

On November 1, 2017, you updated your NYSOH account and added your newborn child.

On November 2, 2017, NYSOH issued a notice that did not contain a statement of your eligibility, but did state that you could get services covered by Medicaid through your Medicaid coverage, and could not enroll in an MMC plan because NYSOH's information showed that you had other health insurance or Medicare.

On November 16, 2017, NYSOH redetermined your eligibility.

On November 17, 2017, NYSOH issued a notice of eligibility determination stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue through June 30, 2018. This was because certain individuals who qualify for Medicaid get coverage for twelve continuous months from the date they were last determined eligible. The notice also stated that you had other health insurance or Medicare, and so you could not enroll in an MMC plan.

On November 22, 2017, you uploaded documentation regarding your third-party health insurance (TPHI) to your NYSOH account.

On December 1 and 4, 2017, NYSOH's system redetermined your eligibility.

On December 2 and 5, 2017, NYSOH issued notices of eligibility determination again stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue through June 30, 2018. The notices also stated that you could not enroll in an MMC plan because you had other health insurance or Medicare.

On December 11, 2017, you updated your NYSOH account.

On December 12, 2017, NYSOH again issued a notice stating that you were no longer eligible for Medicaid, but that your coverage would continue until June 30, 2018. The notice also state that you could not enroll in an MMC plan because you had other health insurance or Medicare.

On December 14, 2017, NYSOH's system redetermined your eligibility.

On December 15, 2017, NYSOH again issued a notice stating that you were no longer eligible for Medicaid, but that your coverage would continue until June 30, 2018. The notice also state that you could not enroll in an MMC plan because you had other health insurance or Medicare.

On January 3 and 5, 2018, NYSOH's system redetermined your eligibility.

On January 4 and 6, 2018, NYSOH again issued notices stating that you were no longer eligible for Medicaid, but that your coverage would continue until June 30, 2018. The notice also state that you could not enroll in an MMC plan because you had other health insurance or Medicare.

On January 12, 2018, you spoke to NYSOH's Account Review Unit and appealed, insofar as you were not able to enroll in an MMC plan for January 1, 2018.

On March 15, 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 supports the following findings of fact:

- 1) Your NYSOH account reflects that you were found fully eligible for Medicaid effective July 1, 2017.
- 2) You testified that, during 2017, your Medicaid coverage was secondary coverage, as you were enrolled in TPHI through Empire Blue Cross/Blue Shield, outside of NYSOH.
- 3) You testified that, in November or early December 2017, you supplied documentation to NYSOH to show that your TPHI was ending on December 31, 2017.

- 4) Your NYSOH account reflects that you uploaded a letter from Empire Blue Cross/Blue Shield stating that your coverage was no longer being offered in 2018, and that you would need to select another plan or apply through NYSOH if you wanted coverage for 2018 (Documents [REDACTED] and [REDACTED]).
- 5) You testified that NYSOH told you that the documentation you submitted on November 22, 2017 was sufficient to prove that your TPHI had ended as of December 31, 2017.
- 6) You testified that you tried repeatedly, beginning around November 22, 2017, to enroll in an MMC plan for 2018, and were unable to do so.
- 7) You testified that you spoke with NYSOH several times to get assistance with enrolling in an MMC plan, and that the NYSOH representatives would get to a certain point in your application, and then inform you that they were unable to select a plan.
- 8) You testified that none of the NYSOH representatives you spoke with could tell you why you were not able to enroll in an MMC plan.
- 9) You testified that you need MMC coverage because some of your doctors do not accept fee for service Medicaid.
- 10) You testified that you are looking to enroll in an MMC plan as soon as possible, as you already paid out of pocket for some doctor appointments you had this year.
- 11) A note was entered in NYSOH's system in Incident # [REDACTED] on December 1, 2017 stating, "If consumer calls back please advise TPHI has been correctly end-dated but since consumer had Fee for Service Medicaid at the time they were determined eligible for continuous coverage, they will remain in Fee for Service and will not be permitted to select a MMC plan during their continuous coverage period."

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)).

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 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 an MMC plan (NY SSL § 364-j(3)(e)(xx); Medicaid Managed Care Model Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were unable to enroll in an MMC plan because you had other health insurance or Medicare, as of the December 1, 2017 application update.

You testified, and your NYSOH account confirms, that you were enrolled in fee for service Medicaid, beginning May 1, 2017. You testified that, during 2017, this coverage was secondary because you had TPHI through Empire Blue Cross/Blue Shield during 2017. However, you testified that this TPHI coverage ended on December 31, 2017, and that you submitted documentation to prove this. Your NYSOH account reflects that you updated a letter on November 22, 2017 from your health plan stating that the coverage in which you were enrolled was ending December 31, 2017, and that the plan was no longer going to be

available in 2018. The record reflects that NYSOH accepted this letter as proof that you no longer had TPHI.

You testified that you began to try to enroll in an MMC plan for 2018 around the time when you uploaded the letter from your TPHI plan, but that you were unable to do so, despite repeated efforts by both you and various NYSOH representatives with whom you spoke.

Your NYSOH account reflects that, throughout November and December 2017, and into January 2018, NYSOH repeatedly issued eligibility determination notices which stated that you were not able to enroll in an MMC plan because you had other 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.

However, you credibly testified that your coverage under your TPHI ended on December 31, 2017, and submitted documentation to verify this on November 22, 2017, which NYSOH accepted as valid. Therefore, you should have been able to select an MMC plan for enrollment beginning January 1, 2018.

You testified that no one from NYSOH could tell you why you were not able to select an MMC plan, and that you were eventually advised to file an appeal on the matter. Incident # [REDACTED] in NYSOH's system does contain a note saying that that reason you could not select an MMC plan is that you were in fee for Service Medicaid at the time your coverage changed to continuous coverage (as stated in the November 17, 2017 eligibility determination notice), and so you continue to be eligible for fee for service Medicaid only.

As there is no indication that this assertion is grounded in any law, regulation, or policy, it is unpersuasive and deemed inaccurate. Additionally, there is no eligibility determination or other notice that notified you this was the purported basis for denying your request to enroll in an MMC plan.

Accordingly, the December 2, 2017 eligibility determination is MODIFIED to state that you were no longer eligible for Medicaid, but that you would remain in your Medicaid coverage through June 30, 2018, and that you should pick a health plan for enrollment.

Your case is RETURNED to NYSOH to assist you in enrolling in an MMC plan beginning as early as January 1, 2018, or a later month of your choosing.

Decision

The December 2, 2017 eligibility determination notice is MODIFIED to state that you should select a health plan for enrollment.

Your case is RETURNED to NYSOH to assist you in enrolling in an MMC plan with a start date of January 1, 2018, or a later start date of your choosing.

Effective Date of this Decision: March 22, 2018

How this Decision Affects Your Eligibility

NYSOH improperly prevented you from enrolling in an MMC plan, beginning January 1, 2018.

Your case is being sent back to NYSOH, and NYSOH will contact you to assist you with enrolling in an MMC plan, effective January 1, 2018, or a later month of your choosing.

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

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).

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 December 2, 2017 eligibility determination notice is MODIFIED to state that you should select a health plan for enrollment.

Your case is RETURNED to NYSOH to assist you in enrolling in an MMC plan with a start date of January 1, 2018, or a later start date of your choosing.

NYSOH improperly prevented you from enrolling in an MMC plan, beginning January 1, 2018.

Your case is being sent back to NYSOH, and NYSOH will contact you to assist you with enrolling in an MMC plan, effective January 1, 2018, or a later month of your choosing.

Legal Authority

We are issuing this determination in accordance with 45 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).

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।

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).

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.

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).