



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

Notice of Decision

Decision Date: February 2, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027461

[REDACTED]

On February 1, 2018, you appeared by telephone at a hearing on your expedited appeal of NY State of Health's January 9, 2018 disenrollment notice, and your eligibility for the Medicaid Premium Assistance Program.

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 Date: February 2, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027461

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly end your Medicaid Managed Care (MMC) plan coverage as of February 28, 2018?

Did NYSOH fail to determine you eligible for the Medicaid Premium Assistance Program, effective November 1, 2017?

Procedural History

On September 21, 2017, NYSOH issued a renewal notice stating that you were still qualified to get Medicaid coverage and were enrolled in a MMC plan with an enrollment start date of December 1, 2017.

On January 9, 2018, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective as of March 1, 2018. Further, information showed that you had other health insurance or Medicare and individuals who have health insurance or Medicare cannot be enrolled in a MMC plan.

Also on January 9, 2018, NYSOH issued a disenrollment notice stating that your MMC plan coverage would end on February 28, 2018, because information showed that you have other health insurance or Medicare.

On January 18, 2018, you contacted NYSOH's Account Review Unit and requested an appeal relative to the disenrollment date of your MMC plan and

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regarding your eligibility for the Medicaid Premium Assistance Program from November 1, 2017 through April 30, 2018.

On January 20, 2018, NYSOH received your request for an expedited appeal due to your medical condition. This request was approved and you were scheduled for an expedited hearing.

On January 30, 2018, NYSOH issued a notice stating that Medicaid would reimburse you for your monthly Medicare Part B premiums, effective January 1, 2018 [REDACTED]

On January 31, 2018, an evidence packet from NYSDOH'S Third Party Liability Unit was uploaded to your NYSOH account [REDACTED]. This thirteen-page packet has been made part of the record as "NYSDOH Exhibit 1."

On February 1, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing and the record was full developed. The record was closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account, you were determined eligible for Medicaid and enrolled in MMC plan with a start date of December 1, 2017.
- 2) You testified that you found out that you were enrolled in Medicare when you received a Medicare Premium Bill during the first week of January 2018.
- 3) On December 27, 2017, U.S. Department of Health & Human Services Centers for Medicare & Medicaid Services (CMS), issued you a Medicare Premium Bill. The bill states that you owe \$804.00 for Medicare Part B premiums for the coverage period of November 1, 2017, through April 30, 2018 [REDACTED]
- 4) According to your NYSOH account, on January 8, 2018, you contacted NYSOH and reported that you were enrolled in Medicare.
- 5) According to your NYSOH account, your MMC plan coverage ended as of February 28, 2018.

- 6) On January 30, 2018, NYSOH issued a notice stating that Medicaid would reimburse you for your monthly Medicare Part B premiums, effective January 1, 2018 ([REDACTED] uploaded 1/31/2018).
- 7) You testified that you are seeking to be reimbursed for the Medicare Part B premiums for the period from November 1, 2017, to April 30, 2018.
- 8) According to NYSDOH'S Third Party Liability Unit evidence packet ([REDACTED]).

It has been our departments policy to not reimburse Medicare Part B premiums while an individual is enrolled in Medicaid Managed Care (MMC). However, per GIS 18 MA/01, released on 1/11/18, Medicare Part B premiums will now be reimbursed to individuals who are still enrolled in MMC. Going forward, our departments policy is to reimburse Medicare Part B premiums for MMC enrolled individuals from January 1, 2018.

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

Applicable Law and Regulations

Medicaid Managed Care (MMC)

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

The Partnership Plan Medicaid Section 1115 Demonstration, awarded to the New York State Department of Health by Centers for Medicare and Medicaid Services (CMS), contains Special Terms and Conditions, setting forth the state's obligations to CMS during the term of the demonstration (Project No. 11-W-00114/2).

A "Managed Care Program" is a program in a social services district in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c)).

MMC - Exclusions

NYSOH is responsible for determining the Exemption and Exclusion status of individuals determined to be eligible for Medicaid under Title 11 of the Social Service Law (SSL). Excluded means an individual eligible for Medicaid under Title 11 of the SSL determined by NYSOH to be in a category of persons, specified in Section 364-j of the SSL and/or New York State's Operational Protocol for the Partnership Plan, that are precluded from participating in the MMC Program (see Medicaid Managed Care Model Contract Appendix H pgs.3-4, effective 3/1/2014 – 2/28/2019).

On July 22, 2015, an updated list of populations that are exempt or excluded from enrollment in a MMC was provided by the Office of Health Insurance Programs (General Information System (GIS) 15 MA/12). Attachment 1 of that publication includes a list of populations that are excluded from enrollment in a MMC plan. "Medicare recipients are excluded from MMC but can enroll in Medicaid Advantage or MLTC."

An individual's effective date of disenrollment is the first day of the first full month after the individual is otherwise ineligible to be enrolled in a MMC plan, pursuant to the Model Contract, state or federal law (Medicaid Managed Care Model Contract Appendix H pg. 16).

Medicaid Premium Reimbursement

When a Medicaid eligible individual has third party health insurance in force, the Medicaid program may determine to pay part all cost of the premiums when payment of the premium is determined to be cost-effective. By paying the premium, the Medicaid program may cost avoid claims that would otherwise be covered by Medicaid (see NYS Social Services Law § 367-a(1)(b), 18 NYCRR § 360-7.5(g)).

Payment of Medicare part B premiums will be made by Medicaid if a Medicaid recipient is a qualified Medicare beneficiary, pursuant to 18 NYCRR § 360-7.7(g). Payment of the part B premium begins in the month following the month in which the qualified Medicare beneficiary applies for Medicaid payment of the premiums (18 NYCRR § 360-7.8(b)(5)).

Legal Analysis

The first issue under review is whether NYSOH properly ended your MMC plan coverage as of February 28, 2018.

You were determined eligible to receive Medicaid and re-enrolled in a MMC plan as of December 1, 2017.

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On December 27, 2017, CMS issued you Medicare Premium Bill stating that you owed \$804.00 for Medicare Part B premiums for the coverage period of November 1, 2017, through April 30, 2018 ([REDACTED]). You testified that you found that you were enrolled in Medicare when you received the Medicare Premium Bill during the first week of January 2018. On January 8, 2018, you contacted NYSOH, and your application was updated to reflect that you were enrolled in Medicare.

Generally, an individual who is Medicaid eligible must enroll in a MMC plan. However, individuals who are receiving Medicare benefits are ineligible to be enrolled in a MMC plan. If an individual is determined ineligible to enroll in a MMC plan, their disenrollment must be the first day of the first full month after the individual is otherwise ineligible to be enrolled.

The record reflects that as of January 8, 2018, NYSOH was made aware that you were receiving Medicare benefits. Since they were aware as of January 8, 2018, your MMC enrollment should have been discontinued the first day of the following month; that is on February 1, 2018.

The January 9, 2018, disenrollment notice is MODIFIED to state that your MMC coverage ended as of January 31, 2018.

The second issue under review is whether NYOSH failed to determine you eligible for the Medicaid Premium Assistance Program, effective November 1, 2017.

An individual who is eligible for Medicaid may be eligible to be reimbursed for the payment of their third-party health insurance premiums, if the payment is cost-effective and so reduces the cost of providing Medicaid services. Payment of an individual's Medicare part B premiums will be made by Medicaid if a Medicaid recipient is a qualified Medicare beneficiary.

On January 30, 2018, NYSOH issued a notice stating that Medicaid would reimburse you for your monthly Medicare Part B premiums, effective January 1, 2018 [REDACTED].

Payment of the part B premium begins with the month following the month in which the qualified Medicare beneficiary applies for reimbursement of the third-party health insurance premiums. As stated above, on January 8, 2018, you informed NYSOH that you were enrolled in Medicare and applied for the reimbursement of your Medicare Part B premiums. Therefore, you are ineligible for reimbursement of your Medicare Part B premiums for the months of November and December 2017.

The January 30, 2018 eligibility determination notice remains in full force and effect.

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Decision

The January 9, 2018 disenrollment notice is MODIFIED to state that your MMC coverage ended as of January 31, 2018.

The January 30, 2018 eligibility determination notice remains in force and effect.

Effective Date of this Decision: February 2, 2018

How this Decision Affects Your Eligibility

Your MMC plan coverage ended as of January 31, 2018.

You were eligible to be reimbursed for your Medicare Part B premiums as of January 1, 2018.

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.

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).

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 January 9, 2018 disenrollment notice is MODIFIED to state that your MMC coverage ended as of January 31, 2018.

The January 30, 2018, eligibility determination notice remains in force and effect.

Your MMC plan coverage ended as of January 31, 2018.

You were eligible to be reimbursed for your Medicare Part B premiums as of January 1, 2018.

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 1-855-355-5777 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&etumi ama wo obi a okyer& 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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