



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

Notice of Decision

Decision Date: April 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028161

[REDACTED]

[REDACTED]

On April 3, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's July 31, 2017, August 25, 2017, October 23, 2017 and November 23, 2017 plan enrollment notices.

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: April 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028161

[REDACTED]

Issues

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

Did you provide a timely appeal of the July 31, 2017 plan enrollment on notice?

Did NY State of Health properly determine that your oldest child's (child) enrollment in a Medicaid Managed Care plan was effective September 1, 2017 through February 28, 2018?

Did you provide a valid appeal request that your child could not be enrolled in a Medicaid Managed Care plan in the future?

Procedural History

On October 14, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating your child was eligible for Medicaid, effective October 1, 2016.

On October 14, 2016, NYSOH issued a plan enrollment notice stating no action was required because the type of Medicaid coverage your child was eligible for does not require or allow your him to enroll in a health plan.

On July 21, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Medicaid, effective July 1, 2017. The notice directed you to pick a plan for him.

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On July 21, and July 22, 2017, NYSOH issued plan enrollment notices stating action was required and you needed to pick a health plan for your child.

On July 31, 2017, NYSOH issued a plan enrollment notice stating your child was enrolled in a Medicaid Managed Care plan, effective September 1, 2017. The notice stated your child was enrolled into this plan by NYSOH because you did not select a health plan.

On August 25, 2017, NYSOH issued a disenrollment notice stating your child's enrollment in his Medicaid Managed Care plan with Fidelis Care would end on September 30, 2017. The notice stated you asked NYSOH to end his coverage on August 24, 2017.

On August 25, 2017, NYSOH issued a plan enrollment notice stating your child was enrolled in a Medicaid Managed Care plan with Empire BlueCross BlueShield, effective October 1, 2017.

On September 8, 2017, NYSOH issued a disenrollment notice stating your child's enrollment in his Medicaid Managed Care plan with Empire BlueCross BlueShield would end as of October 1, 2017. The notice stated this was because you asked NYSOH to end his coverage on September 7, 2017.

On October 13, 2017, NYSOH issued a plan enrollment notice stating you needed to pick a health plan for your child.

On October 23, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Medicaid Managed Care plan with Fidelis Care is effective, December 1, 2017. The notice stated your child was enrolled in this plan because you did not select a health plan.

On October 25, 2017, NYSOH issued a disenrollment notice stating your child's enrollment in his Medicaid Managed Care plan with Fidelis Care would end on December 1, 2017. The notice stated this was because you asked that his coverage end on October 24, 2017.

On November 23, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Medicaid Managed Care plan with Empire BlueCross BlueShield, effective December 1, 2017.

On January 31, 2018, you spoke to NYSOH's Account Review Unit and appealed your child's enrollment in a Medicaid Managed Care plan with Fidelis Care in the month of September 2017 and Empire BlueCross BlueShield in the month of December 2017.

On February 17, 2018, NYSOH issued a plan enrollment notice stating the type of Medicaid coverage your child was eligible for did not require or allow you to enroll him in a Medicaid Managed Care plan.

On February 17, 2018, NYOSH issued a notice stating you child's coverage in his Medicaid Managed Care plan with Empire BlueCross BlueShield would end on February 28, 2018. The notice stated this was because information showed he has other health insurance or Medicare and could not remain enrolled in a Medicaid Managed Care plan.

On March 27, 2018, NYSOH issued a notice stating your child was eligible for Medicaid for December 1, 2017 through February 28, 2018, and services he received from providers who accept Medicaid would be covered under regular Medicaid for this time period.

On April 3, 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) You testified, and your NYSOH account confirms, that your child was determined eligible for Medicaid effective July 1, 2017.
- 2) You testified that you did not want your child to be enrolled automatically in a Medicaid Managed Care plan in the future with NYSOH as he has third-party health insurance through his father's employer-sponsored insurance.
- 3) You testified that your child has been eligible for third-party health insurance with his father's employer-sponsored insurance since 2013 and through 2017 to present as of the date of your hearing on April 3, 2018.
- 4) You testified you previously had bills during the months of September 2017 and December 2017, which were not covered by your child's health care providers because he had two sources of insurance coverage.
- 5) Your NYSOH account shows in September 2017 and December 2017 your child was enrolled in a Medicaid Managed Care plan automatically by NYSOH's computer system because you had not selected a health plan for him. After each of these enrollments, NYSOH received a request by you to end that coverage.

- 6) You first requested that NYSOH remove your child from his Medicaid Managed Care plan on September 7, 2017 (see Incident # [REDACTED]).
- 7) Your account shows that, on March 26, 2018, a NYSOH representative placed your child into Medicaid fee-for-service for the months of December 2017 through February 2018, due to him having employer sponsored insurance, as stated in the March 27, 2018 notice.

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

Applicable Law and Regulations

Timely Appeal Requests

Individual applicants and enrollees must request a hearing within sixty (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)).

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)).

Appealable Issues

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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Legal Analysis

The first issue under review is whether you provided a timely appeal of the July 31, 2017 plan enrollment notice.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH. A plan enrollment notice was issued on July 31, 2017, stating your child had been enrolled in a Medicaid Managed Care plan, effective September 1, 2017. The notice stated your child was enrolled into this plan by NYSOH because you did not select a health plan for him.

For an appeal to have been valid on the issue of your child's automatic enrollment in a Medicaid Managed Care plan as addressed in the July 31, 2017 enrollment notice, an appeal should have been filed by September 29, 2017. According to the credible evidence in the record, you contacted NYSOH on September 9, 2017 to file a complaint requesting that NYSOH remove your child from his Medicaid Managed Care plan (see Incident # [REDACTED]). Although a formal appeal was not filed until January 31, 2018, NYSOH's Appeals Unit considers your September 9, 2017 complaint as evidence of your attempt to

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appeal that notice. Therefore, your appeal is considered timely and NYSOH's Appeals Unit may further address subsequent notices related to your child's Medicaid Managed Care plan enrollments during the period of September 1, 2017 through February 28, 2018.

The second issue under review is whether NYSOH properly determined that your child's enrollment in a Medicaid Managed Care plan was effective September 1, 2017 through February 28, 2018

On July 21, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Medicaid, effective July 1, 2017. The notice directed you to pick a plan for him. Additional notices were issued on July 21, 2017 and July 22, 2017, stating action was required and you needed to pick a health plan for your child. On July 31, 2017, NYSOH issued a plan enrollment notice stating your child was enrolled automatically in a Medicaid Managed Care plan, effective September 1, 2017, because you did not select a health plan. He was again automatically enrolled in a Medicaid Managed Care plan starting the month of December 2017. After each of these enrollments, NYSOH received a request by you to end that coverage.

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. You testified you do not want your child to be enrolled automatically in a Medicaid Managed Care plan with NYSOH as he has third-party health insurance through his father's employer-sponsored insurance. He has been eligible for and enrolled with his father's employer sponsored insurance since 2013 and through 2017 to present as of the date of your hearing on April 3, 2018. You previously requested through your appeal that he be disenrolled from his Medicaid Managed Care plan in the months of September 2017 and December 2017.

When NYSOH receives information 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 Medicaid Managed Care plan. You first requested that NYSOH remove your child from his Medicaid Managed Care plan on September 7, 2017 (see Incident [REDACTED]). Your account shows that, on March 26, 2018, a NYSOH representative placed your child into Medicaid fee-for-service for the months of December 2017 through February 28, 2018, because sources showed he had active third-party health insurance. From the information provided in your account, it appears this was an attempt to remedy the errors in your child being enrolled in Medicaid Managed Care plans.

You credibly testified that your child's third-party health insurance coverage was active during the months in which NYSOH automatically enrolled him in a Medicaid Managed Care plan. The record also confirms NYSOH attempted to correct the error by enrolling your child in Medicaid fee-for-service for the months

of December 2017 through February 2018. Therefore, the July 31, 2017, August 25, 2017, October 23, 2017, and November 23, 2017 plan enrollment confirmation notices are RESCINDED as those notices incorrectly state that your child was automatically enrolled into a Medicaid Managed Care plan during the time he was not eligible to either be enrolled or remain enrolled in such a plan.

Further, your case is RETURNED to NYSOH to ensure your child's enrollment in a Medicaid Managed Care plan for the months of September, October, November and December 2017, and January and February 28, 2018 are removed and to ensure he is enrolled in Medicaid fee-for-service for the period of time from September 1, 2017 through February 28, 2018.

The third issue under review is whether you provided a valid appeal request that your child not be enrolled in a Medicaid Managed Care plan in the future.

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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period.

You testified you do not want your child enrolled in a Medicaid Managed Care plan with NYSOH in the future. Since your request is to dispute a future event which has not yet occurred it is invalid for NYSOH to address in an appeal. This is an issue upon which NYSOH has not yet made a formal determination and which has not yet taken place. Therefore, your appeal on this issue is not ripe for review and is DISMISSED as such.

Decision

You provided a timely appeal of the July 31, 2017 plan enrollment notice.

The July 31, 2017, August 25, 2017, October 23, 2017 and November 23, 2017 plan enrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to ensure your child's enrollment in any Medicaid Managed Care plans for September 1, 2017 through February 28, 2018 are removed and to ensure he is enrolled in Medicaid fee-for-service for the period of time from September 1, 2017 through February 28, 2018.

Your appeal that your child not be enrolled in a Medicaid Managed Care plan with NYSOH in the future is DISMISSED as not ripe for review.

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).

Effective Date of this Decision: April 25, 2018

How this Decision Affects Your Eligibility

NYSOH improperly automatically enrolled your child in a Medicaid Managed Care plan effective September 1, 2017 through February 28, 2018.

Your case is being sent back to NYSOH to disenroll your child from his Medicaid Managed Care plans for the months of September 2017 through February 2018.

It is also being sent back for NYSOH to enroll your child into Medicaid fee-for-service for September 1, 2017 through February 28, 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

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).

- 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

You provided a timely appeal of the July 31, 2017 plan enrollment notice.

The July 31, 2017, August 25, 2017, October 23, 2017 and November 23, 2017 plan enrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to ensure your child's enrollment in any Medicaid Managed Care plans for September 1, 2017 through February 28, 2018 are removed and to ensure he is enrolled in Medicaid fee-for-service for the period of time from September 1, 2017 through February 28, 2018.

Your appeal that your child not be enrolled in a Medicaid Managed Care plan with NYSOH in the future is DISMISSED as not ripe for review.

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).

NYSOH improperly automatically enrolled your child in a Medicaid Managed Care plan effective September 1, 2017 through February 28, 2018.

Your case is being sent back to NYSOH to disenroll your child from his Medicaid Managed Care plans for the months of September 2017 through February 2018.

It is also being sent back for NYSOH to enroll your child into Medicaid fee-for-service for September 1, 2017 through February 28, 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।

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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&etumi 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).