



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

## Notice of Decision

Decision Date: May 22, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029278



Dear [REDACTED]

On April 24, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 24, 2018 plan enrollment notice and March 16, 2018 discontinuance and disenrollment 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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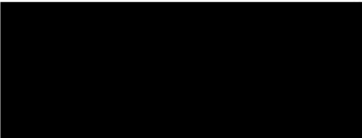


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## Decision

Decision Date: May 22, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029278



## Issues

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

Did NY State of Health properly determine that your Medicaid Managed Care plan enrollment with Affinity Health Plan, Inc. was effective April 1, 2018?

Did NY State of Health properly determine that you were no longer eligible for health insurance, effective March 16, 2018?

## Procedural History

On August 12, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating you were eligible for Medicaid, effective August 1, 2017. You were subsequently enrolled in a Medicaid Managed Care (MMC) plan with Affinity Health Plan, Inc. (Affinity), effective September 1, 2017.

On January 31, 2018, you enrolled in a new MMC plan with UnitedHealthcare of New York, Inc. (UnitedHealthcare).

On January 31, 2018, your address was updated from [REDACTED]  
[REDACTED]

On February 1, 2018, NYSOH issued a plan enrollment notice stating your enrollment with UnitedHealthcare was effective, March 1, 2018.

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On February 1, 2018, NYSOH issued a disenrollment notice stating your enrollment with Affinity MMC ends on February 28, 2018. The notice stated you asked for your coverage to end on January 31, 2018.

On February 1, 2018, NYSOH issued a notice stating you updated your mailing address in your account.

On February 23, 2018, you changed your enrollment back to Affinity MMC plan with an effective date of April 1, 2018.

On February 23, 2018, you contacted NYSOH's Account Review Unit and appealed your enrollment start date in your Affinity MMC plan, requesting a start date of March 1, 2018.

On February 24, 2018, NYSOH issued a plan enrollment notice stating your Affinity MMC plan would start April 1, 2018.

On February 24, 2018, NYSOH issued a disenrollment notice stating your UnitedHealthcare MMC plan would end on March 31, 2018.

On March 16, 2018, NYSOH issued a discontinuance notice stating you were no longer eligible to enroll in health insurance through NYSOH, effective March 16, 2018. The notice stated this was because NYSOH sent you information including notices about your eligibility and coverage by U.S. mail to the mailing address provided in your account and these notices were returned as undeliverable.

On March 16, 2018, NYSOH issued a disenrollment notice stating your enrollment in your Affinity MMC plan would end on April 1, 2018.

On March 19, 2018, you updated your address in your NYSOH account to [REDACTED]

On March 19, 2018, you enrolled back into your Affinity MMC plan with a start date of May 1, 2018.

On April 24, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You waived formal notice to a written Notice of Telephone Hearing. During your hearing you amended your appeal to include that you are disputing your disenrollment from your Affinity MMC plan for return mail. 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 that you are seeking health insurance for yourself.
- 2) You testified a representative from UnitedHealthcare, who was in [REDACTED] in your neighborhood, signed you up for a UnitedHealthcare MMC plan without your consent on January 31, 2018.
- 3) You testified that you were only speaking with the representative on [REDACTED] to see if you could get your Medicaid card and to allow him to look up information in your account.
- 4) You testified the representative did not tell you that you were going to have your MMC plan switched from Affinity to UnitedHealthcare. You testified that you did give him information such as your Social Security Number and authority to access your account, but did not authorize him to make any changes.
- 5) Your NYSOH account shows an ID named [REDACTED] submitted an enrollment for you in a UnitedHealthcare MMC plan on January 31, 2018.
- 6) You re-enrolled back into an Affinity MMC plan on February 23, 2018.
- 7) You testified you have lived in New York State continuously for 2018.
- 8) You testified you currently reside at [REDACTED]
- 9) Your NYSOH account shows that your address was updated on January 31, 2018, from [REDACTED]
- 10) Your NYSOH account shows an ID named [REDACTED] changed your address details on January 31, 2018.
- 11) Your NYSOH account shows that, as of the date of your hearing on April 24, 2018, an Application Counselor from UnitedHealthcare is still an authorized assistor on your account.
- 12) The only return mail notice in your NYSOH account is one received on April 11, 2018 which is your Notice of Telephone Hearing dated April 2, 2018 that was addressed to [REDACTED]

- 13) You testified you are seeking to have your MMC plan be reinstated in Affinity MMC plan as of March 1, 2018 and you not be disenrolled

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

## **Applicable Law and Regulations**

### Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH 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 a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Under 42 CFR § 435.403 Medicaid must be provided to “eligible residents of the State” (42 CFR § 435.403(a)). A person shall not be eligible for Medicaid unless he or she is a resident of the state, or, while temporarily in the state, requires immediate medical care which is not otherwise available (N.Y. Soc. Serv. Law § 366(1)(d)(1)).

### Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size,

and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

### Medicaid

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 2010,13ADM-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 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your MMC plan with Affinity was effective April 1, 2018.

You were found eligible for Medicaid, effective August 1, 2017 and subsequently enrolled in a MMC plan with Affinity, effective September 1, 2017.

On January 31, 2018, your NYSOH account shows an ID user named [REDACTED] submitted an updated enrollment for you in a UnitedHealthcare MMC plan with a start date of March 1, 2018.

You testified a representative from UnitedHealthcare, who was in [REDACTED] in your neighborhood, signed you up for a UnitedHealthcare MMC plan without your consent on January 31, 2018. You testified you were only speaking with the representative that day to see if you could get your Medicaid card and to allow him to look up information in your account. You testified that the representative did not tell you that you were going to have your MMC plan switched from Affinity to UnitedHealthcare. However, you did give him information such as your Social Security Number, and authorized him to access your account, but you did not authorize him to make any changes to your current enrollment at the time.

The record shows as of the date of your hearing on April 24, 2018, a UnitedHealthcare Application Counselor is still an authorized assistor for your account. Although you maintain you did not consent to the changes made in your account, the record shows additional changes were made that day, such as your address. You went to an individual who you admit was in a UnitedHealthcare

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██████████ in your neighborhood and provided your information to him to authorize him as an Application Counselor on your account. The record does not contain sufficient evidence that you did not intend to make the change in health plans that day.

You updated your account and re-enrolled back in to an Affinity MMC plan on February 23, 2018.

The date on which a Medicaid Managed Care 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.

Since you updated your enrollment on February 23, 2018, your plan enrollment properly took effect on the first day of the second month following February 2018; that is, on April 1, 2018.

Therefore, the February 24, 2018 plan enrollment notice stating your enrollment in your MMC plan with Affinity would be effective April 1, 2018, was correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were no longer eligible for health insurance, effective March 16, 2018.

As noted earlier in this analysis, you were determined eligible for Medicaid, effective August 1, 2017. After subsequent changes to your enrollment discussed above you were set to be re-enrolled in a MMC plan with Affinity for a start date of April 1, 2018. Before this enrollment could take effective, however, NYSOH issued a notice on March 16, 2018 stating you were no longer eligible to enroll in health insurance through NYSOH, effective March 16, 2018. The notice stated this was because NYSOH sent you information including notices about your eligibility and coverage by U.S. mail to the mailing address provided in your account and these notices were returned as undeliverable. You were then disenrolled from your MMC plan with Affinity effective April 1, 2018.

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance

You credibly testified that you have remained a New York State resident for all of 2018 and you currently reside at ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ ██████████



Your NYSOH account shows that your address was updated on January 31, 2018 from [REDACTED]

[REDACTED] The change made on this date was in error by your Application Counselor. The only return mail notice in your account is one received on April 11, 2018 which is your Notice of Telephone Hearing dated April 2, 2018 that was addressed to [REDACTED]

Since the record shows the change in your address was made in error based on what would seem to be a series of typographical errors by individuals submitting applications on your behalf ranging from [REDACTED] and [REDACTED] you should not have been disenrolled from your plan for failing to maintain state residence.

As a result, the March 16, 2018 discontinuance notice and disenrollment notice are RESCINDED as they are no longer supported by the record.

Your case is RETURNED to NYSOH to reinstate your MMC plan enrollment with Affinity as of April 1, 2018, which is to continue for the remainder of your 12-month period of eligibility to August 31, 2018, barring any disqualifying events.

## **Decision**

The February 24, 2018 plan enrollment notice stating your enrollment in your MMC plan with Affinity would be effective April 1, 2018, was correct and must be AFFIRMED.

The March 16, 2018 discontinuance notice and disenrollment notice are RESCINDED as they are no longer supported by the record.

Your case is RETURNED to NYSOH to reinstate your MMC plan enrollment with Affinity as of April 1, 2018, which is to continue for the remainder of your 12-month period of eligibility to August 31, 2018, barring any disqualifying events.

**Effective Date of this Decision:** May 22, 2018

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

Your enrollment in your MMC plan with UnitedHealthcare was effective March 1, 2018.

NYSOH is to reinstate your coverage in the Affinity MMC plan as of April 1, 2018. You will receive notice to this effect.

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).

## **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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The February 24, 2018 plan enrollment notice stating your enrollment in your MMC plan with Affinity would be effective April 1, 2018, was correct and must be **AFFIRMED**.

The March 16, 2018 discontinuance notice and disenrollment notice are **RESCINDED** as they are no longer supported by the record.

Your case is **RETURNED** to NYSOH to reinstate your MMC plan enrollment with Affinity as of April 1, 2018, which is to continue for the remainder of your 12-month period of eligibility to August 31, 2018, barring any disqualifying events.

Your enrollment in your MMC plan with UnitedHealthcare was effective March 1, 2018.

NYSOH is to reinstate your coverage in the Affinity MMC plan as of April 1, 2018. You will receive notice to this effect.

## **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 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 महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मदद 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 okyerE 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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