



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029873



Dear [REDACTED]

On May 8, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 2018 disenrollment notice and February 9, 2018 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
PO 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: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029873



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 your spouse's enrollment in a Medicaid Managed Care (MMC) plan was effective March 1, 2018?

Did NYSOH properly determine your spouse's enrollment in his qualified health plan (QHP) ended as of February 28, 2018?

Procedural History

On October 28, 2017, NYSOH issued a renewal notice stating it was time to renew your spouse's application for health insurance for 2018. The notice went on to say that, based on information available from state and federal data sources, your spouse was eligible to receive up to \$88.58 per month in advance payments of the premium tax credit (APTC), effective January 1, 2018. The notice also stated he would be reenrolled into his Fidelis bronze level QHP, beginning January 1, 2018.

On November 18, 2017, NYSOH issued a notice of enrollment confirmation, stating your spouse was enrolled in a Fidelis bronze level QHP with a monthly premium of \$357.24, after the application of \$34.00 of his APTC to the monthly premium, beginning January 1, 2018.

On January 22, 2018, you updated your NYSOH application.

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).

On January 23, 2018, NYSOH issued a notice stating the income information in your application did not match the information NYSOH received from state and federal data sources. The notice directed you to submit documentation of your household income by February 6, 2018 to confirm the information in your application.

Also on January 23, 2018, NYSOH issued a disenrollment notice, stating your spouse's enrollment in his Fidelis QHP was ending, effective February 28, 2018, because he was no longer eligible to enroll in that plan.

On January 28, 2018, you faxed documentation to NYSOH, and NYSOH uploaded this documentation to your account on January 30, 2018.

On January 31, 2018, NYSOH issued a notice stating the documentation you provided was not sufficient to confirm the information in your application. The notice directed you to submit documentation of your household income by February 22, 2018.

That same day, you faxed additional documentation to NYSOH, and NYSOH uploaded that documentation to your NYSOH account on February 2, 2018.

On February 5, 2018, NYSOH redetermined your spouse's eligibility for financial assistance.

On February 6, 2018, NYSOH issued a notice of eligibility determination stating your spouse was eligible for Medicaid, effective January 1, 2018.

On February 9, 2018, NYSOH issued a notice of enrollment confirmation, confirming your spouse's enrollment in an MMC plan, beginning March 1, 2018.

On March 7, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your spouse's enrollment in his MMC plan, insofar as it did not begin on January 1, 2018, and the end date of his enrollment in his QHP, insofar as it did not end January 1, 2018.

On May 8, 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 support the following findings of fact:

- 1) Your NYSOH account reflects your spouse was re-enrolled into a Fidelis bronze level QHP, with a monthly premium of \$357.24, beginning January 1, 2018.
- 2) You testified you and your spouse were aware of this enrollment, and that you paid the January 2018 premium to begin his coverage for 2018.
- 3) You testified your spouse's income decreased, so you updated your NYSOH account to see whether he might be eligible for a higher subsidy.
- 4) Your NYSOH account reflects you updated your application on January 22, 2018.
- 5) You testified, while you were waiting to find out what your spouse was eligible for, you paid the premium for his February 2018 QHP coverage to ensure he would have coverage in that month.
- 6) Your NYSOH account reflects your spouse was found eligible for Medicaid, effective January 1, 2018.
- 7) You testified, once you found out he was eligible for Medicaid, you selected an MMC plan for his enrollment.
- 8) Your NYSOH account reflects an MMC plan was selected on your spouse's behalf on February 8, 2018, with coverage beginning March 1, 2018.
- 9) You testified your spouse's income decreased when he started his new job on [REDACTED], and that you want to see if he can have his MMC coverage begin as of January 1, 2018 because his income was the same in January and February as it was in March.
- 10) You testified you paid your spouse's QHP premiums for the months of January and February 2018, and you would like to be reimbursed for those payments since he was eligible for Medicaid.
- 11) You testified you do not believe your spouse used his QHP coverage in either January or February 2018.

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 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)).

Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a QHP, with appropriate notice to NYSOH or the QHP (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's QHP issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a QHP if:

- 1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.
- 2) The enrollment in the QHP was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or

agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.

- 3) The enrollee was enrolled in a QHP without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

(45 CFR § 155.430(b)(2)(iv)(A-C)).

NYSOH permits a QHP to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

Legal Analysis

The first issue under review is whether NYSOH properly determined your spouse's enrollment in his MMC plan was effective March 1, 2018.

Your NYSOH account reflects you updated your NYSOH application on January 22, 2018. After you submitted income documentation, NYSOH found your spouse eligible for Fee-For-Service Medicaid, effective January 1, 2018. The record reflects, and you confirmed in your testimony, you contacted NYSOH on February 8, 2018 and enrolled your spouse into an MMC plan.

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 February 8, 2018, you selected an MMC plan your spouse, so it properly took effect on the first day of the month following February: that is, on March 1, 2018.

You testified you believe his coverage should start January 1, 2018 because his income was the same in January and February as it was in March. However, the record reflects your spouse was found eligible for Fee-For-Service Medicaid as of January 1, 2018 for this very reason: he met the Medicaid eligibility requirements beginning January 1, 2018. In contrast, his enrollment in his MMC plan is dependent not on when his eligibility began, but on when an MMC plan was selected for enrollment. In this case, a plan was selected on February 8, 2018.

Therefore, the February 9, 2018 enrollment confirmation notice, stating your spouse's enrollment in his MMC plan was effective March 1, 2018, was correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your spouse's enrollment in his QHP ended effective February 28, 2018.

On October 28, 2017, NYSOH issued an eligibility determination, contained in a renewal notice, stating your spouse was eligible to receive up to \$88.58 in APTC, effective January 1, 2018. The notice also advised you he was being re-enrolled in his Fidelis bronze level QHP, and on November 18, 2017, an enrollment confirmation notice was issued to confirm that his enrollment in his QHP would begin on January 1, 2018. You testified you were aware of his enrollment into his QHP, and that you paid the premiums for his coverage for January and February 2018. However, you testified that you are now seeking for your spouse to be retroactively disenrolled from his QHP, effective January 1, 2018.

NYSOH must permit an enrollee to be retroactively disenrolled from their QHP if the enrollee demonstrates that there was a technical error that should have allowed them to terminate coverage earlier, or if their enrollment in the plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities, or the enrollee was enrolled into a QHP without their knowledge or consent by a third party.

There is no indication in the record that your spouse's enrollment in a QHP, as confirmed in the November 18, 2017 enrollment notice, was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Furthermore, there is no indication that your spouse's enrollment in a QHP, as confirmed in the November 18, 2017 enrollment notice, was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your spouse's enrollment in a QHP.

On January 22, 2018 you contacted NYSOH to update your application for financial assistance. As a result, your spouse was ultimately found eligible for Medicaid, effective January 1, 2018. On January 23, 2018, NYSOH issued a disenrollment notice stating that your spouse's enrollment in his QHP would end effective February 28, 2018.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Since you updated your application on January 22, 2018, NYSOH properly disenrolled your spouse from his QHP as of March 1, 2018: the first day of the second month following January 2018.

Therefore, NYSOH properly determined that your spouse's enrollment in his QHP terminated as of February 28, 2018, and NYSOH's January 23, 2018 disenrollment notice is AFFIRMED.

Decision

The February 9, 2018 enrollment confirmation notice is AFFIRMED.

The January 23, 2018 disenrollment notice is AFFIRMED.

Effective Date of this Decision: May 16, 2018

How this Decision Affects Your Eligibility

This decision does not change your spouse's eligibility.

The effective date of your spouse's enrollment in his MMC plan is March 1, 2018.

Your spouse's enrollment in his QHP properly ended on 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

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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 appeal 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:
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:

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NY State of Health Appeals
PO Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The February 9, 2018 enrollment confirmation notice is AFFIRMED.

The January 23, 2018 disenrollment notice is AFFIRMED.

This decision does not change your spouse's eligibility.

The effective date of your spouse's enrollment in his MMC plan is March 1, 2018.

Your spouse's enrollment in his QHP properly ended on 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 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 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. yeb&tumi 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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