

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

Notice of Decision

Decision Date: April 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000031032

[REDACTED]

[REDACTED]

[REDACTED]

On April 27, 2018, you both appeared by telephone at a hearing on [REDACTED] appeal of NY State of Health's March 31, 2018 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 NY State of Health number 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: April 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000031032

[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, [REDACTED] [REDACTED] were no longer eligible to enroll in a Medicaid Managed Care (MMC) plan as of March 31, 2018?

Procedural History

On July 25, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective September 1, 2017.

Also on July 25, 2017, NYSOH issued an enrollment notice confirming that you were enrolled in a MMC plan effective September 1, 2017.

On February 13, 2018, NYSOH systematically updated your account.

On February 14, 2018, NYSOH issued a disenrollment notice, based on the February 13, 2018 system update, stating that your coverage in your MMC plan would end on March 31, 2018. This was because you were no longer eligible to enroll in a MMC plan.

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On February 24, 2018, NYSOH issued an enrollment notice stating that you were enrolled in a MMC plan with a plan start date of April 1, 2018.

On March 2, 2018, NYSOH systematically updated your account.

On March 3, 2018, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective May 1, 2018. The notice stated that information showed you had other health insurance or Medicare, and individuals who have health insurance or Medicare cannot be enrolled in a MMC plan.

Also on March 3, 2018, NYSOH issued a disenrollment notice stating that your MMC plan would end on April 30, 2018. This was because information showed you had other health insurance or Medicare.

On March 15, 2018, NYSOH systematically updated your account.

On March 16, 2018, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective May 1, 2018. The notice stated that information showed you had other health insurance or Medicare, and individuals who have health insurance or Medicare cannot be enrolled in a MMC plan.

On March 20, 2018, you updated your application for financial assistance with health insurance.

Also on March 20, 2018, you uploaded to your NYSOH account income documentation that was reviewed and verified that day. Based on this documentation, your income was changed from \$22,000.00 to \$1,608.00.

On March 23, 2018, NYSOH issued an eligibility determination notice, based on the updated income documentation, stating that you were eligible for Medicaid, effective June 1, 2018. The notice stated that information showed you had other health insurance or Medicare, and individuals who have health insurance or Medicare cannot be enrolled in a MMC plan.

On March 30, 2018, you updated your application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible for Medicaid based on a household income of \$1,608.00.

Also on March 30, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not eligible to enroll in a MMC plan.

On March 31, 2018, NYSOH issued an eligibility determination notice, based on the updated March 30, 2018 application, stating that you were eligible for Medicaid, effective June 1, 2018. The notice stated that information showed you

had other health insurance or Medicare, and individuals who have health insurance or Medicare cannot be enrolled in a MMC plan.

On April 24, 2018, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid through NYSOH for a limited period of time, effective, effective May 1, 2018. This was because you had been granted aid to continue until a decision is made on your appeal.

On April 27, 2018, you had an expedited 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) According to your NYSOH account, you expect to file your 2018 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) According to your NYSOH account, you are [REDACTED] and your date of birth is [REDACTED].
- 4) Your authorized representative testified that you were in a [REDACTED] [REDACTED] t in 2015 and [REDACTED] and because of these injuries you applied for and were granted Social Security Disability benefits.
- 5) You became eligible for Medicare because you have been certified disabled through the Social Security Administration for at least 24 months and you were automatically enrolled in Medicare Part A and Part B.
- 6) According to your NYSOH account, you have been eligible for Medicaid since September 1, 2015 and have been enrolled in a MMC plan through NYSOH since November 1, 2015.
- 7) On July 24, 2017, you updated your NYSOH account and were determined eligible for Medicaid effective September 1, 2017 and enrolled in a MMC plan as of September 1, 2017.
- 8) Your authorized representative testified that in October 2017 you had [REDACTED] [REDACTED] and are presently being treated by a team of doctors and therapists for your current condition.

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- 9) According to your NYSOH account, on March 2, 2018, the system updated your account and data available indicated that as of March 1, 2018 you were enrolled in Medicare Part A and Medicare Part B.
- 10) Your authorized representative testified that you canceled Medicare Part B shortly after learning that you had been enrolled in Medicare.
- 11) The record reflects that on March 20, 2018 you submitted to NYSOH documentation including a March 20, 2018 letter from the Social Security Administration regarding your current Social Security benefits, (see Document [REDACTED]). That document reflects the following;
 - a. You told Social Security Administration that you did not want medical insurance under Medicare,
 - b. You would receive a refund of \$134.00 for the Medicare Part B (medical insurance) premiums you paid since February 2018 and would receive this amount around March 28, 2018,
 - c. You will receive \$1,918.00 for March 2018 benefits around April 11, 2018,
 - d. After that, you will receive \$1,918.00 on or about the second Wednesday of each month,
 - e. You still have Medicare Part A (hospital insurance).
- 12) The record reflects that on March 20, 2018, NYSOH reviewed the letter you submitted from the Social Security Administration regarding your benefits and erroneously calculated your income as \$1,608.00 for the year. This was based on the mistaken belief that the \$134.00 refund of the Medicare part B premium was your actual monthly benefit ($\$134.00 \times 12 = \$1,608.00$). NYOSH should have used the listed monthly Social Security benefit of \$1,918.00 starting April 2018 as the basis for your household income.
- 13) The record reflects that you requested and were granted Aid to Continue. You were reinstated into your Medicaid coverage as of May 1, 2018, pending the outcome of your appeal.
- 14) The record reflects that as of March 15, 2018, the data sources that NYSOH relied upon, showed that as of that date you were enrolled in Medicare Part A coverage and you were not enrolled in Medicare Part B coverage.
- 15) The record reflects that your MMC plan will terminate as of April 30, 2018.
- 16) Your application states that you live in Nassau County.

17) Your authorized representative testified that you want to be re-enrolled in your MMC plan because the team of doctors and therapists that are presently treating you for your present illness do not take Medicaid fee-for service.

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

Applicable Law and Regulations

Medicaid Eligibility

Medicaid can be provided through NYSOH 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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law (NY SSL) § 366(1)(b)).

Medicaid Continuous Coverage:

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage. 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 (see 42 CFR § 435.916(a); NY SSL § 366(4)(c)).

In other words, if a person is no longer eligible for Medicaid, the enrollment in Medicaid may continue until the end of the 12-month period.

In certain situations, individuals will *not* receive continuous coverage through NYSOH. These include the failure to provide a Social Security number or documentation of citizenship (if required), moving out of New York State, coverage having been previously established in error, failure to comply with absent parent requirements, receiving treatment in a setting where Medicaid eligibility is not available, undocumented pregnant women (who only get 60 days of coverage post-partum), death, if the individual requests that the Medicaid coverage end, or if NYSOH is unable to locate the individual (see 42 CFR § 435.916(a); NY SSL § 366(4)(c); GIS 15 MA/22).

Medicaid Managed Care - Exclusions

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 (NY SSL § 364-j(1)(c)).

NYSOH is responsible for determining whether an individual is precluded from participating in the MMC Program (NY SSL § 364-j, see also 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 exempted or excluded from enrollment in a MMC plan 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

(https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/15ma012_att1.pdf , retrieved 4/27/18). It states, “Medicare recipients are excluded from MMC [plan] but can enroll in Medicaid Advantage or MLTC [Managed Long Term Care].”

Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible to be enrolled in a MMC plan through NYSOH as of March 31, 2018.

Generally, when an individual is eligible for Medicaid through NYSOH, they are required to enroll in a MMC plan. NYSOH is responsible for determining when a Medicaid recipient is excluded from enrolling in a MMC. When a Medicaid enrollee is a recipient of Medicare, they are not eligible to enroll in a MMC plan.

On March 2, 2018, NYSOH systematically updated your application based on information that indicated you had Medicare Part A and Medicare Part B coverage as of March 1, 2018. Based on that update, on March 3, 2018, NYSOH issued notices stating that state and federal data sources showed that you were receiving Medicare, and that the type of Medicaid coverage you were eligible for did not require or allow you to enroll in a health plan. Accordingly, your coverage in your MMC plan ended on April 30, 2018.

Your authorized representative testified and the record reflects that you declined Medicare Part B coverage and received a refund of \$134.00 on March 28, 2018 to reimburse you for premium for Part B coverage you had already paid. However, the March 20, 2018 letter from the Social Security Administration confirms that you still have Medicare Part A (hospitalization) coverage. The

record reflects that the March 30, 2018 system update indicated that you had Medicare Part A coverage and that you no longer had Medicare Part B coverage.

The record reflects that you are currently enrolled in Medicare Part A. Therefore, you are not eligible to enroll in a MMC plan through NYSOH. The March 31, 2018 eligibility determination notice, is AFFIRMED in so far as it states that information shows you have other health insurance or Medicare and therefore cannot enroll in a MMC plan.

It is noted that following your submission of the March 20, 2018, Social Security Administration benefits letter, NYSOH erroneously changed your household income based on a misinterpretation of your monthly benefits. NYSOH calculated your monthly benefit as \$134.00 per month and changed your household income to \$1,608.00. The Social Security Administration benefits letter stated that you would start receiving \$1,918.00 per month starting April 11, 2018.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, for a one-person household residing in Nassau County, with a monthly income of \$1,918.00 starting April 11, 2018, and to notify you accordingly.

Decision

The March 31, 2018 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, for a one-person household residing in Nassau County, with a monthly income of \$1,918.00 starting April 2018, and to notify you accordingly.

Effective Date of this Decision: April 30, 2018

How this Decision Affects Your Eligibility

You are ineligible to be enrolled in a MMC plan through NYSOH.

This is not a final determination of your eligibility. Your case is RETURNED to NYSOH to redetermine your eligible based on the evidence in the record and to notify you accordingly.

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
- 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 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 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 March 31, 2018 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, for a one-person household residing in Nassau County, with a monthly income of \$1,918.00 starting April 11, 2018, and to notify you accordingly.

You are ineligible to be enrolled in a MMC plan through NYSOH.

This is not a final determination of your eligibility. Your case is RETURNED to NYSOH to redetermine your eligible based on the evidence in the record and to notify you accordingly.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]

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 srε wo, frε 1-855-355-5777. ye&εtumi 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.

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