



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

Notice of Decision

Decision Date: April 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000031565

[REDACTED]

Dear [REDACTED],

On April 23, 2018, you and [REDACTED], acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health's March 14, 2018 disenrollment notice and April 8, 2018 eligibility determination and 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
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(b).

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: [REDACTED]

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000031565

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine that your Essential Plan with Empire BlueCross BlueShield HealthPlus ended effective March 31, 2018?

Did NYSOH properly determine that you were eligible for Medicaid, effective April 1, 2018, and subsequently enrolled in a Medicaid Managed Care plan, effective May 1, 2018?

Procedural History

On November 22, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with no monthly premium, effective January 1, 2018.

Also on November 22, 2017, NYSOH issued an enrollment notice confirming your selection of Empire BlueCross BlueShield HealthPlus (Empire BCBS) as your Essential Plan as of November 21, 2017. The notice stated that your coverage under Empire BCBS as your Essential Plan would begin effective January 1, 2018.

On March 14, 2018, NYSOH issued a disenrollment notice confirming your request to end your enrollment with Empire BCBS as of March 13, 2018. The notice stated that your coverage under this Essential Plan would end effective March 31, 2018.

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Also on March 14, 2018, NYSOH issued an enrollment notice confirming your selection of an UnitedHealthcare Community Plan (UHC) as your Essential Plan as of March 13, 2018. The notice stated that your coverage under UHC as your Essential Plan would begin effective April 1, 2018.

On April 3, 2018, NYSOH received an update to your application for financial assistance with health insurance.

On April 4, 2018, NYSOH issued a notice confirming that your April 3, 2018 application had been reviewed, but that an eligibility determination could not be issued since the income information in your application did not match information NYSOH received from state and federal data sources. You were requested to provide proof of your household income by April 18, 2018 so that an appropriate eligibility determination could be issued.

On April 6, 2018, NYSOH received a copy of your 2017 tax return reflecting an adjusted gross income of \$1,276.00.

On April 7, 2018, NYSOH redetermined your eligibility for financial assistance with health insurance.

On April 8, 2018, NYSOH issued an eligibility determination notice stating that based on the information contained in your account as of April 7, 2018, you were found eligible for Medicaid, effective April 1, 2018.

Also on April 8, 2018, NYSOH issued an enrollment notice confirming your selection of Empire BCBS as your Medicaid Managed Care (MMC) plan as of April 7, 2018. The notice stated that your MMC plan coverage with Empire BCBS would begin effective May 1, 2018.

On April 10, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan coverage with Empire BCBS and the start date of your MMC plan coverage with Empire BCBS. You further requested an expedited hearing

On April 18, 2018, NYSOH received (1) a letter from you in support of your request for an expedited appeal and the basis of your appeal generally, (2) a letter from [REDACTED], in support of your request for an expedited appeal and the basis of your appeal generally, and (3) a letter issued by [REDACTED] in support of your request for an expedited appeal.

Finally, on April 18, 2018, your request for an expedited hearing was reviewed and approved.

On April 23, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your mother, [REDACTED], also attended the hearing as

your Authorized Representative. 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) You were enrolled in an Essential Plan issued by Empire BCBS with such coverage beginning as of January 1, 2018.
- 2) You testified that you contacted NYSOH on March 13, 2018 to request the addition of vision and dental coverage to your Essential Plan with Empire BCBS.
- 3) You testified that you spoke with a NYSOH representative on March 13, 2018, and the representative suggested that you could enroll in UHC as your optional vision and dental insurance coverage, but did not specifically state to you that your medical insurance coverage would also be switched to UHC as well.
- 4) In the recording of the call on March 13, 2018, in which you requested to add the option vision and dental plans to your Essential Plan coverage, the NYSOH representative inadvertently misstated that your current Essential Plan coverage was with UHC, not Empire BCBS. The NYSOH representative then requested whether you wanted to remain with UHC when adding your vision and dental coverage to your plan, to which you responded that you did.
- 5) You testified, and provided documentation, reflecting that you had a [REDACTED] appointment scheduled for [REDACTED]. However, this appointment had to be postponed since you learned that your Essential Plan coverage with Empire BCBS ended effective March 31, 2018.
- 6) You testified that you did not give the NYSOH representative authorization to terminate your Essential Plan coverage with Empire BCBS.
- 7) You testified that while you had been seeking for your UHC vision and dental plan coverage to begin effective April 1, 2018, you had no intention of changing Essential Plan medical coverage with Empire BCBS at that time since your physician did not accept UHC for medical insurance through an Essential Plan or otherwise.
- 8) You testified that immediately after learning of your Essential Plan medical coverage with Empire BCBS had been terminated, you contacted NYSOH on April 4, 2018 to have your coverage with Empire BCBS reinstated,

effective April 1, 2018 so that you could have you attend your appointment prior to the end of April 2018.

- 9) Your application was revised on April 3, 2018, and the information in that application did not permit an eligibility determination to be rendered in your case. You were requested to provide proof of your household income by April 18, 2018.
- 10) On April 6, 2018, you provided a copy of your 2018 tax return, reflecting an adjusted gross income of \$1,276.00.
- 11) After updating your application, you were ultimately determined eligible for Medicaid, effective April 1, 2018, based on a redetermination of your eligibility for financial assistance on April 7, 2018.
- 12) You testified that your physician does not accept Fee-For-Service Medicaid coverage.
- 13) On April 7, 2018, you selected Empire BCBS as your MMC plan.
- 14) You testified that you were seeking a reinstatement of your Empire BCBS Essential Plan coverage as of April 1, 2018 or, in the alternative, start date of your MMC plan coverage with Empire BCBS to begin no later than April 1, 2018.

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

Applicable Law and Regulations

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last

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day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

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)).

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 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 determine that your Essential Plan with Empire BCBS ended effective March 31, 2018.

Your NYSOH account reflects that you were enrolled in the Essential Plan as of January 1, 2018.

You testified that on March 13, 2018, you contacted NYSOH to add both vision and dental coverage to your Empire BCBS plan. However, you further testified that the representative suggested that you could enroll in UHC as your optional vision and dental insurance coverage, but did not specifically state to you that your medical insurance coverage would also be switched to UHC as well. Accordingly, your Empire BCBS Essential Plan coverage was terminated effective March 31, 2018, and your UHC Essential Plan, with vision and dental insurance coverage, began effective April 1, 2018.

You testified that on [REDACTED] you attended [REDACTED] appointment but could not proceed with it because you were informed that you were no longer covered by the Essential Plan with Empire BCBS. Therefore, you were seeking for a reinstatement of your coverage under the Empire BCBS Essential Plan as of April 1, 2018.

In the recording of the call on March 13, 2018 in which you requested to add the optional vision and dental plans to your Essential Plan coverage, the NYSOH representative inadvertently misstated that your current Essential Plan coverage was with UHC, not Empire BCBS. The NYSOH representative then requested whether you wanted to remain with UHC when adding your vision and dental

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coverage to your plan, to which you responded that you did. We find that this inadvertent misstatement by the NYSOH representative ultimately caused you to become disenrolled from your Essential Plan coverage with Empire BCBS.

Therefore, the March 14, 2018 disenrollment notice is no longer supported by the record and is RESCINDED.

The second issue under review is whether NYSOH properly determine that you were eligible for Medicaid, effective April 1, 2018, and subsequently enrolled in a MMC plan, effective May 1, 2018.

You testified, and your NYSOH account reflects, that you contacted NYSOH on April 3, 2018 to update your application to reinstate your Essential Plan coverage with Empire BCBS. You were requested to provide additional income documentation by April 18, 2018 to complete your application, so that an eligibility determination could be issued. On April 6, 2018, you provided a copy of your 2017 tax return to NYSOH, which reflected an adjusted gross income of \$1,276.00. You were ultimately found eligible for Medicaid, effective April 1, 2018, and enrolled into a MMC plan issued by Empire BCBS on April 7, 2018.

We find, however, that your eligibility for Medicaid because of the April 7, 2018 eligibility redetermination would have never occurred had you not been disenrolled from your Essential Plan coverage with Empire BCBS. Since the record now reflects that your coverage under the Empire BCBS Essential Plan is reinstated as of April 1, 2018, your coverage would have continued for the 12-month period after your initial January 1, 2018 enrollment start date, or December 31, 2018.

Therefore, the April 8, 2018 eligibility determination and enrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan coverage with Empire BCBS, together with both vision and dental programs under that insurance carrier, if available, as of April 1, 2018.

Decision

The March 14, 2018 disenrollment notice is RESCINDED.

The April 8, 2018 eligibility determination and enrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan coverage with Empire BCBS, together with both vision and dental programs under that insurance carrier, if available, as of April 1, 2018.

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Effective Date of this Decision: April 26, 2018

How this Decision Affects Your Eligibility

Your Essential Plan coverage with Empire BCBS, together with both vision and dental programs under that insurance carrier, if available, are reinstated effective April 1, 2018.

You are not eligible for Medicaid as of April 1, 2018.

Your Essential Plan coverage will continue until at least December 31, 2018, provided no qualifying event occur to cause an early disenrollment.

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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 14, 2018 disenrollment notice is RESCINDED.

The April 8, 2018 eligibility determination and enrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan coverage with Empire BCBS, together with both vision and dental programs under that insurance carrier, if available, as of April 1, 2018.

Your Essential Plan coverage with Empire BCBS, together with both vision and dental programs under that insurance carrier, if available, are reinstated effective April 1, 2018.

You are not eligible for Medicaid as of April 1, 2018.

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).

Your Essential Plan coverage will continue until at least December 31, 2018, provided no qualifying event occur to cause an early disenrollment.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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。我们可以为您免费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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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. ye&btumi 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.