



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

Notice of Decision

Decision Date: July 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001574

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On February 20, 2015, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 4, 2014 and January 28, 2015 eligibility determinations.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 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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[REDACTED]
[REDACTED]
[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were eligible for Medicaid only for the treatment of emergency medical conditions?

Procedural History

On October 31, 2014, the Marketplace received your initial application for health insurance.

On December 4, 2014, the Marketplace issued a notice of eligibility based on your October 31, 2014 application. You were found eligible for Medicaid only for emergency medical care and services because you were not a citizen, qualified alien, or permanently residing in the United States under color of law (PRUCOL).

On December 27, 2014, the Marketplace received a revised application. In response to this application, the Marketplace issued a notice of eligibility redetermination on December 28, 2014. Again, you were found eligible for Medicaid only for emergency care and services beginning December 1, 2014.

On January 22, 2015, the Marketplace received an Order of Supervision (Form I-220B) issued to you by the U.S. Immigration and Customs Enforcement (ICE) on October 28, 2010. This document was not verified by the Marketplace to confirm your PRUCOL status.

That same day, the Marketplace received a letter stating that you were requesting an appeal of the December 4, 2014 eligibility determination insofar as

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you were found not eligible for full Medicaid since you “currently reside in the United States under an Order of Supervision as of October 28, 2010.”

On January 28, 2015, the Marketplace issued an eligibility determination that stated you were eligible for Medicaid for the treatment of emergency medical conditions only, effective January 1, 2015.

On February 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. Your daughter, [REDACTED] also attended the hearing as your Authorized Representative. A Russian-language interpreter ([REDACTED]) assisted. 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) Your daughter testified that you are a citizen of Israel, and have resided in the United States since approximately 2006.
- 2) Your daughter testified that during 2013 and 2014, you earned approximately \$300.00 per month from cleaning offices where your daughter was also employed. Your daughter further testified that you stopped working prior to the month of December 2014.
- 3) Your daughter testified, and your application indicates, that you have neither worked nor received any income during 2015.
- 4) According to your Marketplace application, you will not file an income tax return for 2015.
- 5) Your daughter further testified that after receiving the December 4, 2014 notice of eligibility determination finding you eligible only for Medicaid for emergency care and services, you provided to the Marketplace an Order of Supervision in order to prove that you should have been provided full Medicaid coverage at that time.
- 6) The Marketplace received a copy of your Order of Supervision on January 22, 2015. The document has been valid since October 28, 2010.
- 7) In your October 31, 2014 application, you identified your citizenship status as “Other,” and attested that you were not eligible for a Social Security number due to your Immigration Status.

- 8) Your application indicates that you live in Kings County, New York.
- 9) You testified that you wanted your daughter, [REDACTED], to act as your Authorized Representative during the hearing.

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

Applicable Law and Regulations

Immigration Status and Medicaid Eligibility

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is satisfactory and he or she meets all other requirements for Medicaid.

Generally, no person, except a United States citizen, naturalized citizen, qualified alien, and persons permanently residing in the United States under color of law (PRUCOL), is eligible for medical assistance from the state (NY Soc. Serv. Law § 122(1); 18 NYCRR § 360-3.2).

A PRUCOL alien is a person who is residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the United States such agency does not contemplate enforcing (18 NYCRR §360-3.2(j)). The New York Department of Health regards aliens who have resided in the United States under an Order of Supervision to be PRUCOL (08 OHIP/INF-4, dated August 4, 2008).

Legal Analysis

The issue on appeal is whether the Marketplace properly determined that you were eligible for Medicaid only for emergency medical conditions as of October 31, 2014.

To be eligible for full Medicaid benefits through the Marketplace, you must have documents demonstrating your citizenship or immigration status.

The sole basis given in the December 4, 2014 notice of eligibility determination for limiting your eligibility to emergency Medicaid was the lack of evidence of your citizenship, immigration or PRUCOL status.

When the December 4, 2014 notice of eligibility determination was issued, evidence of your PRUCOL status was not available in your Marketplace file. Therefore, we must AFFIRM the December 4, 2014 eligibility determination.

However, on January 22, 2015, that the Marketplace received a copy of your Order of Supervision. Since the documentation of your PRUCOL status became available in the record, your case was returned to the Marketplace to redetermine your eligibility as of January 27, 2015. Based on your revised application, on January 28, 2015, you were again found Medicaid eligible only for emergency medical care and services effective January 1, 2015.

The credible evidence of record reflects that by January 22, 2015, the record contained a valid, current Order of Supervision. Since an Order of Supervision confirms PRUCOL status for purposes of Medicaid eligibility, the January 28, 2015 notice of eligibility improperly limited your Medicaid eligibility on the grounds of not being a citizen, qualified alien or having PRUCOL status.

Therefore, the January 28, 2015 determination is MODIFIED to state that you had submitted the documentation required and that, effective January 1, 2015, you are eligible for full Medicaid, rather than limited to emergency Medicaid.

Decision

The December 4, 2014 eligibility determination is AFFIRMED.

The January 28, 2015 eligibility determination is MODIFIED to state that you are eligible for full Medicaid with coverage effective January 1, 2015.

Effective Date of this Decision: July 22, 2015

How this Decision Affects Your Eligibility

You are eligible for Medicaid only for emergency medical conditions between October 1, 2014 and December 31, 2014.

You are eligible for full Medicaid benefits with coverage beginning January 1, 2015.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

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

The December 4, 2014 eligibility determination is **AFFIRMED**.

The January 28, 2015 eligibility determination is **MODIFIED** to state that you are eligible for full Medicaid with coverage effective January 1, 2015.

You are eligible for Medicaid only for emergency medical conditions between October 1, 2014 and December 31, 2014.

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You are eligible for full Medicaid benefits with coverage beginning December 1, 2014.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]