



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

Notice of Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002446

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 18, 2015, your authorized representative, [REDACTED], appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 3, 2014 eligibility determination.

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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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 emergency medical conditions as of December 3, 2014?

Procedural History

On November 27, 2014, the Marketplace issued an eligibility determination notice that you are eligible for Medicaid coverage for the treatment of emergency medical conditions only effective as of November 1, 2014.

On December 2, 2014, your Marketplace account was updated.

On December 3, 2014, the Marketplace issued an eligibility determination notice stating you remain eligible for Medicaid coverage for the treatment of emergency medical conditions only as of December 1, 2014.

On April 3, 2015 your authorized representative faxed an appeal request to the Marketplace. The request was "to challenge the December 3, 2014 Marketplace determination that [the appellant] was only eligible for Emergency Medicaid."

On April 29, 2015, the Marketplace issued a Notice Telephone Hearing scheduling your hearing for May 19, 2015. The Marketplace subsequently rescheduled your hearing and issued a Notice of Adjournment because the Marketplace had not furnished an Evidence Packet as previously requested.

On May 20, 2015, the Marketplace issued a Notice of Telephone Hearing scheduling your hearing on June 18, 2015.

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On June 18, 2015, your authorized representative had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken during the hearing. The record was developed and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) On April 3, 2015, a signed Authorized Representative Designation Form was faxed to the Marketplace. [REDACTED] accepted the designation of authorized representative.
- 2) Your application indicates that you are unmarried and live with your four-year-old and three-year-old daughters (12/2/2014 Marketplace application).
- 3) Your application indicates that you have an expected 2015 yearly income of \$0.00 (12/2/2014 Marketplace application).
- 4) Your application indicates that you do not expect to file a federal income tax return (12/2/2014).
- 5) A Self-Declaration of Income form (DOH-4444) was faxed to the Marketplace on April 27, 2015. The form indicates that you did not work in the months of September, October and November 2014.
- 6) A copy of your Employment Authorization Card (Form I-766) was uploaded to your Marketplace account on April 30, 2015. The document is valid from December 22, 2014 to December 21, 2015 and indicates that your category code is C14.
- 7) A copy of your Social Security card with notes, "VALID FOR WORK ONLY WITH DHS AUTHORIZATION" with an issuance date of January 8, 2015 was uploaded to your Marketplace account on April 30, 2015.
- 8) A September 11, 2014 letter from the U.S. Citizenship and Immigration Services (USCIS) stating that "the evidence submitted with your petition appears to demonstrate that you have established the eligibility requirements for U nonimmigrant status. However, the statutory cap for U-1 nonimmigrant status has been reached for the fiscal year" was uploaded to your Marketplace account on April 30, 2015.

- 9) You are also seeking retroactive Medicaid benefits for the months of September, October and November 2014 (6/18/2015 Authorized Representative).
- 10) The Marketplace issued an eligibility determination on May 18, 2015 that you are eligible for Medicaid coverage for the period of September 1, 2014 to November 30, 2014 (5/18/2015 Marketplace notice).

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, a naturalized citizen, a 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(j)).

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 been issued an Employment Authorization Document (I-688B or I-766), and have the requisite category code, to be PRUCOL (08 OHIP/INF-4, dated August 4, 2008)).

The guide, “Key to I-766/I-688B, Employment Authorization Documents (EADs)”, defines certain codes on the USCIS Employment Authorization Documents” (08 MA/033, dated December 1, 2008). It confirms that a person who has category code of “(c)(14)” has PRUCOL status (*id.*).

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 December 3, 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 3, 2014 notice of eligibility determination for limiting your eligibility to emergency Medicaid was the lack of evidence of your PRUCOL status.

However, the credible evidence of record reflects that you provided a valid and current Employment Authorization Card (Form I-766). The card confirmed that your category code was [REDACTED]. Since that code confirms PRUCOL status for purposes of Medicaid eligibility, the December 3, 2014 notice of eligibility improperly limited your Medicaid eligibility on grounds of citizenship or immigration status.

Therefore, the December 3, 2014 determination is MODIFIED to state that you have submitted the documentation required and that, effective December 1, 2014, you are eligible for full Medicaid, rather than limited to emergency Medicaid.

All eligibility determinations issued between December 3, 2014 and the date of this decision are likewise MODIFIED to state that the required documents have been provided and that you are eligible for full Medicaid.

During the hearing your authorized representative raised an additional issue to be reviewed. It was stated that you are also seeking retroactive Medicaid benefits for the period of September 1, 2014 to November 30, 2014.

On May 18, 2015, the Marketplace issued an eligibility determination notice that you are eligible for Medicaid coverage for the period of September 1, 2014 to November 30, 2014. It appears that the issue has been resolved.

Decision

The December 3, 2014 notice of eligibility determination is MODIFIED to state that you are eligible for full Medicaid with coverage effective December 1, 2014.

The determinations issued by the Marketplace between December 3, 2014 and the date of this decision are also similarly MODIFIED to state that you are eligible for full Medicaid with coverage effective December 1, 2014.

Effective Date of this Decision: July 28, 2015

How this Decision Affects Your Eligibility

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

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
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NY State of Health Appeals
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Summary

The December 3, 2014 notice of eligibility determination is MODIFIED to state you and your children are eligible for full Medicaid with coverage effective December 1, 2014.

The subsequent determinations issued by the Marketplace are also MODIFIED to state that you and your children are eligible for full Medicaid with coverage effective December 1, 2014.

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]
[REDACTED]
[REDACTED]