



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

Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003275



Dear [REDACTED],

On November 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 19, 2015 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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NY State of Health Number: [REDACTED]
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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 May 18, 2015?

Procedural History

On May 18, 2015 the Marketplace received your initial application for health insurance through the Marketplace.

On May 19, 2015 the Marketplace issued an eligibility determination notice that you are eligible for Medicaid coverage for the treatment of emergency medical conditions only because you were not United States citizens, qualified aliens, or permanently residing in the United States under color of law (PRUCOL). The notice also directed you to provide your Social Security Number before August 16, 2015 to confirm your eligibility.

On May 28, 2015 the Marketplace received your appeal request via mail.

On June 25, 2015 the Marketplace issued a Notice of Telephone Hearing scheduling a hearing on August 14, 2015.

On July 6, 2015 you mailed a letter to the Marketplace. The letter stated that you cannot speak English and will not be available at the time the telephone hearing was scheduled for on August 14, 2015.

On August 13, 2015 you uploaded copies of your United State of America I-766 Employment Authorization Card and your Social Security Card.

On August 14, 2015, a Hearing Officer from the Marketplace Appeals Unit attempted to contact you using the telephone number on the June 25, 2015 Notice of Telephone Hearing. Based on your July 6, 2015, letter to the Marketplace, your hearing was rescheduled.

On August 20, 2015 a Form G-845, Document Verification Request from the Department of Homeland Security was uploaded to your Marketplace account.

On September 2, 2015 the Marketplace issued a Notice of Telephone Hearing, rescheduling your hearing on October 7, 2015.

On September 14, 2015 you mailed a statement to the Marketplace updating your current telephone number and requesting a Bengali interpreter.

On October 7, 2015 a Hearing Officer from the Marketplace Appeals Unit contacted you for your scheduled telephone hearing. You stated that you were unable to participate in the hearing at that time and terminated the telephone call. The Marketplace Appeals Unit rescheduled your hearing.

On October 22, 2015 the Marketplace issued a Notice of Telephone Hearing, rescheduling your hearing on November 12, 2015.

On November 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Interpretation services were provide by Bengali-language interpreter number [REDACTED]. The record was developed during the hearing and was closed at the end of the hearing.

Findings of Fact

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

- 1) You submitted your initial application through the Marketplace on May 18, 2015. According to that application, you indicated that you are "[i]n process of applying for Social Security Number" and your Citizenship/Immigration Status was "[o]ther."
- 2) On August 27, 2015 the Marketplace received a statement from your employer, [REDACTED], that you earn \$150.00 in gross income on a weekly basis.
- 3) You testified that you are not sure if you will be filing a 2015 U.S. Individual Income Tax Return.

- 4) You testified that you currently reside with your roommate, who is not related to you.
- 5) On August 13, 2015 your I-766 United States Employment Authorization Document was uploaded to your Marketplace account. The document is valid from July 9, 2015 to July 8, 2016 and indicates that your category code is C08.
- 6) On August 13, 2015 your Social Security card was uploaded to your Marketplace account.
- 7) On August 27, 2015 the Marketplace received an acknowledgement of receipt dated November 6, 2014, from the U.S. Department of Homeland Security, Bureau of Citizenship & Immigration Services. The document states that you completed Form I-589 asylum application and is pending as of November 3, 2014.

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

Applicable Law and Regulations

Medicaid Eligibility - Immigration Status:

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

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MA/033, dated December 1, 2008). It confirms that a person who has category code of “(c)(8)” has PRUCOL status (*id.*).

Emergency Medicaid

In some cases, Medicaid will pay for emergency medical treatment for a person who does not have evidence of citizenship or immigration status, even if the person cannot get full Medicaid coverage (NY Soc. Serv. Law § 122(1)(e); 18 NYCRR § 360-3.2(j)(3)(ii)(a))

The term “emergency medical condition” means:

A medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (a) Placing the patient’s health in serious jeopardy;
- (b) Serious impairment of bodily functions; or
- (c) Serious dysfunction of any bodily organ or part

(18 NYCRR § 360-3.2(j)(1)(iii)).

To get treatment for an emergency medical condition, an undocumented alien who is not a temporary non-immigrant must meet all of the other Medicaid eligibility requirements, including proof of identity, income, and State residence (GIS 13 MA/09: Changes to Medicaid Coverage for the Treatment of an Emergency Medical Condition, (2/25/2013)).

Medicaid Eligibility – Social Security Number:

Generally, the Marketplace must require, as a condition of eligibility, that each individual (including children) seeking Medicaid furnish each of his or her Social Security numbers (42 CFR § 435.910(a)).

The Marketplace must not deny delay services to an otherwise eligible individual pending issuance or verification of the individual’s SSN by SSA (42 CFR § 435.910(f)).

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 May 18, 2015.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that their citizenship status or immigration status is satisfactory.

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

On May 18, 2015 you submitted your initial health insurance application through the Marketplace. According to that application, you indicated that your Citizenship/Immigration Status was “[o]ther.”

Since the Marketplace did not have any further information on your immigration status, you were found eligible for Emergency Medicaid only. Therefore, the May 18, 2015, eligibility determination notice stating that you were eligible for Medicaid coverage for the treatment of emergency medical conditions only is correct.

Furthermore, the Marketplace must require, as a condition of eligibility, that each individual (including children) seeking Medicaid furnish each of his or her Social Security numbers. However, the Marketplace must not deny or delay services to an otherwise eligible individual pending issuance of the individual Social Security number.

On May 18, 2015 you submitted your initial application through the Marketplace and indicated that you are “[i]n process of applying for Social Security Number.”

Therefore, the Marketplace correctly determined that you were eligible for Medicaid only for emergency medical conditions as of May 18, 2015 and is **AFFIRMED**.

However, on August 13, 2015 you uploaded your I-766 United States Employment Authorization Card to your Marketplace account. The document is valid from July 9, 2015 through July 8, 2016 and indicates that your category code is C08.

On the same date you uploaded your Social Security card to your Marketplace account.

Since you provided satisfactory documentation, regarding your immigration status and Social Security number, your case is **RETURNED** to the Marketplace to redetermine your eligibility for health insurance.

Decision

The May 19, 2015 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace to redetermine your eligibility for health insurance based on the documentation you uploaded to your Marketplace account, if the Marketplace has not already done so.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

This decision does not determine your eligibility for health insurance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on the immigration and Social Security number documentation you provided to the Marketplace. The Marketplace will issue an appropriate notice with its determination.

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 May 19, 2015 eligibility determination is **AFFIRMED**.

Your case is being **RETURNED** to the Marketplace to redetermine your eligibility for health insurance based on the documentation you uploaded to your Marketplace account, if the Marketplace has not already done so.

This decision does not determine your eligibility for health insurance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on the immigration and Social Security number documentation you provided to the Marketplace. The Marketplace will issue an appropriate notice with its determination.

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

