



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

## Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003959

[REDACTED]

Dear [REDACTED],

On September 3, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 21, 2015 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 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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## Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003959



## 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 only for Medicaid coverage for the treatment of emergency medical conditions only, effective July 1, 2015?

## Procedural History

On July 20, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible for Emergency Medicaid only.

Also on July 20, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not eligible for full Medicaid benefits.

On July 21, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the July 20, 2015 application, stating that you remained eligible for Medicaid coverage for the treatment of emergency medical conditions only. This eligibility was effective as of July 1, 2015. The notice further stated that you were only eligible for emergency medical care and services because you are not a citizen, qualified alien, or permanently residing in the United States under color of law (PRUCOL).

On September 3, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you time to submit documentation of your

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immigration status. On September 15, 2015 the Appeals Unit received via fax a letter from your physician, a copy of your Social Security card and work authorization card, and letters regarding a Freedom of Information Act (FOIA) Request, the documents were marked as [REDACTED] and incorporated into the record. The record is now closed.

## **Findings of Fact**

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

- 1) In the application that you submitted to the Marketplace on July 20, 2015, your immigration status was entered as "Other."
- 2) You testified that you have lived in New York since 1990.
- 3) You testified that you gained a work permit on October 7, 1996.
- 4) You testified that your son is a United States Citizen and he has begun the process of sponsoring you so that you may obtain a green card.
- 5) You submitted a copy of your Social Security card that states it is valid for work only with INS authorization, and a copy of your employment authorization card.
- 6) You submitted a copy of a FOIA letter that you wrote to the U.S. Department of Justice, Executive Office for Immigration Review requesting a copy of all documents indicating your name or alien number.
- 7) You submitted a copy of a letter from the U.S. Department of Justice, Executive Office for Immigration Review acknowledging the receipt of your FOIA request.

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

## **Applicable Law and Regulations**

### Medicaid, Generally

Medicaid can be provided through the Marketplace 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

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household modified adjusted gross income that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

### 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 filed official applications on federal immigration agency forms for one of the many types of immigration statuses or relief to be PRUCOL during the period of time the federal agency is determining whether to approve the application (08 OHIP/INF-4, dated August 4, 2008)).

### 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:

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- (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)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective July 1, 2015.

An individual seeking enrollment in Medicaid must have, and be able to demonstrate, satisfactory citizenship or immigration status. In the application that you submitted to the Marketplace on July 20, 2015, your immigration status was entered as "Other."

Since the Marketplace did not have any further information on your immigration status, you were found eligible for Emergency Medicaid only. Therefore, the July 21, 2015, eligibility determination notice stating that you remain eligible for Medicaid coverage for the treatment of emergency medical conditions only is **AFFIRMED**.

However, at the hearing you provided testimony and evidence to further explain your immigration status. You testified that you have lived in New York since 1990 and that you gained a work permit on October 7, 1996. You submitted a copy of your Social Security card that states it is valid for work only with INS authorization and a copy of your employment authorization card. You further testified that your son is a United States Citizen and he has begun the process of sponsoring you so that you may obtain a green card.

Therefore, your case is **RETURNED** to the Marketplace for further review of the documentation you submitted and a determination of whether or not you qualify for full Medicaid coverage based on the record as currently developed.

## **Decision**

The July 20, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace for further review of the documentation you submitted and a determination of whether or not you qualify for full Medicaid coverage based on the record as currently developed.

**Effective Date of this Decision:** November 25, 2015

### **How this Decision Affects Your Eligibility**

This is not a final determination of your eligibility. Your case is being sent back to the Marketplace for a redetermination of your eligibility based on the additional documents you submitted.

### **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  
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Albany, NY 12211
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## **Summary**

The July 20, 2015 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace for further review of the documentation you submitted and a determination of whether or not you qualify for full Medicaid coverage based on the record as currently developed.

This is not a final determination of your eligibility. Your case is being sent back to the Marketplace for a redetermination of your eligibility based on the additional documents you submitted.

## **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

