



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: AP000000004149



Dear [REDACTED],

On October 21, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 14, 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 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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## Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004149



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

## Procedural History

On May 12, 2015 your passport from the [REDACTED] was faxed to the Marketplace.

On May 14, 2015 the Marketplace issued an eligibility determination stating that you are eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective as of May 1, 2015.

On July 31, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal insofar as not being eligible for full Medicaid benefits.

On August 7, 2015, the Marketplace issued an eligibility determination notice stating that you remain eligible for Medicaid coverage for the treatment of emergency medical conditions only. This eligibility was effective as of September 1, 2015. The notice further stated that you are 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).

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On October 21, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken and the record was developed during the hearing. The record is now complete and closed.

## **Findings of Fact**

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

- 1) Your May 13, 2015 Marketplace application indicates that your immigration status is "Other."
- 2) Your May 13, 2015 Marketplace application indicates that you are "Not eligible for Social Security Number Due to Immigration Status."
- 3) Your May 13, 2015 Marketplace application indicates that you will not be filing a 2015 federal income tax return and have an expected income of \$0.00.
- 4) You testified that you entered the United States on March 9, 1991 with a tourist visa, which expired on September 9, 1991.
- 5) Your [REDACTED] passport was faxed to the Marketplace on May 12, 2015.
- 6) You testified that you have no documentation, besides your passport from the [REDACTED] to document your immigration status.

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 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

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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).

### 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)).

## **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 May 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 May 13, 2015, your immigration status was entered as "Other."

You credibility testified that you entered the United States on March 9, 1991 on a tourist visa that expired on September 9, 1991. Furthermore, you testified that besides your passport from the [REDACTED], you did not have any other documentation to show your immigration status.

Since the Marketplace did not have any further information on your immigration status, you were found eligible for Emergency Medicaid only. Therefore, the May 14, 2015, eligibility determination notice stating that you remain eligible for Medicaid coverage for the treatment of emergency medical conditions only is AFFIRMED.

## **Decision**

The May 14, 2015 eligibility determination notice is AFFIRMED.

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

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

You are eligible for Emergency Medicaid benefits only, effective May 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

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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 14, 2015 eligibility determination notice is AFFIRMED.

You are eligible for Emergency Medicaid benefits only, effective May 1, 2015.

### **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:**

