



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

## Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006167

[REDACTED]

Dear [REDACTED]

On April 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 25, 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 and the Account ID 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.

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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006167

[REDACTED]

## Issue

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

Did NY State of Health properly determine that you were not eligible for Medicaid, effective December 31, 2015?

## Procedural History

On October 24, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you were currently receiving.

On December 7, 2015, NYSOH received a revised application in which you attested to being an "Immigrant Non-Citizen," and that you were legally present on the basis of having been issued an I-766 Employment Authorization Card (EAC).

Also on December 7, 2015, NYSOH received a copy of the I-766 EAC issued to you. This card was valid from September 29, 2014 through September 28, 2016.

On December 8, 2015, NYSOH issued an eligibility determination notice based upon the December 7, 2015 application, stating that you were newly conditionally eligible to purchase a qualified health plan at full cost through NYSOH, effective

January 1, 2016. The notice also directed you to confirm your immigration status by March 6, 2016.

On December 8, 2015, NYSOH issued a disenrollment notice stating that your Medicaid Managed Care (MMC) coverage with Healthfirst would end effective December 31, 2015. This notice was issued because you were no longer eligible to remain enrolled in that plan.

On December 11, 2015, NYSOH reran your eligibility based on the information contained in your application as of December 7, 2015.

On December 12, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 11, 2015 application, stating that you were eligible for Medicaid, effective January 1, 2016.

On December 16, 2015, NYSOH issued a notice of enrollment confirming that your MMC plan coverage with Healthfirst would begin as of January 1, 2016.

On December 24, 2015, NYSOH reran your eligibility based on the information contained in your application as of December 7, 2015.

On December 25, 2015, NYSOH issued an eligibility determination notice based on the information contained in your December 24, 2015 application. The notice stated that you were no longer eligible for Medicaid because the verification documents you provided showed that you were not lawfully present. Your eligibility would end effective December 31, 2015.

Also on December 25, 2015, NYOSH issued a cancellation notice stating that your MMC plan coverage with Healthfirst would end effective December 31, 2015. This notice was issued because you were no longer eligible to remain enrolled in that plan.

On January 12, 2016, NYSOH received a revised application in which you attested to being a "Non-Immigrant Visa Holder", and that you were legally present on the basis of having been issued an I-766 EAC. In response to this application, NYSOH prepared a preliminary eligibility determination, stating that you were not eligible for financial assistance; however, you were eligible to enroll through NYSOH at full cost, effective February 1, 2016. This preliminary determination also requested that you submit additional documentation so that your eligibility could be finalized; however, it did not confirm the date by which such documentation was to be provided of the type of documentation requested.

Also on January 12, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not found eligible for Medicaid during 2016.

On January 13, 2016, NYSOH issued an eligibility redetermination notice stating that you were conditionally eligible to purchase a qualified health plan at full cost, effective February 1, 2016. This notice also requested that you provide documentation to confirm your immigration status before April 11, 2016 so that you eligibility could be finalized.

On April 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

On June 18, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid effective June 1, 2016.

## **Findings of Fact**

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

- 1) During 2015, you were enrolled in a Medicaid Managed Care (MMC) plan with Healthfirst.
- 2) You revised your application on December 3, 2015, in which you attested to being an "Immigrant Non-Citizen", and being legally present in the U.S. on the basis of having received an I-776 Employment Authorization Card (EAC). This application also reflected an "Alien Expiration Date" of October 29, 2014. NYSOH found you conditionally eligible to enroll in a qualified health plan at full cost, effective January 1, 2016.
- 3) On December 7, 2015, you uploaded to your NYSOH account a copy of your I-766 EAC. This card was valid beginning September 29, 2014, and is due to expire on September 28, 2016. This card also reflected an EAC Category Code of "C33."
- 4) NYSOH reran your eligibility two additional times, on December 11, 2015 and December 24, 2015, based on the same information you provided to NYSOH on December 3, 2015. You were initially found eligible for Medicaid, effective January 1, 2016; however, based on the subsequent redetermination of your eligibility on December 25, 2015, you were found no longer qualified to enroll through NYSOH because the verification documents you provided showed that you were not lawfully present.
- 5) Each application indicated that your total expected income was \$10,067.74, and that you anticipated filing your 2016 tax return as single, and not claiming any dependents. You testified that this was accurate.

- 6) You testified that you are [REDACTED] and immigrated to the U.S. when you were about [REDACTED] years old, around [REDACTED].
- 7) You testified that you were not clear on whether you were issued a visa, but that you currently were issued the EAC [REDACTED].
- 8) You testified that you were seeking to receive financial assistance, and become eligible for either Medicaid or the Essential Plan.

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 Social Services 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)(33)”, reflecting Deferred Action for Childhood Arrivals (DACA), has PRUCOL status (*id.*).

## Legal Analysis

The issue on appeal is whether the Marketplace properly determined that you were not eligible for Medicaid as of December 31, 2015.

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 24, 2014 notice of eligibility redetermination that you were no longer eligible for Medicaid was because the verification documents you provided showed you to be not lawfully present.

However, the credible evidence of record reflects that by December 7, 2015, the record contained a current and valid I-766 EAD issued to you. The card confirmed that your category code was C33. Since the code confirms PRUCOL status for purposes of Medicaid eligibility, the December 25, 2015 notice of eligibility redetermination improperly terminated your Medicaid eligibility on grounds of citizenship or immigration status.

Therefore, the December 25, 2014 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of January 1, 2016, on the basis of your PRUCOL status, and being in a one-person household with an expected annual income of \$10,067.74.

The subsequent eligibility redetermination issued on January 13, 2016 is also RESCINDED since it is no longer supported by the record.

## Decision

The December 25, 2014 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of January 1, 2016, based on your PRUCOL status, and being in a one-person household with an expected annual income of \$10,067.74.

The January 13, 2016 eligibility redetermination notice is also RESCINDED since it is no longer supported by the record.

**Effective Date of this Decision:** July 1, 2016

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

You will receive a new eligibility determination reflecting your eligibility for financial assistance as of January 1, 2016.

## **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 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 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
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## **Summary**

The December 25, 2014 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of January 1, 2016, based on your PRUCOL status, and being in a one-person household with an expected annual income of \$10,067.74.

The January 13, 2016 eligibility redetermination notice is also RESCINDED since it is no longer supported by the record.

You will receive a new eligibility determination reflecting your eligibility for financial assistance as of January 1, 2016.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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

