



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

## Notice of Decision

Decision Date: July 25, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006491

[REDACTED]

Dear [REDACTED]

On July 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2016 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 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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## Decision

Decision Date: July 25, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006491

[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 eligible to enroll in the Essential Plan, effective March 1, 2016, and not eligible for Medicaid?

## Procedural History

On February 10, 2015, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible for Medicaid effective February 1, 2015.

On January 13, 2016, NYSOH issued a renewal notice stating that based on the information from federal and state data sources there was not enough information to make a determination on your eligibility for the upcoming year. NYSOH requested that you updated the information in your account before February 15, 2016 so a determination could be made.

On January 26, 2016 information in your NYSOH account was updated. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan.

Also on January 26, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the preliminary eligibility determination insofar as you were not eligible for Medicaid.

On January 27, 2016, NYSOH issued a notice of eligibility determination, based on your January 26, 2016 application, stating that you are eligible to enroll in the Essential Plan, with no monthly premium, effective March 1, 2016. This was because your household income was less than the allowable income limit AND you were in the first five years of your qualified immigration status OR are living in the United States under the color of law (PRUCOL).

On July 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing. The record was left open until July 26, 2016 to allow you time to submit the front and back of your Resident Alien card. On July 19, 2016 the requested documentation was uploaded to your NYSOH account and the record was closed that day.

## **Findings of Fact**

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

- 1) You testified that you are a Resident Alien and have resided in the United States since the 1980's.
- 2) You provided documentation in the form of you Resident Alien card. The back of the card lists and admittance date of [REDACTED], 1988.
- 3) You testified that as a permanent Resident Alien, you are not required to update your Immigration status with U.S. Department of Justice.
- 4) You testified that you intend to remain in the United States as a permanent Resident Alien.
- 5) The application that was submitted on January 26, 2016, which requested financial assistance, listed annual household income of \$0.00. You testified that this is still accurate because you are still unemployed.
- 6) Your application states that you are not a dependent and will be filing taxes with a filing status of single.
- 7) You testified that you want to have Medicaid back because none of your medical providers accept the Essential Plan you were enrolled in.

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

## **Applicable Law and Regulations**

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## Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

## Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

## Medicaid

Medicaid can be provided through NYSOH 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 (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

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In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036.).

## Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to enroll in the Essential Plan, effective March 1, 2016, and not eligible for Medicaid.

The application that was submitted on January 26, 2016 listed an annual household income of \$0.00 and the eligibility determination relied upon that information.

According to your application, you are in a one-person household. You expect to file your 2016 income taxes as single.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between 0% and 200% of the FPL. Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size.

On the date of your application, the relevant FPL for a one-person household for the Essential Plan was \$11,770.00 and the relevant FPL for Medicaid was \$11,880.00. Since an annual income of \$0.00 is 0% of the 2015 FPL and 2016 FPL, you meet the financial eligibility criteria for both Medicaid and the Essential Plan.

As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan. The record indicates that NYSOH determined that you were in the first five years of your qualified immigration status and thus not eligible for Medicaid

However, you testified and provided documentation that you are a permanent Resident Alien, and have been a permanent resident since [REDACTED], 1988. Since you are not within the first five years of your qualified immigration status you should not have been denied Medicaid on that basis.

Therefore, since the January 27, 2016 eligibility determination improperly stated that you were within the first five years of your qualified immigration status and thus not eligible for Medicaid it is RESCINDED.

## **Decision**

The January 27, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Medicaid coverage.

**Effective Date of this Decision:** July 25, 2016

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

You were improperly found eligible for the Essential Plan on the basis of your immigration status.

Your case is being sent back to NYSOH to reinstate your Medicaid coverage.

## **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
- By fax: 1-855-900-5557

## **Summary**

The January 27, 2016 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your Medicaid coverage.

You were improperly found eligible for the Essential Plan on the basis of your immigration status.

Your case is being sent back to NYSOH to reinstate your Medicaid coverage.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.



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

