



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

Notice of Decision

Decision Date: August 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007522

[REDACTED]

Dear [REDACTED],

On August 3, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 29, 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 NY State of Health 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007522



Issue

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

Did NY State of Health (NYSOH) properly determined that you were eligible for the Essential Plan, effective March 1, 2016, and not eligible for Medicaid?

Procedural History

On December 23, 2014, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective December 1, 2014.

On September 17, 2015, NYSOH issued a renewal notice stating that you were still qualified for health care coverage under Medicaid effective December 1, 2015. This was because federal and state data sources showed your income was within the allowable income range for Medicaid based on your household size. The notice further stated that you did not need to do anything more.

On December 22, 2015, NYSOH issued an eligibility redetermination notice, stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016. It further stated you no longer qualified for Medicaid as of December 31, 2015.

On February 29, 2016, information in your NYSOH account was updated. That day, a preliminary eligibility determination was prepared finding you eligible for the Essential Plan.

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Also on February 29, 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 March 1, 2016, NYSOH issued a notice of eligibility determination, based on your February 29, 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).

According to your NYSOH account, on April 14, 2016, you were granted aid to continue in your Medicaid Managed Care plan and were placed back in that plan, effective April 1, 2016.

On August 3, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and was left open until August 17, 2016 to allow you time to submit the front and back of your Resident Alien card. On August 9, 2016 the requested documentation was uploaded to your NYSOH account and the record was closed on August 10, 2016.

Findings of Fact

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

- 1) You testified that you are a permanent Resident Alien and have resided in the United States since [REDACTED] 1970.
- 2) You provided documentation in the form of a front and back copy of your Resident Alien card. The back of the card lists an admittance date of [REDACTED] [REDACTED] 1970. (Document [REDACTED])
- 3) You testified that as a permanent Resident Alien, you are not required to update your immigration status.
- 4) You testified that you have had Medicaid for many years.
- 5) You testified that you have been in the United States since 1970 except for infrequent short visits back to your birth county.
- 6) The application that was submitted on February 29, 2016, which requested financial assistance, listed annual household income of \$0.00. You confirmed this was correct in your testimony.

- 7) Your application states that you will be filing taxes as head of household (with qualifying individual) and that you have two dependents. You confirmed this was correct in your testimony.
- 8) You are seeking insurance for yourself only.
- 9) You testified that you want to have Medicaid coverage back and have your immigration status corrected in your NYSOH account.

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

Applicable Law and Regulations

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 2016 FPL, which is \$20,160.00 for a three-person household (80 Fed. Reg. 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>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax

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credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

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)).

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 \$20,160.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

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

The application that was submitted on February 29, 2016 listed an annual household income of \$0.00 and the eligibility determination relied upon that information.

You are in a three-person household. This is because you expect to file your 2016 income taxes as Head of Household (with Qualifying individual) and will claim your two children as dependents on that tax return.

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The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since an annual household income of \$0.00 is 0% of the 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 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] 1970. 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 March 1, 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.

Your case is RETURNED to NYSOH to reinstate your eligibility for Medicaid and your enrollment in your Medicaid Managed Care plan, effective April 1, 2016, and continuing.

Decision

The March 1, 2016 eligibility determination as it applies to your eligibility is RESCINDED.

Your case is RETURNED to NYSOH to fully reinstate your eligibility for Medicaid and your enrollment in your Medicaid Managed Care plan, effective April 1, 2016 and continuing.

This decision has no effect on any subsequent eligibility redeterminations made by NYSOH or corresponding eligibility redetermination and/or other related notices it has issued.

Effective Date of this Decision: August 15, 2016

How this Decision Affects Your Eligibility

You were improperly found eligible for the Essential Plan on the basis of your immigration status, which finding was based on inaccurate information.

Your case is being sent back to NYSOH to fully reinstate your Medicaid Managed Care plan, effective April 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 after 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:
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- By fax: 1-855-900-5557

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Summary

The March 1, 2016 eligibility determination as it applies to your eligibility is **RESCINDED**.

Your case is **RETURNED** to NYSOH to fully reinstate your eligibility for Medicaid and your enrollment in your Medicaid Managed Care plan, effective April 1, 2016 and continuing.

This decision has no effect on any subsequent eligibility redeterminations made by NYSOH or corresponding eligibility redetermination and/or other related notices it has issued.

You were improperly found eligible for the Essential Plan on the basis of your immigration status, which finding was based on inaccurate information.

Your case is being sent back to NYSOH to fully reinstate your Medicaid Managed Care plan, effective April 1, 2016 and continuing.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

