



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

Notice of Decision

Decision Date: October 31, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008920

[REDACTED]

Dear [REDACTED]

On October 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 2016 notice of 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]
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Issue

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

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

Procedural History

On March 19, 2016, NYSOH issued a notice of eligibility determination, stating that you are eligible to enroll in the Essential Plan, with no monthly premium, effective April 1, 2016. You qualified for the Essential Plan because your income of \$0.00 was less than the allowable income limit for the Essential Plan and you were in the first five years of your qualified immigration status or you are living in the United States under the color of law.

On March 19, 2016, a disenrollment notice was issued terminating your enrollment in your Medicaid Managed care plan effective March 31, 2016.

Also on March 19, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan 4, with a \$0.00 per month premium starting April 1, 2016.

On April 15, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for Medicaid.

On October 21, 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.

Findings of Fact

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

- 1) Your application indicates that you do not expect to file taxes in 2016.
- 2) You are seeking insurance for yourself.
- 3) You are seeking to be found eligible for Medicaid.
- 4) You were previously enrolled in a Medicaid Managed Care plan through NYSOH until March 31, 2016.
- 5) Your application indicates you have an expected yearly income of \$0.00.
- 6) Your application states that you are a non-immigrant Visa holder.
- 7) You testified that you first came to the United States thirteen years ago.
- 8) You testified that when you came to the United States you had a ten-year Visa.
- 9) On October 23, 2015 a copy of your Visa was uploaded to your NYSOH account. This Visa is a class B1/B2 Visa and shows an issuance date of September 13, 2001 and an expiration date of September 12, 2011.
- 10) You testified that you do not currently have a valid Visa.
- 11) You testified that you are not sure of what your current immigration status is. You further testified that you do not have a current immigration status.
- 12) Your application indicates that you have applied to become a legal permanent resident. You further testified that you are working with an attorney to resolve your immigration status.
- 13) Your application states that you live in Queens County.
- 14) You testified that you have several medical conditions which have rendered you disabled. You further testified that you live alone and need care because of your disability.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

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.

Medicaid through NYSOH can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. 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 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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 March 19, 2014).

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 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>).

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).

Legal Analysis

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

The application that was submitted on October 28, 2015 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, and you do not expect to file an income tax return for 2016.

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.

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

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have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size.

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

You testified that you first came to the United States 13 years ago. You further testified that when you first came to the United States you had a valid Visa. A copy of this Visa has been uploaded to your NYSOH account. This Visa is a class B1/B2 Visa and shows an issuance date of September 13, 2001 and an expiration date of September 12, 2011. You testified that you do not currently have a valid Visa or immigration status.

As you do not have documentation of a current immigration status, the March 19, 2016 notice of eligibility determination is RESCINDED and RETURNED to NYSOH for a redetermination of your eligibility based on your current immigration status.

Decision

The March 19, 2016 notice of eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of your eligibility based on your current immigration status.

Effective Date of this Decision: October 31, 2016

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility for financial assistance. Your case is being sent back to NYSOH for a redetermination of your eligibility based on your current immigration status.

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.

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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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 19, 2016 notice of eligibility determination is **RESCINDED** and **RETURNED** to NYSOH for a redetermination of your eligibility based on your current immigration status.

This is not a final determination of your eligibility for financial assistance. Your case is being sent back to NYSOH for a redetermination of your eligibility based on your current immigration status.

Legal Authority

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A Copy of this Decision Has Been Provided To:

