



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

## Notice of Decision

Decision Date: December 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009188

[REDACTED]

Dear [REDACTED],

On November 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 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 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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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009188



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

## Procedural History

On March 18, 2016, NYSOH redetermined your eligibility for financial assistance with health insurance.

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 was less than the allowable income limit 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 April 26, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of those eligibility determination insofar as you were not eligible for Medicaid.

On November 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 14 days to allow you the opportunity to submit supporting documentation of your immigration status. On November 10, 2016 you uploaded

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an I-766 employment authorization card and I-155 permanent resident card. These documents were then incorporated into the record. The record is now closed.

## **Findings of Fact**

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

- 1) The record reflects that you are seeking insurance for yourself.
- 2) Your application states that you will be filing taxes with a filing status of single and claiming one dependent on your tax return.
- 3) You testified that you first came to the United States in 2002 and have resided in the United States since that time.
- 4) You testified that when you first came to the United States you held an employment authorization card and continued to hold an employment authorization card until July 2016.
- 5) On June 17, 2014, you uploaded to your NYSOH account your I-766 employment authorization card showing an A19 category, which was valid from October 1, 2012 until September 30, 2016.
- 6) Also on June 17, 2014, you uploaded to your NYSOH account an I-797A notice of action showing that your petition for U Nonimmigrant Status had been approved.
- 7) On November 10, 2016, you uploaded to your NYSOH account an I-766 employment authorization card showing an A15 category, which was valid from August 19, 2002 to February 1, 2004.
- 8) Also on November 10, 2016, you uploaded to your NYSOH account an I-155 permanent resident card showing an SU6 category, which indicates you were granted permanent resident status on June 24, 2016.
- 9) The application that was submitted on October 19, 2015, which was used to redetermine your eligibility on March 18, 2016, listed annual household income of \$7,050.00.

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 2015 FPL, which is \$15,930.00 for a two-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>).

### Medicaid

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 (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 your eligibility was redetermined, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Fed. Reg. 4036).

## 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 certain persons residing under color of law, certain temporary non-immigrants, and 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 to enroll in the Essential Plan, effective April 1, 2016, and not eligible for Medicaid.

The application that was submitted on March 19, 2016 listed an annual household income of \$7,050.00 and the eligibility determination relied upon that information.

According to your application, you are in a two-person household. You expect to file your 2016 income taxes as single and will claim one dependent on that tax return.

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 the redetermination, the relevant FPL for 2015 was \$15,930.00 and the relevant FPL for 2016 was \$16,020.00 for a two-person household. Since an annual income of \$7,050.00 is 44.26% of the 2015 FPL and 44% of the 2016 FPL, you meet the financial eligibility criteria for both the Essential Plan and Medicaid.

At the time your eligibility was redetermined on March 18, 2016, you were the holder of a U non-immigrant visa. The record reflects that you are currently a permanent resident, and have had permanent resident status for six months. As of January 1, 2016, certain temporary non-immigrants who were not eligible for Medicaid under federal law and legal permanent residents who were not eligible

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for Medicaid under federal law due to being in the first five years of their permanent residency, who were receiving Medicaid through NY State, must now receive coverage through the Essential Plan. Therefore, because at the time of the March 18, 2016 application you were a temporary non-immigrant and you are currently in your first five years of permanent residency, NYSOH properly determined that you do not meet the non-financial requirements for Medicaid.

Since you meet the non-financial and financial requirements for the Essential Plan, NYSOH properly determined you to be eligible for Essential Plan coverage.

Therefore, since the March 19, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan effective April 1, 2016, was correct and is AFFIRMED.

## **Decision**

The March 19, 2016 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** December 12, 2016

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

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

## **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)).

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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 March 19, 2016 eligibility determination is AFFIRMED.

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

### **Legal Authority**

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



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

