



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

Notice of Decision

Decision Date: April 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010890

[REDACTED]

Dear [REDACTED],

On January 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 13, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: April 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010890

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective August 1, 2016, because of your citizenship status?

Procedural History

On June 30, 2016, NYSOH received your initial application for health insurance.

On July 1, 2016, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan for a limited time, effective June 1, 2016. The notice further stated NYSOH was checking federal data sources to confirm your immigration status.

On July 2, 2016, NYSOH issued a notice of enrollment confirmation stating you were enrolled in an Essential Plan, effective July 1, 2016.

On July 13, 2016, NYSOH issued an eligibility determination notice, based on a July 12, 2016 systematic eligibility redetermination, stating you were eligible for Medicaid for the treatment of emergency medical conditions only, effective August 1, 2016. The notice further stated you were only eligible for emergency medical care services because of your citizenship/immigration status.

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Also on July 13, 2016, NYSOH issued a notice stating you were eligible for retroactive Medicaid coverage for the treatment of emergency medical conditions only for the period of May 1, 2016 to May 31, 2016.

Additionally, on July 13, 2016, NYSOH issued a notice of enrollment confirmation stating you were enrolled in a Medicaid Program; however, the type of Medicaid coverage you were eligible for did not require/ allow you to enroll in a health plan.

Finally, on July 13, 2016, NYSOH issued a notice of disenrollment stating your Essential Plan was terminated, effective July 31, 2016 because you were no longer eligible to remain enrolled in the plan.

On July 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not found eligible for full Medicaid.

On October 20, 2016, NYSOH issued an eligibility determination notice, based on an October 19, 2016 systematic eligibility redetermination, stating you were eligible for Medicaid for the treatment of emergency medical conditions only, effective October 1, 2016. The notice further stated you were only eligible for emergency medical care services because you were not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL).

On January 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for you to submit supporting documentation. On January 30, 2017, NYSOH Appeals Unit received a cover letter from the [REDACTED], dated January 25, 2017, addressed to [REDACTED], along with a purported petition for asylum. Thereafter the record closed.

Findings of Fact

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

- 1) Your initial June 30, 2016 application indicated your citizenship/immigration status was that of a non-immigrant Visa holder. The application indicated you submitted a "machine readable Visa with Temporary I-551 language."
- 2) On July 1, 2016, the following documentation was uploaded to your NYSOH account:
 - a. an I-94 Form from U.S. Customs and Border Protection indicating you had a B1 class of admission and an "Admit Until Date" of [REDACTED]

- b. A United States Visa with expiration date December 27, 2025. The Visa indicated your class of admission was "B1/B2" ([REDACTED]).
 - c. A passport from the [REDACTED] with expiration date December 6, 2017 ([REDACTED]).
- 3) NYSOH initially determined you eligible to enroll in the Essential Plan while it attempted to confirm your immigration status. Your coverage through this plan was effective June 1, 2016.
 - 4) On July 12, 2016, NYSOH systematically deleted your enrollment in the Essential Plan on the grounds it was unable to confirm you were a citizen, qualified alien, or PRUCOL. Your coverage through this plan ended July 31, 2016.
- 1) You testified you arrived in New York in May 2016. You further testified you currently reside in [REDACTED] New York and you intend to remain in New York indefinitely.
 - 2) You testified you were currently in the country illegally. You explained you have a class B2 Visa which meant you could only stay in the country for six months. You testified the six months had passed but you were in the process of filing an asylum proceeding.
 - 3) The Form I-94 you submitted indicated you were granted admission into the country until November 20, 2016 ([REDACTED]).
 - 4) You submitted documentation evidencing you were filing an asylum proceeding, including a cover letter from the [REDACTED] dated January 25, 2017 addressed to [REDACTED], along with a purported application for asylum signed by you on December 23, 2016.
 - 5) Your June 30, 2016 application indicated you have no household income and will not be filing taxes.
 - 6) Your account indicates you have only had emergency Medicaid coverage since August 1, 2016.
 - 7) You are seeking reinstatement of your Essential Plan as of August 1, 2016.

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 \$20,090.00 for a three-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).

Legal Analysis

The issue on appeal is whether NYSOH properly determined you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective August 1, 2016, because of your citizenship/immigration status.

To enroll in health coverage through NYSOH, you must have documents demonstrating your citizenship or satisfactory immigration status.

NYSOH issued an eligibility determination notice on July 13, 2016, stating you were eligible for Medicaid coverage for the treatment of emergency medical conditions only. The sole basis for the determination, as provided in this notice, was that you were not a citizen, qualified alien, or PRUCOL.

However, your account confirms that on July 1, 2016, a copy of your unexpired United States Visa was uploaded to your NYSOH account. This document indicated you have a "B1/B2" admission class. Additionally, a copy of your I-94 Form from U.S. Customs and Border Protection was also uploaded to your account the same day. This document indicated you had a "B1" class of admission and an "Admit Until Date" of November 20, 2016. Accordingly, at the time of the July 13, 2016 eligibility determination at issue, the record contained current U.S. Government issued documentation sufficient to establish you were residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency, whose departure from the U.S. such agency did not contemplate enforcing.

Since the documentation submitted sufficiently established your PRUCOL status at the time of the subject eligibility determination, NYSOH improperly found you eligible for Medicaid coverage for the treatment of emergency medical conditions because you were not a citizen, qualified alien or PRUCOL.

Therefore, the July 13, 2016, eligibility determination notice must be **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility as of July 12, 2016, based on your legal presence in the United States at that time, and being in a one-person household with an expected annual income of \$0.00.

The subsequent eligibility redetermination issued on October 20, 2016 is also **RESCINDED** since it is not supported by the record.

Decision

The July 13, 2016, eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility as of July 12, 2016, based on your PRUCOL status and being in a one-person household with an expected annual income of \$0.00.

The subsequent eligibility redetermination issued on October 20, 2016 is also **RESCINDED** since it is not supported by the record.

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).

Effective Date of this Decision: April 14, 2017

How this Decision Affects Your Eligibility

You will receive a new eligibility determination reflecting your eligibility to enroll in health coverage through NYSOH as of July 12, 2016.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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.

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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 July 13, 2016, eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of July 12, 2016, based on your PRUCOL status and being in a one-person household with an expected annual income of \$0.00.

The subsequent eligibility redetermination issued on October 20, 2016 is also RESCINDED since it is not supported by the record.

You will receive a new eligibility determination reflecting your eligibility to enroll in health coverage through NYSOH as of July 12, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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).

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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