



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

Notice of Decision

Decision Date: April 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012690

[REDACTED]

Dear [REDACTED],

On January 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 20, 2016 eligibility determination notice.

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

Decision Date: April 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012690

[REDACTED]

Issue

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

Did NY State of Health properly determine your child was eligible for Medicaid coverage for the treatment of emergency medical conditions because he is not a citizen, a qualified alien, or permanently residing in the United States under color of law (PRUCOL)?

Procedural History

On September 7, 2016, NY State of Health (NYSOH) received your family's initial application for health insurance.

On September 8, 2016, NYSOH issued an eligibility determination notice stating your child was conditionally eligible for Medicaid, effective September 1, 2016. The notice stated that additional information was required to confirm his eligibility and directed you to provide immigration status documentation before December 6, 2016.

Also on September 8, 2016, NYSOH issued a notice of enrollment confirmation stating your child was enrolled in a Medicaid Managed Care plan, effective October 1, 2016.

On September 13, 2016, NYSOH issued an updated eligibility determination notice stating your child remained conditionally eligible for Medicaid, effective September 1, 2016. The notice further stated NYSOH was checking federal data sources to confirm your child's immigration status and indicated you would be

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contacted if you needed to send in proof that your child had an eligible immigration status.

On September 28, 2016, NYSOH systematically redetermined your family's eligibility and deleted your child's Medicaid Managed Care plan enrollment.

On September 29, 2016, NYSOH issued a disenrollment notice stating your child's Medicaid Managed Care plan was terminated, effective October 31, 2016, because he was no longer eligible to remain enrolled in the plan.

Also on September 29, 2016, NYSOH issued a notice of enrollment confirmation stating the type of Medicaid coverage your child was eligible for did not require/allow him to enroll in a health plan.

On October 8, 2016, October 9, 2016, October 15, 2016, and October 20, 2016, NYSOH issued eligibility determination notices stating your child was eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective November 1, 2016. The notice further stated your child was only eligible for emergency medical care and services because he was not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL).

Also on October 20, 2016, you spoke to NYSOH Account Review Unit and requested an appeal insofar as your child was eligible for Medicaid for emergency medical care and services only and not fully Medicaid eligible.

On January 26, 2017, 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) You are applying for health insurance through NYSOH for you, your spouse, and your child. However, you are only appealing your child's eligibility.
- 2) Your family's initial application for health insurance was received by NYSOH on September 7, 2016.
- 3) A copy of your child's unexpired United States Visa ([REDACTED]) was uploaded to your NYSOH account on September 7, 2016. The Visa indicates your child has an "F2" admission class.

- 4) Your account indicates your application contained unanswered “residency questions” and NYSOH issued notices dated September 9, 2016, September 15, 2016 and October 12, 2016 indicating you had an application change in progress that needed to be completed. The notices directed you to access your application online or call customer service to complete and submit your application.
- 5) Your child was initially determined conditionally eligible for Medicaid, effective September 1, 2016, pending receipt of documentation confirming his satisfactory immigration status.
- 6) Your child was permitted to enroll in a Medicaid Managed Care plan with an October 1, 2016 coverage start date.
- 7) On September 28, 2016, NYSOH systematically redetermined your family’s eligibility and your child was determined eligible for Medicaid coverage for the treatment of emergency medical conditions only on the grounds he was not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL). This eligibility was effective November 1, 2016.
- 8) Your child’s Medicaid Managed Care plan was terminated on October 31, 2016 and your child has had emergency Medicaid only since that time.
- 9) You testified you are a graduate student currently attending college.
- 10) Your account confirms, you and your spouse have been enrolled in an Essential Plan through NYSOH since September 1, 2016.
- 11) You testified your child has the same documentation and immigration status as your spouse, so you do not understand why she is eligible for health insurance through NYSOH and your child is denied based on his immigration status.
- 12) You testified that you, your spouse, and your child have resided in New York since [REDACTED] and your family intends to remain in New York, at least, until the end of your graduate program on [REDACTED].
- 13) On October 20, 2016, NYSOH received copies of the following documents:
 - a. A copy of your child’s Form I-94 Arrival/ Departure record from U.S. Customs and Border Protection ([REDACTED]). The Form listed your child’s class of admission as “F2” and an “Admit Until Date” of “D/S.” This document was verified as a “valid proof of immigration” by NYSOH on November 1, 2016.

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- b. A copy of your Student and Exchange Visitor Program: SEVIS I-901 Payment Confirmation Form from the Department of Homeland Security confirming your payment of the fee on April 19, 2016 (██████████).
 - c. A copy of your I-20 Certificate of Eligibility for Nonimmigrant Student Status from U.S. Immigration and Customs Enforcement. The Certificate indicated you had a class of F-1 and the school program for which you were admitted has an end date of December 31, 2017 (██████████).
- 14) On October 25, 2016, NYSOH also received a copy of your spouse's I-20 Certificate of Eligibility for Nonimmigrant Student Status from the U.S. Immigration and Customs Enforcement indicating she has an admission class of F2 (██████████).

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

Applicable Law and Regulations

Medicaid Eligibility-Citizenship/Immigration Status

An individual who is a United States citizen, a naturalized citizen, a qualified alien, or a person permanently residing in the United States under color of law (PRUCOL), are eligible for medical assistance from the state (NY Social Services Law § 122(1); 18 NYCRR § 360-3.2(j)).

The term PRUCOL means an alien who is residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the US such agency does not contemplate enforcing. An alien will be considered as one whose departure the federal immigration agency does not contemplate enforcing if, based on all the facts and circumstances in a particular case, it appears that the federal immigration agency is otherwise permitting the alien to reside in the United States indefinitely or it is the policy or practice of such agency not to enforce the departure of aliens in a particular category (18 NYCRR § 360-3.2(j)(1)(ii)).

Legal Analysis

The issue on appeal is whether NYSOH properly determined your child was eligible for Medicaid coverage for the treatment of emergency medical conditions because he was not a citizen, qualified alien, or PRUCOL.

To be eligible for full Medicaid benefits through NYSOH, you must have documents demonstrating citizenship or a sufficient immigration status.

NYSOH issued an eligibility determination notice on October 20, 2016, stating your child was 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 your child was not a citizen, qualified alien, or PRUCOL.

Your account confirms that on September 7, 2016, a copy of your child's unexpired United States Visa was uploaded to your account. This document indicated your child has an "F2" admission class making him a temporary non-immigrant Visa holder. Additionally, on October 20, 2016, a copy of your child's Form I-94 Arrival/ Departure record from U.S. Customs and Border Protection was uploaded to your account listing your child's class of admission as "F2" and an "Admit Until Date" of "D/S."

This document was verified as a "valid proof of immigration" by NYSOH on November 1, 2016. This unexpired US Government issued documentation is sufficient to establish your child is lawfully residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency, whose departure from the US such agency does not contemplate enforcing.

Although your account indicates there were unanswered residency questions remaining in your family's application, this did not appear to affect the eligibility of you or your spouse to enroll in comprehensive coverage through NYSOH. According your account, both you and your spouse have been enrolled in the Essential Plan through NYSOH since September 1, 2016. You credibly testified that you are a graduate student currently attending college. You further testified that your whole family has resided in New York since [REDACTED] and your family intends to remain in New York, at least, until the end of your graduate program on [REDACTED]. This testimony is corroborated by the I-20 Certificate of Eligibility for Nonimmigrant Student Status from U.S. Immigration and Customs Enforcement uploaded to your account October 20, 2016. Accordingly, the evidence sufficiently resolves any outstanding residency inquiry.

Additionally, the evidence establishes both your spouse and your child have the same "F2" admission class and the same immigration documentation, i.e. current Visas and Form I-94 Arrival/ Departure records from U.S. Customs and Border Protection. Accordingly, there appears to be no justifiable grounds to deny your child eligibility for comprehensive health coverage through NYSOH based on his immigration status while simultaneously approving your spouse who has the exact same documentation and status.

Since the documentation submitted sufficiently establishes your child's PRUCOL status and satisfies a residency inquiry, NYSOH improperly found him eligible for

Medicaid coverage for the treatment of emergency medical conditions because he was not a citizen, qualified alien or PRUCOL.

Therefore, the October 20, 2016, eligibility determination notice must be RESCINDED.

Your case is RETURNED to NYSOH to redetermine your child's eligibility as of October 19, 2016, on the basis of his PRUCOL status with residency inquiry resolved, and being in a three-person household with an expected annual income of \$0.00.

Decision

The October 20, 2016, eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your child's eligibility as of October 19, 2016, on the basis of his PRUCOL status with residency inquiry resolved, and being in a three-person household with an expected annual income of \$0.00.

Effective Date of this Decision: April 10, 2017

How this Decision Affects Your Eligibility

The October 20, 2016, eligibility determination notice has been cancelled.

You will receive a new eligibility determination reflecting your child's eligibility for financial assistance as of October 19, 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

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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.

If You Have Questions about this Decision (Customer Service Resources):

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- 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 October 20, 2016, eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your child's eligibility as of October 19, 2016, on the basis of his PRUCOL status with residency inquiry resolved, and being in a three-person household with an expected annual income of \$0.00.

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The October 20, 2016, eligibility determination notice has been cancelled.

You will receive a new eligibility determination reflecting your child's eligibility for financial assistance as of October 19, 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।

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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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