



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

Notice of Decision

Decision Date: March 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013215

[REDACTED]

Dear [REDACTED]

On March 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 11, 2016 eligibility determination and disenrollment notices.

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: March 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013215



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 your spouse's enrollment in her Medicaid Managed Care plan was terminated effective August 31, 2016?

Procedural History

On March 6, 2014, NYSOH received an Employment Authorization Card issued to your spouse on November 1, 2013, which was set to expire on October 31, 2014.

On February 5, 2015, NYSOH received a letter issued by US Citizenship and Immigration Services (USCIS), dated October 22, 2014, confirming that your spouse had been granted asylum in the United States for an indefinite period. Also attached to this letter was a completed Form I-94, Arrival-Departure Record, indicating that your spouse had been granted asylum status in the United States.

On December 5, 2015, NYSOH issued an eligibility determination notice stating that your spouse remained conditionally eligible for Medicaid, effective November 1, 2015. The notice stated that her Medicaid eligibility was conditional pending receipt of documents confirming her immigration status by February 27, 2016.

Also on December 5, 2015, NYSOH issue an enrollment notice confirming your selection of a Medicaid Managed Care (MMC) plan for your spouse's coverage

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as of November 29, 2015. This notice stated that your spouse MMC plan coverage had begun on April 1, 2014.

On August 11, 2016, NYSOH issued an eligibility determination notice stating that your spouse was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You spouse also could not enroll in a qualified health plan at full cost because you had not confirmed her immigration status within the required timeframe. Your spouse's eligibility for coverage ended effective August 31, 2016.

Also on August 11, 2016, NYSOH issued a disenrollment notice confirming that your spouse's MMC plan coverage would end effective August 31, 2016 because she was no longer eligible to enroll in health insurance through NYSOH.

On October 11, 2016, NYSOH received an update to your application for health insurance.

On October 12, 2016, NYSOH issued an eligibility redetermination notice stating that your spouse was eligible, without condition, effective October 1, 2016.

Also on October 12, 2016, NYSOH issued an enrollment notice confirming your selection of an MMC plan for your spouse's coverage as of October 11, 2016. The notice confirmed that your spouse's MMC plan coverage would begin effective November 1, 2016.

On November 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the disenrollment of your spouse from her MMC plan coverage effective August 31, 2016, and were seeking to reinstated her MMC plan coverage between September 1, 2016 and October 31, 2016.

On March 1, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At your request, a Russian-language interpreter (ID # [REDACTED]) also attended the hearing. 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 testified that you are appealing only your spouse's eligibility.
- 2) You testified, and the record reflects, that you receive all your notices from NYSOH by regular mail.

- 3) You testified that you did not receive any notices stating that your spouse's eligibility was only conditional and that you needed to provide documentation of her immigration status.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you did not know that you needed to update your account until your spouse incurred a bill for \$262.76, which was not covered by Medicaid Fee-For-Service.
- 6) The record reflects that on March 6, 2014, you provided to NYSOH your spouse's then valid Employment Authorization Card. This card indicated that your category code was "C-08." This card expired as of October 31, 2014. No subsequent Employment Authorization Cards issued to your spouse had been provided to NYSOH.
- 7) The record reflects that on February 5, 2015, you provided to NYSOH a letter issued by USCIS, dated October 22, 2014, confirming that your spouse had been granted asylum in the United States for an indefinite period. Also attached to this letter was a completed Form I-94, Arrival-Departure Record, indicating that your spouse had been granted asylum status in the United States.
- 8) You testified that your spouse's asylum status has not been rescinded since it was granted effective September 15, 2014.
- 9) The record reflects that on October 11, 2016, NYSOH received your updated application for health insurance.
- 10) Your spouse was subsequently found eligible for Medicaid effective October 1, 2016, and permitted to enroll in an MMC plan beginning November 1, 2016.
- 11) You testified that you wanted your spouse's MMC plan to begin as of September 1, 2016, rather than November 1, 2016, since she had incurred medical expenses that were not covered under Medicaid Fee-For-Service

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

Applicable Law and Regulations

Medicaid

Medicaid 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 that is at or below 138% of the federal poverty level for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

Citizenship and Immigration Status Verification

Generally, no person except a United States citizen, a naturalized citizen, a qualified alien, and persons permanently residing in the United States under color of law (PRUCOL), is eligible for medical assistance from the state (NY Social Services Law § 122(1); 18 NYCRR § 360-3.2(j)).

A PRUCOL alien is a person who is residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the United States such agency does not contemplate enforcing (18 NYCRR §360-3.2(j)). The New York Department of Health regards aliens who have been issued an Employment Authorization Document (I-688B or I-766), and have the requisite category code, to be PRUCOL (08 OHIP/INF-4, dated August 4, 2008)).

The guide, “Key to I-766/I-688B, Employment Authorization Documents (EADs)”, defines certain codes on the USCIS Employment Authorization Documents” (08 MA/033, dated December 1, 2008, and as amended). It confirms that a person who has category code of “(c)(8)” has PRUCOL status for Medicaid, Essential Plan, Child Health Plus, Advance Premium Tax Credits and Qualified Health plans (*id.*).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, the Essential Plan, and Federal Medicaid, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c), 42 CFR § 600.305, 42 CFR §435.406).

Legal Analysis

The issue under review is whether NYSOH properly determined that your spouse was no longer eligible to remain enrolled in her MMC plan effective August 31, 2016.

NYSOH issued an eligibility determination notice on December 5, 2016 stating that your spouse was found conditionally eligible for Medicaid effective November 1, 2016. Your spouse's eligibility was based on the condition that you provide proof of her immigration status by February 27, 2016.

One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. Generally, no person except a United States citizen, naturalized citizen, qualified alien, or person permanently residing in the United States under color of law (PRUCOL) is eligible for full Medicaid benefits.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that an applicant is eligible for enrollment in a qualified health plan, Medicaid, and the Essential Plan, including the certification of citizenship, status as a national, or lawful presence.

You uploaded a copy of your spouse's Employment Authorization Card on March 6, 2014 with the status of C-08. At the time you provided the document on March 6, 2014, the card was still valid and in effect. However, the card you provided had an expiration date of October 31, 2014. The record does not reflect that you provided an updated version of this card that was valid as of the December 5, 2015 eligibility determination notice requesting that you provide proof of your spouse's immigration status.

You also uploaded a copy of a USCIS letter issue to you, dated October 22, 2014, confirming that your spouse had been granted asylum in the United States for an indefinite period, with such status effective as of September 15, 2014. Also attached to this letter was a completed Form I-94, Arrival-Departure Record, indicating that your spouse had been granted asylum status in the United States.

You testified that your spouse's asylum status in the United States has not been rescinded since it was issued.

To be eligible for full Medicaid and Essential Plan participation through the NYSOH, you must have valid and non-expired documents to prove your spouse's citizenship or immigration status.

While the record reflects that the Employment Authorization Card on file was expired and not acceptable as evidence of your spouse's immigration status, the

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documentation issued by USCIS and the corresponding Form I-94, Arrival-Departure Record, indicating that your spouse had been granted asylum status in the United States as of September 15, 2014 is sufficient evidence of your spouse's immigration status. This document should have been reviewed and confirmed by NYSOH in determining your spouse's eligibility for Medicaid as of the December 5, 2015 eligibility determination notice.

Accordingly, the August 11, 2016 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to reinstate your spouse's MMC plan coverage for the period between September 1, 2016 and October 31, 2016.

Decision

The August 11, 2016 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to reinstate your spouse's MMC plan coverage for the period between September 1, 2016 and October 31, 2016.

Effective Date of this Decision: March 24, 2017

How this Decision Affects Your Eligibility

Your spouse's enrollment in her MMC plan is reinstated as of September 1, 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

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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):

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 August 11, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to reinstate your spouse's MMC plan coverage for the period between September 1, 2016 and October 31, 2016.

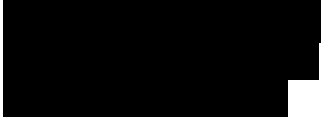
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Your spouse's enrollment in her MMC plan is reinstated as of September 1, 2016.

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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