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

Notice of Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000013775

[redacted]

Dear [redacted],

On April 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 4, 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).

This page intentionally left blank.

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).

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

Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000013775

[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 that you were not eligible to enroll in coverage through NY State of Health as of December 3, 2016, because you are not considered lawfully present in the US?

Procedural History

On September 12, 2016, NYSOH redetermined your eligibility for health insurance.

On September 13, 2016, NYSOH issued an eligibility determination notice, stating that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2016. The notice stated that you were not eligible for Medicaid because your income was over the allowable income limit for that program. The notice further stated that you needed to submit documentation of your immigration status by December 11, 2016, and of your income by November 24, 2016, so that your eligibility could be confirmed.

On October 18, 2016, NYSOH issued a disenrollment notice confirming that your Essential Plan coverage would end effective October 31, 2016 because you were no longer eligible to enroll in coverage through NYSOH.

On October 25, 2016, NYSOH issued an eligibility redetermination stating that effective November 1, 2016, you were not eligible for Medicaid, Child Health Plus, Essential plan, or to receive tax credits or cost-sharing reductions to help

pay for the cost of insurance. The notice also stated that you were not eligible to enroll in a qualified health plan at full cost. This was because your "[v]erification documents show not lawfully present."

On December 3, 2016, NYSOH received several updates to your application for financial assistance to purchase health insurance. In response to this application, NYSOH issued a preliminary eligibility determination stating that you were not eligible to purchase health insurance coverage.

Also on December 3, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of those eligibility determinations insofar as you were not eligible for coverage under the Essential Plan because you were not lawfully present.

Also on December 3, 2016, NYSOH received (1) three earnings statements issued to you by your employer, [redacted] between November 10, 2016 and November 25, 2016, (2) your Social Security card and (3) an Employment Authorization Card issued to you on January 16, 2015, reflecting a category code of "C14."

On December 4, 2016, NYSOH issued an eligibility redetermination notice based on information contained in your account as of December 3, 2016. The notice stated that you were not eligible for Medicaid, Child Health Plus, Essential plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. The notice also stated that you were not eligible to enroll in a qualified health plan at full cost. A specific reason as to why you were not eligible for these programs was not included in the eligibility determination notice.

On April 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At your request, a [redacted] 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, and your application states, that you expect to file your 2016 taxes with a status of single and you will claim no dependents on that tax return.

2) You are seeking insurance for yourself.

3) Your application states you are an immigrant non-citizen.

4) You uploaded a copy of your Employment Authorization Card on December 3, 2016 with the status of C14. This document appeared not to have been reviewed or verified by NYSOH.

5) The status of C14, according to the United States Customs and Immigration Services (USCIS) and Social Security Administration (SSA), is in reference to a status classified as Deferred action.

6) The final application update that was submitted on December 3, 2016, which requested financial assistance, listed annual household income of $32,572.00, consisting of income you earn from employment. This annual household income total was based on weekly earnings from [redacted] of $636.00 and a single annual deduction $500.00.

7) You testified that you believe NYSOH is incorrect in its statement that you are not lawfully present. You testified that you are here legally, and that you believe you should be eligible for health insurance coverage.

8) You live in [redacted] County, New York.

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).

Qualified Immigrants Transitioned to the Essential Plan

In New York 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).

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.

Medicaid can be provided through NYSOH 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 FPL for the applicable family size (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 of your applications, that was the 2016 FPL, which is $11,880.00 for a one-person household (81 Federal Register 4036).

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).

Qualified Health Plan

To enroll in a qualified health plan (QHP) through the Marketplace, an applicant must be a citizen or national of the United States or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

Immigration Status

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 Soc. Serv. 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)(14)" has PRUCOL status (i*d*.).

Legal Analysis

The only issue under review is whether NYSOH properly determined that you were not eligible to enroll in coverage through NYSOH as of December 3, 2016, because you are not considered lawfully present in the US.

On September 13, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2016. Your eligibility was contingent on you providing documentation of your immigration status.

On December 3, 2016, you provided to NYSOH a copy of your I-766 EAC. This document does not appear to have been verified by a NYSOH representative. That application listed an annual household income of $32,572.00 and reflected that you were an immigrant non-citizen.

As a result, NYSOH issued an eligibility determination notice stating that you were not qualified to enroll in coverage through NYSOH.

Your employment authorization documentation states you are an immigrant non-citizen with a C-14 status. The status of C-14, according to the United States Customs and Immigration Services (USCIS) and Social Security Administration (SSA) is in reference to a status classified as Deferred action.

Those immigrant non-citizens having a Category code C-14 are considered to be legally present for the purposes of obtaining coverage through NYSOH.

Therefore, NYSOH erred in finding you not eligible for coverage through NYSOH based on you not having been legally present.

Accordingly, the December 4, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to redetermine your eligibility for financial assistance based on your PRUCOL status, with a one-person household, and an annual household income of $32,572.00 in [redacted] County as of December 3, 2016.

Decision

The December 4, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to redetermine your eligibility for financial assistance based on your PRUCOL status, with a one-person household, and an annual household income of $32,572.00 in [redacted] County as of December 3, 2016.

Effective Date of this Decision: April 21, 2017

How this Decision Affects Your Eligibility

You will receive a new eligibility determination shortly reflecting your eligibility for financial assistance based on your PRUCOL status, with a one-person household, and an annual household income of $32,572.00 in [redacted] County as if December 3, 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 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).

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 December 4, 2016 eligibility determination notice is RESCINDED.

You will receive a new eligibility determination shortly reflecting your eligibility for financial assistance based on your PRUCOL status, with a one-person household, and an annual household income of $32,572.00 in [redacted] County.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

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).

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。我们可以为您免费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 مجانًا.

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 महत्त्वपूर्ण 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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.

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).