



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

Notice of Decision

Decision Date: July 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016869

[REDACTED]

Dear [REDACTED]

On June 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 1, 2017 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 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: July 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016869

[REDACTED]

Issue

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

Did NY State of Health properly determine that you were eligible for
Emergency Medicaid and not the Essential Plan effective January 1, 2017?

Procedural History

On January 28, 2017, NY State of Health (NYSOH) received your updated application for financial assistance.

On January 29, 2017, NYSOH issued an eligibility determination stating that you were eligible to enroll in the Essential Plan with no monthly premiums, for a limited time, effective March 1, 2017. This notice further stated that NYSOH was checking with federal data sources to confirm your immigration status.

Also on January 29, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in the Essential Plan with no monthly premiums, for a limited time, effective March 1, 2017.

On January 31, 2017, NYSOH submitted an application for financial assistance with health insurance on your behalf.

On February 1, 2017, NYSOH issued an eligibility determination stating that you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective January 1, 2017. This notice stated that this was

because you are not a citizen, qualified alien, or permanently residing in the United States under color of law ([REDACTED]).

On February 2, 2017, NYSOH issued a plan disenrollment notice stating that you were disenrolled from the Essential Plan, effective March 1, 2017.

On March 16, 2017, you spoke to the NYSOH's Accounts Review Unit and appealed the eligibility determination because you were no longer eligible for the Essential Plan.

On June 30, 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 testified you are appealing your eligibility determination.
- 2) You testified you need more than Emergency Medicaid because you have [REDACTED] which requires you to take daily prescriptions.
- 3) You are seeking to be found eligible for the Essential Plan instead of Emergency Medicaid.
- 4) Your application was submitted for financial assistance on January 28, 2017.
- 5) You were found eligible for the Essential Plan, for a limited time, effective March 1, 2017.
- 6) An updated application for financial assistance was submitted on your behalf on January 31, 2017.
- 7) The January 31, 2017 application states that you are a "non-immigrant visa holder", and you are not eligible for a Social Security number due to your immigration status.
- 8) You testified that you entered the United States on a tourist visa, but overstayed that visa and the visa is now expired.
- 9) You testified you do not have a current application before the Department of Homeland Security, or U.S. Customs and Immigration Services.

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- 10) The record reflects you reside in [REDACTED]. You confirmed your address during your telephone hearing.

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)), N.Y. Soc. Serv. Law § 366(1)(b)).

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. 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 (NY Soc. Serv. Law § 122(1); 18 NYCRR § 360-3.2).

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 application, that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Fed. Reg. 8831).

Emergency Medicaid

In some cases, Medicaid will pay for emergency medical treatment for a person who does not have evidence of citizenship or immigration status, even if the person cannot get full Medicaid coverage (NY Soc. Serv. Law § 122(1)(e); 18 NYCRR § 360-3.2(j)(3)(ii)(a)).

The term “emergency medical condition” means:

A medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such

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that the absence of immediate medical attention could reasonably be expected to result in:

- (a) Placing the patient's health in serious jeopardy;
- (b) Serious impairment of bodily functions; or
- (c) Serious dysfunction of any bodily organ or part

(18 NYCRR § 360-3.2 (iii)(a)-(c)).

To get treatment for an emergency medical condition, an undocumented alien who is not a temporary non-immigrant must meet all of the other Medicaid eligibility requirements, including proof of identity, income, and State residence (GIS 13 MA/09: Changes to Medicaid Coverage for the Treatment of an Emergency Medical Condition, (2/25/2013)).

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).

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>).

Lawfully Present for purposes of participation in the Essential Plan and the Exchange, means; (1) a qualified alien as defined in section 431 of the Personal Responsibility and Work Opportunity Act (PRWORA); (2) an alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;(3) an alien who has been paroled in the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act, for less than 1 year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings; (4) an alien who belongs to the following classes: (i) aliens in temporary resident status pursuant to section 210 or 245A of the INA, (ii) aliens currently under Temporary Protected Status, (iii) Aliens who have been granted employment authorization, (iv) Family Unity Beneficiaries, (v) aliens currently under Deferred Enforced Departure pursuant to a decision made by the President, (vi) Aliens

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currently in deferred action status, (vii) aliens whose visa petitions have been approved and who have a pending application for adjustment of status;(5) a pending applicant for asylum; (6) an alien granted withholding of removal under the Convention Against Torture; or (7) a child who has a pending application for Special Immigrant Juvenile status (42 CFR § 600.5, 45 CFR §152.2 (1)-(7)).

Citizenship and Immigration Status

To enroll through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expecting 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) , 42 CFR § 600.305, 42 CFR §435.406).

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).

Under federal law, certain individuals who enter the United States on or after August 22, 1996, are not eligible for any Federal means-tested public benefit, including federal Medicaid (8 U.S. Code § 1613(a)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible for Emergency Medicaid and not the Essential Plan effective January 1, 2017.

NYSOH received your application for financial assistance with health insurance on January 28, 2017. On January 29, 2017, NYSOH issued an eligibility determination finding you eligible for the Essential Plan with no monthly premium, for a limited time, effective March 1, 2017. The eligibility determination further stated that NYSOH was checking with federal data sources to confirm your immigration status.

NYSOH issued an eligibility redetermination on February 1, 2017, finding you eligible for Medicaid for the treatment of Emergency Medical Conditions only effective January 1, 2017.

The financial criteria for 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

federal poverty level (FPL) for the applicable family size. Your application states that you live in a one-person household, and that you will not be filing taxes.

On the date of your application, the relevant FPL was \$12,060.00 for a one-person household. Since \$0.00 is 0% of the 2017 FPL, NYSOH properly found you eligible for Medicaid on a financial basis.

The February 1, 2017, notice further explained you were only eligible for Emergency Medicaid for medical care and services because you were not a citizen, qualified alien, or permanently residing in the United States under color of law (PRUCOL). In some cases, Medicaid will pay for emergency medical treatment for a person who does not have evidence of citizenship or immigration status, even if the person cannot get full Medicaid coverage.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm citizenship, status as a national, or lawful presence.

Under federal law, certain individuals who enter the United States on or after August 22, 1996, are not eligible for any Federal means-tested public benefit, including federal Medicaid. This further includes the Essential Plan as a public benefit subject to this requirement.

You testified you entered the United States on a tourist visa, but that visa has expired. You further testified that you are now undocumented and you do not currently have an application before the Department of Homeland Security, or U.S. Customs and Immigration Services. The record reflects your immigration status on your January 31, 2017 application was selected as “non-immigrant visa holder.”

To be eligible for full Medicaid and Essential Plan participation through NYSOH, you must have documents to prove your citizenship or immigration status. Since you credibly testified that you do not have immigration documents proving your lawful presence in the United States, and you are not a PRUCOL individual, you are not eligible for Medicaid or the Essential Plan through NYSOH.

However, based on your testimony and the record, you meet the criteria provided by statute for Medicaid for the treatment of Emergency Medical conditions.

Since you are an undocumented alien residing in the state of New York with an expected annual household income below the threshold for Medicaid participation, and are otherwise ineligible or excluded from participation for federally means tested public benefits such as the Essential Plan, NYSOH's February 1, 2017 eligibility determination is AFFIRMED.

Decision

The February 1, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 10, 2017

How this Decision Affects Your Eligibility

You are eligible for Emergency Medicaid effective January 1, 2017.

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 after the date 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 date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The February 1, 2017 eligibility determination is AFFIRMED.

You are eligible for Emergency Medicaid effective January 1, 2017.

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 مجاناً.

বাংলা (Bengali)

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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।

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 bɛtumi ama wo obi a okyerɛ 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 איר געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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