



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

## Notice of Decision

Decision Date: September 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019584

[REDACTED]

Dear [REDACTED]

On September 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 1, 2017 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: September 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019584

[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 eligible to enroll in Medicaid for the treatment of emergency medical conditions only, and not eligible for full Medicaid, effective April 1, 2017?

## Procedural History

On April 21, 2017, NYSOH received your application for health insurance.

On April 22, 2017, NYSOH issued a notice stating that more information was needed to confirm the information in your application. The notice asked you to submit documentation of your income by May 6, 2017.

On May 1, 2017, you uploaded documentation to your NYSOH account.

On May 2, 2017, NYSOH issued a notice stating that the documentation you submitted had been reviewed, but that it was not sufficient to confirm the information in your application. The notice directed you to submit documentation of your income by May 21, 2017.

On May 31, 2017, you uploaded documentation to your NYSOH account.

On June 1, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid for the treatment of emergency medical conditions only, effective April 1, 2017. The notice stated that you were only eligible for

emergency medical care and services because you are not a citizen, a qualified alien, or permanently residing in the United States under color of law.

On June 6, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal of the June 1, 2017 eligibility determination, insofar as you were not eligible for full Medicaid.

On September 7, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open through September 22, 2017, to allow you to submit supporting documents.

On September 21, 2017, you faxed a four-page document to NYSOH. The record is now closed.

## **Findings of Fact**

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

- 1) You are seeking insurance for yourself.
- 2) Your application states that you are not a dependent and will be filing your taxes with a filing status of married filing jointly.
- 3) The application that was submitted on April 21, 2017, which requested financial assistance, listed annual household income of \$21,160.00, consisting of your spouse's Social Security benefits and your earned income.
- 4) You testified that you are a Legal Permanent Resident, and that you have been one since 1972, when you first came to the United States.
- 5) You testified that you have been residing continuously in the United States since approximately 1980 or 1981.
- 6) You testified that you have a Permanent Resident card, but that it is the original one that was issued to you in 1972, and that it has no expiration date. You testified that, sometime in the 1990's, you tried to go to get a new card, but you were told that your card was still valid, that you were a permanent resident, and that you did not need a new card.
- 7) You testified that the fact that your Permanent Resident card does not have an expiration date caused you to have problems because your application counselor and the person you spoke with at NYSOH did not know how to enter your immigration status information.

- 8) You testified that you recently filed an application for naturalization.
- 9) Your NYSOH contains a copy of a I-797C Notice of Action from the Department of Homeland Security. The document is dated August 8, 2017 and states that your Application for Naturalization has been received by their office (Document [REDACTED]).
- 10) Your NYSOH account reflects that, on August 22, 2017, your eligibility was redetermined by NYSOH, after your lawful presence in the United States was verified. You were subsequently found eligible for full Medicaid, effective August 1, 2017.
- 11) The information in your NYSOH account indicates that NYSOH received information from the federal government to verify your lawful presence. That information includes that you are a lawful permanent resident, and that you were granted your permanent resident status on July 13, 1972. It also indicates that a five-year bar applies to your eligibility, and that the five-year bar has been met.
- 12) After the hearing, you faxed a four-page document to NYSOH, consisting of a two-page statement that you wrote, and a copy of what appear to be the front and back of your Alien Registration Receipt card, as well as the front and back of your NY State Driver License and your Social Security Card.

These documents are collectively marked and entered into the record as "Appellant's Exhibit One."

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

## **Applicable Law and Regulations**

### 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 (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 2017 FPL, which is \$16,240.00 for a two-person household (82 Federal Register 8831).

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 Social Services Law § 122(1)(e); 18 NYCRR § 360-3.2(j)(3)(ii)(a)).

### 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 under review is whether NYSOH properly determined that you were eligible for Medicaid for the treatment of emergency medical conditions only, effective April 1, 2017.

The application that was submitted on April 21, 2017 listed an annual household income of \$21,160.00, and the eligibility determination relied upon that information.

According to your application, you are in a two-person household. You expect to file your 2017 income taxes as married filing jointly, and will claim no dependents on that tax return.

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 FPL for the applicable family size.

On the date of your application, the relevant FPL was \$16,240.00 for a two-person household. Since an annual income of \$21,160.00 is 130.30% of the 2017 FPL, you met the financial eligibility criteria for Medicaid.

NYSOH determined that you were eligible for Medicaid for the treatment of emergency medical conditions only, because you were not in a qualified immigration status. However, you submitted a Form I-797C which indicated that you have applied for naturalization. You testified that you have been a Legal Permanent Resident since 1972. After the hearing, you submitted what appears to be a copy of an Alien Registration Receipt Card, however, the copy is primarily illegible. Nevertheless, it appears from the information in your NYSOH account that NYSOH was able to verify that you are a legal permanent resident, and that you have been a legal permanent resident for more than five years. As a result of this, NYSOH found you eligible for full Medicaid, effective August 1, 2017.

Since you were also a legal permanent resident for more than five years as of your April 21, 2017 application, and since you met the financial requirements for Medicaid, NYSOH should have found you eligible for full Medicaid coverage, effective April 1, 2017.

Therefore, the June 1, 2017 is MODIFIED to state that you were eligible for full Medicaid, effective April 1, 2017.

## **Decision**

The June 1, 2017 eligibility determination is MODIFIED to state that you were eligible for full Medicaid, effective April 1, 2017.

Your case is RETURNED to NYSOH to backdate your full Medicaid coverage to April 1, 2017.

**Effective Date of this Decision:** September 27, 2017

## **How this Decision Affects Your Eligibility**

You were improperly found eligible for emergency Medicaid only.

You were eligible for full Medicaid coverage as of April 1, 2017.

Your case is being sent back to NYSOH to backdate your full Medicaid coverage to April 1, 2017.

## **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.

## **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 June 1, 2017 eligibility determination is MODIFIED to state that you were eligible for full Medicaid, effective April 1, 2017.

Your case is RETURNED to NYSOH to backdate your full Medicaid coverage to April 1, 2017.

You were improperly found eligible for emergency Medicaid only.

You were eligible for full Medicaid coverage as of April 1, 2017.

Your case is being sent back to NYSOH to backdate your full Medicaid coverage to April 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 bεtumi ama wo obi a okyerε 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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