



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

Notice of Decision

Decision Date: October 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020167

[REDACTED]

Dear [REDACTED],

On September 22, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 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
P.O. Box 11729
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Decision

Decision Date: October 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020167



Issue

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

Did NY State of Health properly determine that your oldest daughter was eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective June 1, 2017?

Procedural History

On January 20, 2017, NY State of Health (NYSOH) received your application for health insurance.

On January 21, 2017, NYSOH issued an eligibility determination notice, based on your January 20, 2017 application, stating that your oldest daughter was conditionally eligible for Medicaid, effective January 1, 2017. This notice also directed you to submit documentation confirming your daughter's immigration status by April 10, 2017.

Also on January 21, 2017, NYSOH issued a plan enrollment notice confirming your oldest daughter's enrollment in a Medicaid Managed Care plan, effective March 1, 2017.

On January 25, 2017, NYSOH issued an eligibility determination notice stating that your oldest daughter remained conditionally eligible for Medicaid, effective January 1, 2017. This notice further directed you to submit documentation confirming your oldest daughter's immigration status by April 24, 2017.

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On January 27, 2017, you uploaded a copy of your oldest daughter's immigration documentation in the form of a "R-B1/B2" visa to your NYSOH account.

On January 30, 2017, NYSOH validated your oldest daughter's visa, and an updated application was submitted on your family's behalf.

On January 31, 2017, NYSOH issued an eligibility determination notice stating that your oldest daughter was eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective March 1, 2017. This notice further stated that your oldest daughter was only eligible for emergency medical care and services because she was not a citizen, qualified alien, or permanently residing in the United States under color of the law (PRUCOL).

Also on January 31, 2017, NYSOH issued a plan disenrollment notice stating that your oldest daughter was no longer enrolled in her Medicaid Managed Care plan as of March 1, 2017. This notice further stated that this was because your oldest daughter is only eligible for Medicaid coverage for the treatment of emergency medical conditions only.

On February 13, 2017, you uploaded a copy of your oldest daughter's immigration documentation in the form of a "R-B1/B2" visa to your NYSOH account.

On March 10, 2017, NYSOH received your application for financial assistance with health insurance.

On March 11, 2017, NYSOH issued an eligibility determination notice stating that your oldest daughter was eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective March 1, 2017. This notice further stated that your oldest daughter was only eligible for emergency medical care and services because she was not a citizen, qualified alien, or permanently residing in the United States under color of the law (PRUCOL).

On March 15, 2017, NYSOH received your application for financial assistance with health insurance. On this day, you also uploaded a copy of your oldest daughter's immigration documentation in the form of a "R-B1/B2" visa to your NYSOH account.

On March 16, 2017, NYSOH issued an eligibility determination notice stating that your oldest daughter was eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective March 1, 2017. This notice further stated that your oldest daughter was only eligible for emergency medical care and services because she was not a citizen, qualified alien, or permanently residing in the United States under color of the law (PRUCOL).

On April 5, 2017, NYSOH received your application for financial assistance with health insurance. On this day, you also uploaded a copy of your oldest daughter's immigration documentation in the form of a "R-B1/B2" visa to your NYSOH account.

On April 6, 2017, NYSOH issued an eligibility determination notice stating that your oldest daughter was eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective April 1, 2017. This notice further stated that your oldest daughter was only eligible for emergency medical care and services because she was not a citizen, qualified alien, or permanently residing in the United States under color of the law (PRUCOL).

On June 30, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared stating that your oldest daughter remained eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective June 1, 2017.

Also on June 30, 2017, you contacted NYSOH's Accounts Review Unit and requested an appeal of the preliminary eligibility determination insofar as your oldest daughter was not eligible for full coverage Medicaid, and was only found eligible for emergency Medicaid.

On July 1, 2017, NYSOH issued an eligibility determination notice, based on your June 30, 2017 application, stating that your oldest daughter remained eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective June 1, 2017.

On September 22, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was 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 only appealing your oldest daughter's eligibility.
- 2) The record reflects that you do not expect to file a 2017 federal tax return, and you testified that this is correct.
- 3) The application that was submitted on June 30, 2017, which requested financial assistance, listed annual household income of \$0.00. You testified that this amount was correct at the time.

- 4) Your application states that you and your children reside in Rockland County.
- 5) The record indicates that your oldest daughter was under nineteen years of age at all times relevant.
- 6) Your application states your oldest daughter is a non-immigrant visa holder.
- 7) The record supports on January 27, 2017, February 13, 2017, March 15, 2017 and April 5, 2017, you uploaded the same copy of your oldest daughter's "R-B1/B2" visa with an expiration date of June 2, 2023.
- 8) The status of B1/B2, according to the United States Customs and Immigration Services (USCIS) and Social Security Administration (SSA) is in reference to a status classified as a Visitor for Business or Pleasure.
- 9) According to USCIS, the maximum period of a continuous stay under a R-B1/B2 visa is for six months at one time; without a request for an extension.
- 10) The copy of your oldest daughter's "B1/B2" visa indicates that she is permitted to make multiple entries into the United States.
- 11) The copy of your oldest daughter's "B1/B2" visa that was uploaded to your NYSOH account has a total of three visible "I-94" stamps; which include a stamp from [REDACTED], 2015, [REDACTED] 2016 and [REDACTED] 2017.
- 12) You testified your oldest daughter does not currently have an open application with USCIS.
- 13) You testified that your oldest daughter has not left the country since she got here in July 2016.
- 14) You testified that your oldest daughter does attend school.
- 15) You testified that you believe your oldest daughter should be eligible for full benefit Medicaid because your oldest son is eligible and has the same immigration status.
- 16) You testified that you would like your oldest daughter to be eligible for full benefit Medicaid so that you can bring her to the doctor and the dentist.

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

Applicable Law and Regulations

Medicaid

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

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 \$20,420.00 for a three-person household (82 Federal Register 8831).

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.

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).

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)).

Visa- Class B1/B1

A person admitted into the United States under a B-1 or B-2 classification is classified as a visitor for business or pleasure. Under a B-1 or B-2 visa, the period of admission is normally six months. After a period of six months, the

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person may either leave the county or apply for an extension of their stay using an “I-94” form (U.S Citizenship and Immigration Services, B-1 Temporary Business Visitor, <https://www.uscis.gov/working-united-states/temporary-visitors-business/b-1-temporary-business-visitor>).

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 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)).

Legal Analysis

The only issue under review is whether NYSOH properly determined that your oldest daughter was eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective June 1, 2017.

On July 1, 2017, NYSOH issued an eligibility determination notice stating that your oldest daughter remained eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective June 1, 2017. The notice stated this was because your oldest daughter’s household income was below the income limit for Medicaid. The notice further explained your oldest daughter is only eligible for emergency medical care and services because she is not a citizen, qualified alien, or permanently residing in the United States under color of law.

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,420.00 for a three-person household. The record reflects that as of the date of your application, you were unemployed and had no income, and your child were supported by your family members. Since \$0.00 is 0.00% of the 2017 FPL, your oldest daughter would have been eligible for Medicaid on a financial basis, using the information provided in your application.

However, in order to be eligible for full Medicaid through the NYSOH, your child must also meet the non-financial requirements; which includes having a valid immigration status. To be eligible for full Medicaid participation through the NYSOH, an applicant must have documents to prove their current citizenship or immigration status.

According to your NYSOH account, you uploaded the same copy of your oldest daughter's immigration documentation on January 27, 2017, February 13, 2017, March 15, 2017 and April 5, 2017. The documentation received was in the form of a "R- B1/B2" visa with an expiration date of June 2, 2023. Your oldest daughter's visa also authorized her to make multiply entries into the United States. Further, the only visible port of entry stamps, or "I-94" stamps, on the copies of your oldest daughter's visa are as follows: [REDACTED], 2015, [REDACTED] 2016 and [REDACTED] 2017.

The status of "B1/B2", according to the USCIS, is in reference to a status classified as a Visitor for Business or Pleasure. The maximum period of stay for a person in the United States under a "B1/B2" visa is six months. Once the six-month period has lapsed, the "B1/B2" visa holder must either leave the United States or file an "I-94" Form to be awarded an extension of their stay. Each reentry into the United States, or extension of their stay under the visa is indicated with a "I-94" stamp; which can either be electronic or physically stamped on the visa.

Your application for financial assistance with health insurance was filed on June 30, 2017 and the most recent "I-94" stamp on the copy of your oldest daughter's visa was [REDACTED] 2017. There is also no indication in the record that your oldest daughter has received an electronic "I-94" stamp to extend her stay on her current "B1/B2" visa. Further, there is no other documentation or indication in the record that your oldest daughter has a current "I-94" stamp. As a result, based on the current record, your oldest daughter is not eligible for full Medicaid through NYSOH because there is no recent I-94 stamp in the record that shows your oldest daughter's latest entry or extension request in the 6 months prior to the July 1, 2017 eligibility determination notice.

However, based on the record and your June 30, 2017 application, NYSOH determined your oldest daughter meets the criteria provided by statute to be eligible for Medicaid coverage for the treatment of emergency medical conditions.

Accordingly, since the July 1, 2017 eligibility determination notice properly found your oldest daughter to only be eligible for the treatment of Emergency medical conditions through Medicaid it is correct and is AFFIRMED.

Should your oldest daughter's immigration status change, you may submit that documentation and reapply to NYSOH.

Decision

The July 1, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 04, 2017

How this Decision Affects Your Eligibility

Your oldest daughter is not eligible for full Medicaid.

Your oldest daughter is eligible for the Emergency treatment of medical conditions under Medicaid.

Should your oldest daughter's immigration status change, you may submit that documentation and reapply to NYSOH.

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 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

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done within 30 days 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 1, 2017 eligibility determination is **AFFIRMED**.

Your oldest daughter is not eligible for full Medicaid.

Your oldest daughter is eligible for the Emergency treatment of medical conditions under Medicaid.

Should your oldest daughter's immigration status change, you may submit that documentation and reapply to NYSOH.

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.

Twí (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. yeb&etumi ama wo obi a okyer& 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.

אַײַדיש (Yiddish)

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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.