



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

Notice of Decision

Decision Date: November 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020382

[REDACTED]

[REDACTED]

On September 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 24, 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 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: November 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020382

[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 for emergency Medicaid as of July 1, 2017?

Procedural History

According to your NYSOH account and pursuant to NYSOH's request, you submitted proof of citizenship status and proof of income documentation on June 21, 2017. Subsequently, on June 23, 2017, your application was updated based on the citizenship documentation and income information you provided (see Documents [REDACTED])

On June 24, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective July 1, 2017. The notice stated that you were only eligible for emergency medical care and services because you are not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL).

On July 10, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of the eligibility determination insofar as you were not eligible for full Medicaid coverage.

On September 26, 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 to October 11, 2017, for you to submit proof of your current income for the 2017 tax year.

As of October 11, 2017, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

Findings of Fact

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

- 1) You are seeking insurance for yourself.
- 2) According to your June 23, 2017 application, you expected to file a 2017 federal income tax return with a filing status of single and no dependents. Based on your submitted documentation, your annual household income for 2017 is expected to be \$8,691.00. You testified that this income was incorrect.
- 3) You testified that you are currently earning \$250.00 per week cash as a [REDACTED] and that you have [REDACTED], but it's difficult to ascertain how much your income from [REDACTED] was during the month you applied or what it will be at the end of 2017 because it varies.
- 4) You failed to submit proof of your current income for the 2017 tax year.
- 5) Your application states you are an immigrant non-citizen.
- 6) You uploaded a copy of your [REDACTED]
[REDACTED]
- 7) [REDACTED]
[REDACTED]
[REDACTED]
- 8) You testified that you believe NYSOH is incorrect in its statement that you are only eligible for emergency medical care because you had full Medicaid last year and your status has not changed.
- 9) According to your NYSOH account, and your testimony, [REDACTED]
[REDACTED]

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

Applicable Law and Regulations

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)(33)” has PRUCOL status for Medicaid and Child Health Plus only (*id.*).

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)).

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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 \$12,060.00 for a one-person household (82 Federal Register 8831).

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).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible for emergency Medicaid through NYSOH as of July 1, 2017.

According to your NYSOH account and pursuant to NYSOH's request, you submitted proof of citizenship status and proof of income documentation on June 21, 2017. Subsequently, on June 23, 2017, your application was updated based on the citizenship documentation and income information you provided.

On June 24, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective July 1, 2017. The notice stated that you were only eligible for emergency medical care and services because you are not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL).

However, NY State has consistently recognized persons with Deferred Action status within the accepted meaning of “*PRUCOL alien*”; even though the federal government has not. The New York Court of Appeals ruled, in *Aliessa, et al. v. Novello* (96 NY 2d 418 [2001]), that New York must provide state-funded Medicaid to the lawfully residing immigrants who had been excluded from access to the federal Medicaid program.

Since your current Deferred Action status does confer PRUCOL status for individuals seeking full state-funded Medicaid eligibility, the issue is further refined to whether NYSOH properly determined you eligible for Medicaid.

According to your June 23, 2017 application, you expected to file a 2017 federal income tax return with a filing status of single and no dependents. Therefore, for purposes of this analysis, you are in a one-person household.

According to you NYSOH application, your annual household income for 2017 is expected to be \$8,691.00. You testified that this income was incorrect. You testified that you are currently earning \$250.00 per week as a [REDACTED] and that you

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have [REDACTED], but it's difficult to ascertain how much your income from [REDACTED] is. As such, the record was kept open to allow you time to submit proof of your current income. You did not submit this proof and, therefore, we cannot reach the merits of whether NYSOH properly determined you to be eligible for emergency Medicaid only as of your June 23, 2017 updated application.

Therefore, the June 24, 2017 eligibility determination notice stating that you are eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective July 1, 2017, will not be disturbed and remains in full force and effect.

Since, your testimony is insufficient and you failed to submit proof of income, your eligibility for financial assistance cannot be reviewed. No further action by NYSOH is required at this time.

Decision

The June 24, 2017 eligibility determination notice remains in full force and effect.

Effective Date of this Decision: November 9, 2017

How this Decision Affects Your Eligibility

Although you could qualify as a PRUCOL alien for state-based Medicaid, the merits of whether NYSOH properly determined you to be eligible for emergency Medicaid only as of your June 23, 2017 application cannot be reached because you failed to submit proof of your 2017 household income.

You remain eligible for Medicaid coverage for the treatment of emergency medical conditions only as of July 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.

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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
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The June 24, 2017 eligibility determination notice remains in full force and effect.

Although you could qualify as a PRUCOL alien for state-based Medicaid, the merits of whether NYSOH properly determined you to be eligible for emergency Medicaid only as of your June 23, 2017 application cannot be reached because you failed to submit proof of your 2017 household income.

You remain eligible for Medicaid coverage for the treatment of emergency medical conditions only as of July 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 مجانًا.

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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