



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

## Notice of Decision

Decision Date: October 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020438

[REDACTED]

Dear [REDACTED],

On September 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 12, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: October 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020438



## Issue

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

Did NY State of Health properly determine you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective July 1, 2017, because you were not a citizen, qualified alien or permanently residing in the United States under color of law?

## Procedural History

On June 30, 2017, NY State of Health (NYSOH) received updated applications for health insurance submitted on your behalf.

On July 1, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, for a limited time, effective June 1, 2017. The notice further stated that NYSOH was checking federal data sources to confirm your immigration status.

Also on July 1, 2017, NYSOH issued a notice of enrollment confirmation stating you were enrolled in an Essential Plan, effective June 1, 2017.

On July 6, 2017, NYSOH issued an eligibility determination notice, based on a July 5, 2017 systematic eligibility redetermination, stating you were eligible for Medicaid for the treatment of emergency medical conditions only, effective July 1, 2017. The notice further stated you were only eligible for emergency medical care services, because you were not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL).

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Also on July 6, 2017, NYSOH issued a disenrollment notice stating your Essential Plan coverage would end on July 31, 2017, because you were no longer eligible to enroll in the plan.

On July 11, 2017, NYSOH received your updated application. That day a preliminary eligibility determination was prepared stating you remained eligible for Medicaid coverage for the treatment of emergency medical conditions only.

Also on July 11, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were no longer eligible for the Essential Plan.

On July 12, 2017, NYSOH issued an eligibility determination notice, based on your July 11, 2017 updated application, stating you remained eligible for Medicaid coverage for the treatment of emergency medical conditions only. The notice further stated you were only eligible for emergency medical care services because you were not a citizen, a qualified alien, or permanently residing in the United States under color of law (PRUCOL).

On July 14, 2017, NYSOH issued an eligibility determination notice stating you were granted aid to continue in your Essential Plan, effective August 1, 2017, pending the decision in your appeal. You were reenrolled in an Essential Plan.

On September 28, 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 were previously enrolled in an Essential Plan in 2016 following a February 24, 2016 application indicating your immigration status was that of a "non-immigrant visa holder" and your immigration documentation was an I-94 Arrival/ Departure record with an expiration date of August 17, 2019. Your enrollment ended on February 28, 2017, because you failed to timely renew your coverage.
- 2) On June 30, 2017, three updated applications were submitted on your behalf. Each application indicated your immigration status was that of a "non-immigrant visa holder" and each application listed your immigration documentation type as an "I-766 (Employment Authorization Card)."

- 3) You testified that an application counselor at the hospital submitted the applications for you. You further testified that your Employment Authorization Card expired on June 14, 2017 at the end of your internship and was expired at the time of the June 30, 2017 applications. You testified you informed the application counselor, but he included it as your immigration documentation anyway.
- 4) You were determined conditionally eligible to enroll in the Essential Plan pending confirmation of your immigration status with federal data sources. You enrolled in an Essential Plan, effective June 1, 2017.
- 5) According to your account, NYSOH was unable to verify your sufficient immigration status with federal data sources based on the information in your June 30, 2017 applications and you were determined eligible for emergency Medicaid only, effective July 1, 2017.
- 6) You were disenrolled from your Essential Plan, effective July 31, 2017.
- 7) You appealed insofar as you were no longer eligible for the Essential Plan.
- 8) You were granted aid to continue in your Essential Plan pending the decision in your appeal.
- 9) On July 18, 2017, you updated the immigration documentation type in your application to "I-20 (Certificate of Eligibility for Nonimmigrant (F-1) Student Status)."
- 10) The eligibility determination notice issued by NYSOH on July 19, 2017 indicated only that you had previously been granted aid to continue in your Essential Plan pending the decision in your appeal. There is no evidence that NYSOH redetermined your eligibility at that time based on the updated immigration documentation listed in your application.
- 11) On August 29, 2017, NYSOH received updated immigration documents submitted on your behalf consisting of an unexpired I-94 Record indicating your class of admission was "F1" and a I-20 Certificate of Eligibility for Nonimmigrant Student Status from the Department of Homeland Security, issued on June 20, 2017, indicating you were enrolled in a Master's Degree program ending in April 2019.
- 12) According to your account, on September 12, 2017, NYSOH systematically redetermined your eligibility, but the eligibility determination notice issued on September 13, 2017 stated only that you had previously been granted aid to continue in your Essential Plan pending the decision in your appeal.

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

## **Applicable Law and Regulations**

### Eligibility-Citizenship/Immigration Status

An individual who is a United States citizen, a naturalized citizen, a qualified alien, or a person permanently residing in the United States under color of law (PRUCOL), are eligible for medical assistance from the state (NY Social Services Law § 122(1); 18 NYCRR § 360-3.2(j)).

The term PRUCOL means an alien who is residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the U.S. such agency does not contemplate enforcing. An alien will be considered as one whose departure the federal immigration agency does not contemplate enforcing if, based on all the facts and circumstances in a particular case, it appears that the federal immigration agency is otherwise permitting the alien to reside in the United States indefinitely or it is the policy or practice of such agency not to enforce the departure of aliens in a particular category (18 NYCRR § 360-3.2(j)(1)(ii)).

## **Legal Analysis**

The issue on appeal is whether NYSOH properly determined you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective July 1, 2017, because you were not a citizen, qualified alien or PRUCOL.

To enroll in health coverage through NYSOH, you must have documents demonstrating your citizenship or satisfactory immigration status.

NYSOH issued an eligibility determination notice on July 12, 2017, stating you were eligible for Medicaid coverage for the treatment of emergency medical conditions only. The sole basis for the determination, as provided in that notice, was that you were not a citizen, qualified alien or PRUCOL.

The updated application submitted on June 30, 2017 and July 11, 2017 all indicated that your immigration status was that of a “non-immigrant visa holder” and each application listed your immigration documentation type as an “I-766 (Employment Authorization Card).” However, you testified that at the time of these applications your Employment Authorization Card had expired. According to your account, NYSOH was unable to verify you had a sufficient immigration status, based on the information in those applications, and you were determined eligible for emergency Medicaid only. You appealed that determination and you

were granted aid to continue in your Essential Plan pending the decision in your appeal.

Based on your own testimony that the immigration documentation included in your June 30, 2017 and July 11, 2017 applications was expired at the time of the applications, it is concluded that NYSOH properly determined you eligible for emergency Medicaid only and the July 12, 2017 eligibility determination notice is AFFIRMED.

However, you subsequently updated your application on July 18, 2017, indicating your immigration documentation type was a "I-20 (Certificate of Eligibility for Nonimmigrant (F-1) Student Status)." The eligibility determination notice issued by NYSOH on July 19, 2017 indicated only that you had previously been granted aid to continue in your Essential Plan pending the decision in your appeal. There is no evidence that NYSOH redetermined your eligibility at that time based on the updated immigration documentation listed in your application.

Furthermore, on August 29, 2017 you uploaded copies of your updated immigration documents consisting of an unexpired I-94 Record indicating your class of admission was "F1" and an I-20 Certificate of Eligibility for Nonimmigrant Student Status from the Department of Homeland Security, issued on June 20, 2017, indicating you were enrolled in a Master's Degree program ending in April 2019. According to your account, on September 12, 2017, NYSOH systematically redetermined your eligibility, but the eligibility determination notice issued on September 13, 2017 stated only that you had previously been granted aid to continue in your Essential Plan pending the decision in your appeal.

Based on the documentation uploaded to your account on August 29, 2017, it is concluded the record now contains evidence that you are residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency, whose departure from the U.S. such agency does not contemplate enforcing. Accordingly, the evidence establishes you possess a sufficient immigration status to qualify for full health benefits through NYSOH. It is further concluded that NYSOH should have properly redetermined your eligibility for health insurance at the time these new immigration documents were verified on September 12, 2017.

Thus, your case is RETURNED to NYSOH to redetermine your eligibility for health insurance based on the now developed record containing updated immigration documentation establishing you are PRUCOL and, therefore, you possess a sufficient immigration status.

## **Decision**

The July 12, 2017, eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for health insurance based on the now developed record containing updated immigration documentation establishing you are PRUCOL and, therefore, you possess a sufficient immigration status.

**Effective Date of this Decision:** October 12, 2017

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

NYSOH properly determined you were eligible for emergency Medicaid only on July 12, 2017, based on the information in your application.

The record now contains evidence that you have a sufficient immigration status.

Your case is being sent back to NYSOH to redetermine your eligibility.

You will receive an updated eligibility determination notice from NYSOH.

## **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

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).



- 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 July 12, 2017, eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for health insurance based on the now developed record containing updated immigration documentation establishing you are PRUCOL and, therefore, you possess a sufficient immigration status.

NYSOH properly determined you were eligible for emergency Medicaid only on July 12, 2017, based on the information in your application.

The record now contains evidence that you have a sufficient immigration status.

Your case is being sent back to NYSOH to redetermine your eligibility.

You will receive an updated eligibility determination notice from NYSOH.

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).

## **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)**

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).

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।

### **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.

### **हंदी (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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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 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 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.

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**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.