



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

Notice of Decision

Decision Date: December 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021452

[REDACTED]

[REDACTED]

On October 23, 2017, you and your representative appeared by telephone at a hearing on your appeal of NY State of Health's January 13, 2016 eligibility determination and the August 16, 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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Decision

Decision Date: December 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021452



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Is your appeal of the January 13, 2016 eligibility determination notice timely?

Did NY State of Health (NYSOH) properly determine that you were eligible to enroll in the Essential Plan, effective September 1, 2017, and not eligible for Medicaid?

Procedural History

On January 13, 2016, NYSOH issued an eligibility determination notice, based on your January 12, 2016 updated application, stating you were eligible to enroll in the Essential Plan with no monthly premium and were also qualified for benefits through Medicaid, effective February 1, 2016. The notice stated that you were eligible for the Essential Plan, because you were in the first five years of your qualified immigration status or were living in the United States under the color of law (PRUCOL).

Also on January 13, 2016, NYSOH issued an enrollment notice, based on your January 12, 2016 plan selection, confirming you were enrolled in the Essential Plan 4 with no monthly premium, effective February 1, 2016.

Additionally, on January 13, 2016, NYSOH issued a disenrollment notice stating your coverage in your Essential Plan 1 would end on January 31, 2016, because you were no longer eligible to remain enrolled in that plan.

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On June 18, 2017 and August 8, 2017, NYSOH issued eligibility determination notices, based on your updated applications, stating you were eligible to enroll in the Essential Plan with no monthly premium and were also qualified for benefits through Medicaid, effective August 1, 2017 and September 1, 2017, respectively. The notices stated that you were eligible for the Essential Plan because your household income was under the allowable limit for that program and you were in the first five years of your qualified immigration status or you were PRUCOL.

On August 15, 2017, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating you were eligible for the Essential Plan.

Also on August 15, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination, insofar as it stated you were not eligible for Medicaid.

On August 16, 2017, NYSOH issued a notice of eligibility determination, stating you were eligible to enroll in the Essential Plan, with no monthly premium, and you also qualified for benefits through Medicaid, effective September 1, 2017. The notices stated that you were eligible for the Essential Plan, because your household income was under the allowable limit for that program and you were in the first five years of your qualified immigration status or you were PRUCOL.

On October 23, 2017, you and your authorized representative had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed and closed at the end 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) You were enrolled in a qualified health plan in 2015.
- 3) Your coverage was automatically renewed for the upcoming coverage year, based on income information obtained from state and federal data sources, and you were systematically enrolled in the Essential Plan 1, effective January 1, 2016.
- 4) On January 12, 2016, an updated application was submitted on your behalf indicating you had no income. That application listed your citizenship status as "Immigrant Non-Citizen" and listed your citizenship documentation as an "I-551 Permanent Resident Card." That application

- further indicated that you had not been living in the United States since August 21, 1996.
- 5) Following that application, NYSOH issued an eligibility determination notice on January 13, 2017 stating you were eligible for the Essential Plan with no monthly premium, effective February 1, 2016.
 - 6) You were disenrolled from your Essential Plan 1 and enrolled into an Essential Plan 4, effective February 1, 2016.
 - 7) You were temporarily disenrolled from your Essential Plan 4, effective March 31, 2016, and reenrolled into the plan, effective August 1, 2016.
 - 8) On June 16, 2017, an updated application was submitted on your behalf listing your annual income as \$8,448.00 consisting of eight monthly Social Security benefit payments in the amount of \$1,056.00. That application listed your citizenship status as "Immigrant Non-Citizen" and listed your citizenship documentation as an "I-551 Permanent Resident Card." That application further indicated that you had been living in the United States since August 21, 1996.
 - 9) You were again determined eligible for the Essential Plan with no monthly premium, effective August 1, 2017.
 - 10) On August 7, 2017 and August 15, 2017, you submitted updated applications with identical citizenship status and income information as your previous application.
 - 11) NYSOH again determined you eligible for the Essential Plan with no monthly premium, purportedly because you were in the first five years of your qualified immigration status.
 - 12) You testified that your only income is monthly Social Security benefit payments you receive in the gross amount of \$1,056.00. You testified you will receive this payment in each month of 2017.
 - 13) You testified that you have resided in New York State since 1989 and you intend to remain indefinitely.
 - 14) You testified you have been a [REDACTED]
 - 15) Your representative testified that she has uploaded a copy of your Green Card to your NYSOH account several times.
 - 16) Your account confirms that on June 20, 2017, NYSOH received a fully legible copy of the front and back of a Resident Alien Card with an

“ADM/ADJ DATE” of May 28, 1989. The document does not contain an expiration date.

- 17) You and your representative both testified that you are seeking eligibility for Medicaid.
- 18) On August 15, 2017, you or someone on your behalf spoke to NYSOH and requested an appeal of the eligibility determination insofar as you were not eligible for Medicaid. [REDACTED] created that day pursuant to your request. Notes from that incident indicate that you were also appealing the January 12, 2016 eligibility determination “due to medical bills in the month of January 2016.”
- 19) Your 2017 applications indicate you will not file a tax return in 2017. Previous applications indicated that you filed your tax return with a tax filing status of single and you claimed no dependents.

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

Applicable Law and Regulations

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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036).

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

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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 application, that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Federal Register 8831, 8832).

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 www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf). 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).

Green Card Renewal Requirements

According to the U.S. Citizenship and Immigration Services website, “You should renew your green card if you are a permanent resident with a Form I-551 valid for 10 years and the card is either expired or will expire within the next 6 months” (<https://www.uscis.gov/green-card/after-green-card-granted/renew-green-card>).

According to the Department of Homeland Security’s U.S. Customs and Border Protection website, “Green cards issued between 1979 and August 1989 do not have expiration dates and do not need to be renewed unless you wish to use Global Entry kiosks at international airports in the U.S. you will have to get a replacement card” (https://help.cbp.gov/app/answers/detail/a_id/75/~/lpr--lost,-stolen-or-expired-green-cards-or-has-no-expiration-date).

Legal Analysis

The first issue under review is whether your appeal of the January 13, 2016 eligibility determination notice was timely.

NYSOH issued an eligibility determination notice on January 13, 2016 stating you were eligible for the Essential Plan with no monthly premium, effective February

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1, 2016. According to notes from incident # [REDACTED], created at the time your appeal in this matter was filed, you were seeking review of the January 12, 2016 eligibility determination “due to medical bills in the month of January 2016.”

However, pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your eligibility as stated in the January 13, 2016 eligibility determination notice, an appeal should have been filed by March 13, 2016. According to your account, a formal appeal was not filed in this matter until August 15, 2017, long after the 60-day period in which to appeal. Additionally, there is no evidence in your account that you contacted NYOH within the aforementioned 60-day period to contest your eligibility. Accordingly, there has been no timely appeal of the January 13, 2016 eligibility determination notice. Therefore, your appeal on that issue is DISMISSED.

However, it is noted that according to your account, you were enrolled in an Essential Plan 1 for the month of January 2017. Accordingly, any outstanding medical bills from that month should be directed to that health plan.

The second issue under review is whether NYSOH properly determined that you were eligible to enroll in the Essential Plan, effective September 1, 2017, and not eligible for Medicaid.

The application that was submitted on August 15, 2017 listed an annual household income of \$8,448.00, consisting of eight monthly Social Security benefit payments, and the eligibility determination relied upon that information.

According to your application, you do not intend to file a tax return in 2017. However, previous applications indicated you filed your tax return with a tax filing status of single and you claimed no dependents, and the eligibility determination under review was based on a household size of one.

According to the regulations, the Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens, who are ineligible for Medicaid because of their immigration status, and have a household income that is between 0% and 200% of the FPL. 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 \$11,880.00 for a one-person household. Since an annual income of \$8,448.00 is 71.11% of the 2016 FPL and 70.50% of the 2017 FPL, you meet the financial eligibility criteria for both the Essential Plan and Medicaid.

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As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan. The record indicates that NYSOH determined that you were in the first five years of your qualified immigration status and thus not eligible for Medicaid

However, you testified that you have been a Green Card holder since 1989. Your account confirms that on June 20, 2017, NYSOH received a fully legible copy of the front and back your Resident Alien Card with an "ADM/ADJ DATE" of May 28, 1989. Although this document does not contain an expiration date, pursuant to the above cited federal policies and rules regarding renewal of Green Cards, older Green cards issued between 1979 and August 1989 are indefinitely valid and not subject to the 10-year renewal requirement. Thus, it is concluded that the copy of the "Resident Alien" card uploaded to your account on June 20, 2017 [REDACTED] is sufficient evidence of your valid immigration status.

Furthermore, the document constitutes sufficient evidence that you have had that that immigration status since 1989.

The evidence establishes you are not in the first five years of your permanent residency. As such, the eligibility determination finding you ineligible for Medicaid on those grounds is not supported by the record.

Therefore, the August 16, 2017 eligibility determination notice stating you were eligible for the Essential Plan and not eligible for Medicaid because you were in the first five years of your qualified immigration status was not correct and must be RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, as of August 15, 2017, based on a one-person household, a valid immigration status and residency exceeding five years, and an annual income of \$12,672.00, based on your testimony that you receive Social Security benefit payments in each month.

Decision

Your appeal of the June 13, 2016 eligibility determination notice is DISMISSED.

The August 16, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, as of August 15, 2017, based on a one-person household, a valid immigration status and residency exceeding five years, and an annual income of \$12,672.00.

Effective Date of this Decision: December 14, 2017

How this Decision Affects Your Eligibility

The Appeals Unit will not review the January 13, 2016 eligibility determination notice, because you did not appeal that determination within the required timeframe.

You were improperly found eligible for the Essential Plan based on a false immigration status.

Your case is being sent back to NYSOH to redetermine your eligibility. You will receive an updated notice of your eligibility from NYSOH.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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

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- 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

Your appeal of the June 13, 2016 eligibility determination notice is **DISMISSED**.

The August 16, 2017 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance, as of August 15, 2017, based on a one-person household, a valid immigration status and residency exceeding five years, and an annual income of \$12,672.00.

The Appeals Unit will not review the January 13, 2016 eligibility determination notice, because you did not appeal that determination within the required timeframe.

You were improperly found eligible for the Essential Plan based on a immigration status.

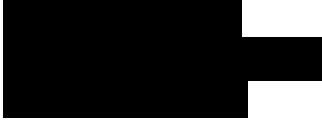
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Your case is being sent back to NYSOH to redetermine your eligibility. You will receive an updated notice of your eligibility from NYSOH.

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)

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&Etumi ama wo obi a okyerE 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.