



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

Notice of Decision

Decision Date: February 09, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022875



Dear [REDACTED]

On December 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 30, 2017 and October 1, 2017 eligibility determination notices.

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 Date: February 09, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022875



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 the Essential Plan, effective October 1, 2017, and not eligible for Medicaid?

Procedural History

On October 7, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid effective November 1, 2016. You were subsequently enrolled in a Medicaid Managed Care plan with a plan enrollment start date of November 1, 2016.

On September 3, 2017, NYSOH issued a renewal notice stating that based on the information from federal and state data sources there was not enough information to determine your eligibility for the upcoming year. NYSOH requested that you update the information in your account before October 15, 2017 so a determination could be made.

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

On September 22, 2017, NYSOH issued an enrollment notice, stating that you were enrolled in Essential Plan 4, with no monthly premium, with a plan start date of October 1, 2017. The notice stated that NYSOH had enrolled you in this plan

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because it was similar to the coverage you had before with the same insurance company.

On September 27, 2017 NYSOH received your update application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan.

Also on September 27, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of the preliminary eligibility determination insofar as you were found ineligible for Medicaid.

On September 28, 2017, NYSOH issued an enrollment notice, based on your September 27, 2017 plan selection, stating that you were enrolled in Essential Plan 4, with no monthly premium, with a plan start date of October 1, 2017.

On September 30, 2017, NYSOH issued an eligibility determination notice, based on your September 21, 2017 application, stating that you were eligible to enroll in the Essential Plan, with no monthly premium, effective October 1, 2017. The notice stated that you no longer qualified for Medicaid through NYSOH as of September 30, 2017. This was because your household income was less than the allowable income limit AND you were in the first five years of your qualified immigration status OR are living in the United States under the color of law (PRUCOL).

On October 1, 2017, NYSOH issued an eligibility determination notice, based on your September 27, 2017 application, stating that you were eligible to enroll in the Essential Plan, with no monthly premium, effective November 1, 2017. This was because your household income was less than the allowable income limit AND you were in the first five years of your qualified immigration status OR are living in the United States with a PRUCOL status.

On October 24, 2017, NYSOH issued an enrollment notice, confirming that you were enrolled in Essential Plan 4, with no monthly premium, with a plan enrollment start date of October 1, 2017.

On December 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing [REDACTED] interpreted. The record was developed during the hearing and held open to allow you to submit supporting documents. That day you uploaded the requested documentation to your NYSOH account and the record was closed that day.

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 taxes with a filing status of single with no dependents.
- 3) You testified that you are a Resident Alien and have resided in the United States since [REDACTED] 2009.
- 4) You provided a copy of your I-94 Departure record card that shows you arrived in the US on [REDACTED], 2009.
- 5) You also supplied a copy of your Employment Authorization card that was valid from [REDACTED] 2011 to [REDACTED] 2015.
- 6) You provided a copy of USCIS form I-797C, Notice of Action, dated [REDACTED] [REDACTED] that stated you had been granted an extension based on pending application to register as a permanent resident.
- 7) You provided a copy of your Permanent Resident card dated [REDACTED] 2016 valid to [REDACTED] 2026.
- 8) You testified that you intend to remain in the United States as a permanent Resident Alien.
- 9) You testified that you work part time at [REDACTED] [REDACTED] for 4-5 hours a day, 4-5 days a week and earn \$10.00 per hour.
- 10) The applications that were submitted on September 21, 2017 and September 27, 2017, which requested financial assistance, listed annual household income of \$9,300.00. You testified that this is still an accurate estimate of your income.
- 11) You testified that in 2010, you [REDACTED] as a [REDACTED] [REDACTED] and need Medicaid coverage to continue your treatment for those long-term injuries.

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).

Lawfully present non-citizens who are eligible for Essential Plan include qualified aliens in the five-year ban, certain persons Permanently Residing Under Color of Law (PRUCOL) and temporary non-immigrants meeting residency requirements (45 CFR § 152.2(2) and (4)(i); 16 OHIP/ADM-01 (01/20/2016)). Immigrants who are pregnant or are under 21 years of age, and are in the first five years of their qualified status or are PRUCOL, are eligible for federal financial participation and, therefore, are not eligible for Essential Plan and will remain in Medicaid (*id.*). 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.)

Lawfully Present Non-Citizens Transitioned to the Essential Plan

In New York State, lawfully present non-citizens who were formerly eligible for state-funded Medicaid, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of April 1, 2015 (New York's Basic Health Plan Blueprint, p. 19, as approved March 2015; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>). This category of non-citizens includes lawful permanent residents who are still in their first five years of permanent residency (18 NYCRR § 349.3, 8 USC § 1613).

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 §

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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 Fed. Reg. 8831).

Legal Analysis

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

The applications that were submitted on September 21, 2017 and September 27, 2017 listed an annual household income of \$9,300.00 and the eligibility determinations relied upon that information.

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

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus 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 September 21, 2017 and September 27, 2017 applications, the relevant 2016 FPL was \$11,880.00 for a one-person household and the 2017 FPL was \$12,060.00 for a one-person household. Since an annual income of \$9,300.00 is 127.74% of the 2016 FPL and 129.67% of the 2017 FPL, you meet the financial eligibility criteria for both the Essential Plan and Medicaid.

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

The record reflects that you entered the US on [REDACTED] 2009. You testified that in 2010, you [REDACTED] as a [REDACTED] and

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need Medicaid coverage to continue your treatment for those long-term injuries. You testified and provided documentation that you were granted non-immigrant status for the period of [REDACTED] 2011 to [REDACTED] 2015. On [REDACTED] 2015, you were granted an extension on your status based on a pending application to register as a permanent resident. You were granted permanent resident status on [REDACTED] 2016. Since the record reflects that you are not within the first five years of your qualified immigration status you should not have been denied Medicaid on that basis.

Therefore, since the September 27, 2017 and October 1, 2017 eligibility determination notices improperly stated that you were within the first five years of your qualified immigration status and thus not eligible for Medicaid, they are MODIFIED to delete the finding that you were still in the first five years of your residency in the US.

Decision

The September 27, 2017 and October 1, 2017 eligibility determination notices are MODIFIED to delete the finding that you were still in the first five years of your residency in the US.

Your case is RETURNED to NYSOH to reinstate your eligibility for full Medicaid benefits and to reinstate your enrolment in your Medicaid Managed Care plan, to be effective as early as October 1, 2017. NYSOH is directed to assist you in determining whether you want your Medicaid coverage to retroactively begin on October 1, 2017, or on a later date.

Effective Date of this Decision: February 09, 2018

How this Decision Affects Your Eligibility

You were improperly found eligible for the Essential Plan based on an incorrect finding regarding your immigration status.

Your case is RETURNED to NYSOH to fully reinstate your eligibility for Medicaid and your enrollment in your Medicaid Managed Care plan. You may choose to have this coverage reinstated as early as October 1, 2017, or you may have your coverage change from this point forward.

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
- 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.

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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 September 27, 2017 and October 1, 2017 eligibility determination notices are MODIFIED to delete the finding that you were still in the first five years of your residency in the US.

Your case is RETURNED to NYSOH to reinstate your eligibility for full Medicaid benefits and to reinstate your enrolment in your Medicaid Managed Care plan, to be effective as early as October 1, 2017. NYSOH is directed to assist you in determining whether you want your Medicaid coverage to retroactively begin on October 1, 2017, or on a later date.

You were improperly found eligible for the Essential Plan based on an incorrect finding regarding your immigration status.

Your case is RETURNED to NYSOH to fully reinstate your eligibility for Medicaid and your enrollment in your Medicaid Managed Care plan. You may choose to have this coverage reinstated as early as October 1, 2017, or you may have your coverage change from this point forward.

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&btumi 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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