



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: February 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025427

[REDACTED]

[REDACTED]

On February 8, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 7, 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
PO 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(b).

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: February 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025427



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 Medicaid coverage for the treatment of emergency medical conditions only, effective as of December 1, 2017?

Procedural History

On December 6, 2017, NYSOH received an update to your application for financial assistance with health insurance. In response to your application, NYSOH prepared a preliminary eligibility determination stating that you were found eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective as of December 1, 2017.

Also on December 6, 2017, NYSOH issued a notice confirming that on December 6, 2017 you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were found only eligible for emergency Medicaid coverage and not eligible for full Medicaid benefits.

On December 7, 2017, NYSOH issued an eligibility determination notice stating that you were found eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective as of December 1, 2017. This was because your household income was at or below the allowable income limit of \$22,412.00, and were not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL).

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On February 8, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At your request, a [REDACTED] interpreter ([REDACTED]) also attended the hearing. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your December 6, 2017 application, you expect to file your 2017 taxes as single and claim your spouse a dependent on that tax return. You testified that was accurate, since your spouse depends on you, though you further testified that you recently had a child who is not listed on your account.
- 2) Your December 6, 2017 application requesting financial assistance listed annual household income of \$0.00. However, you clarified that you anticipated earning approximately \$250.00 per week through various odd jobs.
- 3) You are seeking insurance for yourself.
- 4) Your NYSOH application states that your Citizenship/Immigration status is "Other," and that you are not eligible for a Social Security number due to your immigration status.
- 5) You testified that you have been in the United States since about 2006.
- 6) You testified that while you were issued a Tax ID by the Internal Revenue Service with which to file your taxes, you have never sought to apply to any state or federal agency for immigration or US citizenship status.
- 7) You testified that you have never received any correspondence or determination from any state or federal agency regarding immigration or US citizenship status.
- 8) You testified that you are not well and would like to be able to see a doctor on a regular basis, but emergency Medicaid coverage will not cover regular medical treatment.
- 9) You testified that you would like to be eligible to enroll in a health care plan to be able to obtain routine medical treatment.

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

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Applicable Law and Regulations

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)).

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 \$16,240.00 for a two-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).

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

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(18 NYCRR § 360-3.2 (iii)(a)-(c)).

Medicaid payment is provided for the care and services necessary for the treatment of an emergency medical condition to an otherwise eligible temporary non-immigrant (e.g., foreign student, visitor/tourist) and undocumented (illegal) alien. To be eligible for Medicaid coverage for the treatment of an emergency medical condition, a temporary non-immigrant or undocumented alien must meet all eligibility requirements, including proof of identity, income and State residence. Temporary non-immigrants, who have been allowed to enter the United States temporarily for a specific purpose and for a specified period of time, do not have to meet the State residence requirement and are considered "Where Found" for District of Fiscal Responsibility purposes. An undocumented alien who is not a temporary non-immigrant must meet 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)).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective December 1, 2017.

To be eligible for full Medicaid through NYSOH, you must have documents to prove your citizenship or immigration status.

On December 6, 2017, you submitted your updated application for financial assistance with health insurance. That application reflected that your Citizenship/Immigration status is "Other," and that you are not eligible for a Social Security number due to your immigration status.

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To be eligible for Medicaid coverage for the treatment of an emergency medical condition, a temporary non-immigrant or undocumented alien must meet all eligibility requirements, including proof of identity, income, and state residence.

Based on the record as developed, it is reasonable to conclude that you are not a citizen of the United States, and have neither sought nor acquired immigrant or US Citizenship status through any state or federal agency. Your testimony, and NYSOH account reflects, that you do not have any citizenship or immigration documents to provide as proof of your status as either a citizen or PRUCOL status.

On the date of your December 6, 2017 application, you were in a two-person household. You expect to file your 2017 income tax return with a status of single and you anticipated claiming another dependent. Your listed annual household income was \$0.00, though you clarified that you anticipated earning approximately \$250.00 per week through various odd jobs. Since an annual income of \$0.00 as reflected in your application is 0.00% of the applicable FPL, you met the financial eligibility criteria for Medicaid.

Therefore, based on your testimony, the applications you have submitted and your lack of citizenship/immigration documents, NYSOH properly determined that you met the criteria provided by statute for the treatment of emergency medical conditions only, using your household income of \$0.00, and lack of proof of authorized immigration status.

As such, NYSOH's finding that because you are not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL), that you only qualify for Emergency Medicaid was correct.

Therefore, the December 7, 2017 eligibility determination notice stating that you remained eligible for Medicaid coverage for the treatment of emergency medical conditions only must be AFFIRMED.

If your circumstances change, please contact NYSOH and update the information on your NYSOH account so that your account can be updated and eligibility for financial assistance may be redetermined.

Decision

The December 7, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 13, 2018

How this Decision Affects Your Eligibility

You were eligible for Emergency Medicaid only, as of December 1, 2017.

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 case 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

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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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 7, 2017 eligibility determination notice is AFFIRMED.

You were eligible for Emergency Medicaid as of December 1, 2017.

If your circumstances change, please contact NYSOH and update the information on your NYSOH account so that your account can be updated and eligibility for financial assistance may be redetermined.

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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.