



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

Notice of Decision

Decision Date: April 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029244

[REDACTED]

[REDACTED]

On April 13, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 18, 2018 denial 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: April 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029244



Issues

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

Did NY State of Health properly determine that you were not eligible to enroll in the Essential Plan, to receive advanced payment of the premium tax credit or cost-sharing reductions to help pay for the cost of insurance, or to enroll in a qualified health plan at full cost through NYSOH, as of February 17, 2018?

Did NY State of Health properly determine that you were ineligible for Medicaid?

Procedural History

On February 17, 2018, NY State of Health (NYSOH) received your application for financial assistance with health insurance.

On February 18, 2018, NYSOH issued a denial notice stating that you were not eligible to enroll into health insurance coverage through NYSOH. This notice stated that you were not eligible to enroll in the Essential Plan, to received advanced payments of the premium tax credit (APTC), cost-sharing reductions, or able to enroll in a full pay qualified health plan because NYSOH was unable to verify your immigration status. This notice further stated that you were not eligible to Medicaid because the household income you provided was over the allowable income limits for that program.

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On February 22, 2018, you contacted NYSOH's Account Review Unit and requested an appeal of the denial notice insofar as you were not found eligible to enroll into health insurance coverage through NYSOH.

On April 12, 2018, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. That day you asked for your hearing to be adjourned, which was granted.

On April 13, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the telephone hearing. 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) According to your NYSOH account, you expect to file your 2018 tax return with a tax filing status of single and you will claim no dependents on that tax return.
- 2) According to your NYSOH account, on the February 17, 2018 application under citizenship/immigration status, you listed [REDACTED]
- 3) You testified that you came to the United States on a valid visa [REDACTED].
- 4) You testified that your visa expired [REDACTED].
- 5) You testified that, as of the date of the hearing, your visa was currently expired and you did not have an application filed with the United States Customs and Immigration Services (USCIS) to obtain a valid citizenship or immigration status.
- 6) You testified that you plan on seeking legal advice on how to proceed with obtaining a valid citizenship or immigration status.
- 7) The application that was submitted on February 17, 2018, in which you requested financial assistance, listed an annual household income of \$22,724.00, consisting of income you earn from employment. You testified that this amount was correct at the time.
- 8) You testified that you have been in the New York for about one year and you have been paying taxes, therefore, you believe that you should be eligible for health insurance coverage through NYSOH.

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9) Your application states that you live in [REDACTED], NY.

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

Applicable Law and Regulations

Citizenship and Immigration Status - Generally

To enroll in health insurance through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

Citizenship and Immigration Status – Verification Process

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a QHP, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant (45 CFR § 155.315(c)(3), (f)(2)(i)).

Medicaid – Citizenship and Immigration Status

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 § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

Medicaid must be provided to otherwise eligible residents of the United States who are citizens, nationals, or qualified non-citizens who have provided satisfactory documentary evidence of their qualified non-citizen status (42 CFR § 435.406)).

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In some cases, Medicaid will pay for emergency medical treatment for an individual who does not have evidence of citizenship or immigration status, even if the individual is not eligible for full Medicaid coverage (NY Soc. Serv. Law § 122(1)(e); 18 NYCRR § 360-3.2(j)(3)(ii)(a); 42 CFR § 435.350)).

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 2018 FPL, which is \$12,140.00 for a one-person household (83 Fed. Reg. 2642).

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 first issue under review is whether NYSOH properly determined that you were not eligible to enroll in the Essential Plan, to receive APTC or cost-sharing reductions to help pay for the cost of insurance, or to enroll in a qualified health plan at full cost through NYSOH.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm that an individual has a valid citizenship or immigration status.

On February 17, 2018, you submitted your updated application for financial assistance with health insurance. That application reflected that your citizenship/immigration status is [REDACTED]. Subsequently, NYSOH issued a denial notice stating that you were not eligible to enroll in the Essential Plan, to receive APTC or cost-sharing reductions, or to enroll in a full cost qualified health plan through NYSOH because NYSOH was unable to verify your citizenship or immigration status.

If NYSOH cannot verify an individual's citizenship or immigration status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date stated on the notice to resolve the inconsistency. However, NYSOH did not provide you with the requisite period of time to verify your immigration status.

You testified that you came to the United States on a valid visa [REDACTED]. However, you further testified that your visa had expired [REDACTED]. You testified that, as of the date of the hearing, you did not have an application pending with USCIS to obtain a valid immigration or citizenship status, but you plan on seeking legal advice on how to obtain a valid immigration status soon.

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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 after your visa had expired [REDACTED]. 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 of your PRUCOL status.

Therefore, based on your testimony, on your February 17, 2018 application and your lack of citizenship/immigration documents, NYSOH properly determined that you were not eligible to enroll in the Essential Plan, ineligible for APTC and cost-sharing reductions, and unable to enroll in a full pay qualified health plan.

The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid.

To be eligible for full Medicaid through the NYSOH, you must also meet the non-financial requirements; which includes having a valid immigration status. To be eligible for full Medicaid participation through NYSOH, an applicant must have documents to prove their current citizenship or immigration status.

Therefore, since, as discussed above, you do not have any citizenship or immigration documents to provide proof of your status as either a citizen or of your PRUCOL status, you are ineligible for full Medicaid benefits through NYSOH.

However, 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.

You are in a one-person household for purposes of this analysis. You expect to file your 2018 income taxes as single and will claim no dependents on that tax return.

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 (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your applications, the relevant FPL was \$12,140.00 for a one-person household. Since \$22,724.00 is 187.18% of the 2018 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid can also be based on current monthly household income and family size. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,397.00 per month.

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The application that you submitted on February 17, 2018 lists an expected annual income of \$22,724.00 and you testified that this was correct at that time. Using the information listed in your application, the system calculated your monthly income to be \$1,893.67 a month. Since the system calculated amount indicates that you earned more than \$1,397.00 in February 2018, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Therefore, NYSOH properly determined that you were ineligible for emergency Medicaid services as of your February 17, 2018 application because your household income was over the income limit for that program.

As a result, the February 18, 2018 denial notice is AFFIRMED, in part, as it pertains to your eligibility for the Essential Plan, APTC, cost-sharing reductions and your ability to purchase in a full pay qualified health plan because NYSOH was unable to verify your citizenship/immigration status.

The February 18, 2018 denial notice is MODIFIED to state that you are ineligible for full Medicaid benefits through NYSOH because NYSOH is unable to verify your citizenship/immigration status and that you are ineligible for emergency Medicaid benefits because your household income is over the monthly income limit for that program.

Decision

The February 18, 2018 denial notice is AFFIRMED, in part, as it pertains to your eligibility for the Essential Plan, APTC, cost-sharing reductions and your ability to purchase in a full pay qualified health plan because NYSOH was unable to verify your citizenship/immigration status.

The February 18, 2018 denial notice is MODIFIED to state that you are ineligible for full Medicaid benefits through NYSOH because NYSOH is unable to verify your citizenship/immigration status and that you are ineligible for emergency Medicaid benefits because your household income is over the monthly income limit for that program.

Effective Date of this Decision: April 23, 2018

How this Decision Affects Your Eligibility

This Decision does not change your eligibility.

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).

You are not eligible for full Medicaid, to enroll in the Essential Plan, to receive APTC or cost-sharing reductions to help pay for the cost of insurance, or to enroll in a qualified health plan at full cost because NYSOH was unable to verify your citizenship/immigration status.

You are not eligible for emergency Medicaid benefits because your household income is over the income limits for that program.

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
- 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 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).

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 February 18, 2018 denial notice is **AFFIRMED**, in part, as it pertains to your eligibility for the Essential Plan, APTC, cost-sharing reductions and your ability to purchase in a full pay qualified health plan because NYSOH was unable to verify your citizenship/immigration status.

The February 18, 2018 denial notice is **MODIFIED** to state that you are ineligible for full Medicaid benefits through NYSOH because NYSOH is unable to verify your citizenship/immigration status and that you are ineligible for emergency Medicaid benefits because your household income is over the monthly income limit for that program.

This Decision does not change your eligibility.

You are not eligible for full Medicaid, to enroll in the Essential Plan, to receive APTC or cost-sharing reductions to help pay for the cost of insurance, or to enroll in a qualified health plan at full cost because NYSOH was unable to verify your citizenship/immigration status.

You are not eligible for emergency Medicaid benefits because your household income is over the income limits for that program.

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 مجاناً.

বাংলা (Bengali)

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