



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

Notice of Decision

Decision Date: July 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000558

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On May 13, 2014, you appeared at a hearing on your appeal of NY State of Health Marketplace's April 2, 2014 preliminary eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the NY State of Health.

If you have questions about your Decision, you can contact 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 the NY State of Health about your appeal and/or this Decision, please refer to the Appeal Identification Number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 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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[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine the premium for Child Health Plus coverage for your daughter?

Procedural History

The Marketplace received your application on February 8, 2014; however, no determination was possible at that time because additional documentation was required.

On February 8, 2014, a document was uploaded to your account in the Marketplace. The document, dated February 7, 2014 and addressed to [REDACTED], was from Child Health Plus health insurance plan, HealthPlus. The document stated that [REDACTED] had been disenrolled from HealthPlus as of January 31, 2014, due to the failure to pay premiums.

On February 9, 2014, the Marketplace issued a notice that said that [REDACTED] might be eligible for health insurance through New York State of Health but that more information was needed to make a determination. It said that in order for your eligibility to be determined you would need to submit proof of disenrollment from any government sponsored health insurance.

On March 29, 2014, the Marketplace issued a preliminary eligibility determination, finding that [REDACTED] was eligible for Child Health Plus at a monthly premium of \$45.00 per month. The determination was based on a

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household income of \$49,322.01, which was 313.55% of the relevant federal poverty level (FPL).

On April 2, 2014, the Marketplace again issued a preliminary eligibility determination, finding that [REDACTED] was eligible for Child Health Plus at a monthly premium of \$45.00 per month. This determination was based on a household income of \$47,356.40, which is 301.06% of the FPL.

On April 4, 2014, you called the Marketplace's Customer Service unit and appealed that determination.

The Marketplace sent you a Notice of Hearing on April 23, 2014 for a scheduled telephone hearing on May 13, 2014.

On May 13, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was closed at the end of the hearing.

Findings of Fact

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

- 1) You are single and have three children: [REDACTED].
- 2) You live with your daughter [REDACTED] and file your tax return under the filing status head of household. You claim your daughter [REDACTED] as a dependent.
- 3) Your daughter [REDACTED] lives with her father and you do not claim her as a dependent.
- 4) You have shared custody of your son, [REDACTED], with [REDACTED] father. You testified that custody of [REDACTED] was split between you and his father.
- 5) Before you went to court, [REDACTED]' father had been claiming him as a dependent on his tax return. [REDACTED] father told you in a text message that he would claim [REDACTED] as a dependent on his U.S. Individual Income Tax Return for the 2013 tax year, and you agreed. You have no formal agreement with [REDACTED] father regarding who can claim your son [REDACTED] as a dependent. You did not testify that you have ever claimed [REDACTED] as a dependent.
- 6) You do not know who would claim [REDACTED] as a dependent for the 2014 tax year and have not discussed this issue with his father.

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- 7) You do not know if your adjusted gross income will be higher or lower than [REDACTED] father for the 2014 taxable year.
- 9) Your household income is \$47,356.40.

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

Applicable Law and Regulations

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL (New York Public Health Law (PHL) § 2511(2)(a)(iii)). The amount of any premium payment, if any, that must be made on behalf of an eligible child who enrolls in Child Health Plus is dependent upon the child's family household income in relation to the relevant FPL for the given family size (PHL § 2510(9)(d)). For example, a \$45.00 dollar premium payment is required for each eligible child whose family household income is between 301% and 350% of the FPL (PHL § 2510(9)(d)(v)).

In the case where a child lives only with his mother, and any siblings neither live with that mother nor are tax dependents of that mother, the child's family size is two (42 CFR § 435.603(f)).

Legal Analysis

This decision evaluates whether [REDACTED] eligibility for Child Health Plus was correctly determined for the taxable year beginning in 2014. At the hearing you testified that your daughter [REDACTED] lives with you and that you claim [REDACTED] as a dependent on your tax returns. You stated that you do not claim [REDACTED] and you did not testify that you anticipated claiming [REDACTED] as a dependent for the 2014 tax year. Your daughter [REDACTED] lives with her father, and although you have shared custody of your son [REDACTED], you testified that [REDACTED] father has claimed [REDACTED] as a dependent.

Therefore, since [REDACTED] is your dependent, the members in [REDACTED] household will be the same as the members in your tax household in the year [REDACTED] renewal of eligibility for Child Health Plus is made. You stated that for the 2013 taxable year you would file a tax return and only claim [REDACTED] as a dependent. Therefore, your family size for the 2013 taxable year would be two (you and [REDACTED]). In 2014, you will again file a tax return and claim [REDACTED] as a dependent. However, since you did not testify that you anticipated claiming [REDACTED]

as a dependent in the 2014 taxable year, the Marketplace cannot include [REDACTED] as a part of your tax household in 2014.

Based on the testimony and evidence presented, it is determined that your household for the 2014 year, the year [REDACTED] is renewing her eligibility for Child Health Plus, will consist of two members, you and [REDACTED] cannot be considered a part of this tax household in the absence of any evidence that he would be claimed as a dependent by you. Therefore, it is concluded that your tax household will include two people for 2014.

As noted above, a \$45.00 premium payment is required for each eligible child whose family household income is between 301% and 350% of the FPL (PHL § 2510.9(d)(v)). [REDACTED] family size of two members with a household income of \$47,356.40 results in a FPL of 301.06%. Therefore, based on [REDACTED] household FPL, the required Child Health Plus premium required for [REDACTED] is \$45.00 per month.

Decision

The April 2, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 3, 2014.

How this Decision Affects Your Eligibility

The premium for Child Health Plus coverage for your daughter [REDACTED] remains at \$45.00 per month.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

Submit an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

AND/OR

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Bring a lawsuit in state court in accordance with Article 78 of the New York Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of this Decision.

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

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]