



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

Notice of Decision

Decision Date: January 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000905

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On September 26, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s August 27, 2014 eligibility redetermination.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000905

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that the combined monthly Child Health Plus premium for [REDACTED] was \$18.00 per month as of August 26, 2014?

Procedural History

The Marketplace received your initial application for health insurance on December 22, 2013.

That same day, the Marketplace responded with a message that, in pertinent part, stated more information was needed to make an eligibility determination for [REDACTED]. It said that the Marketplace needed proof of your household income.

On August 20, 2014, the Marketplace redetermined your household's eligibility on an expected annual household income of \$43,820.40.

On August 21, 2014, the Marketplace issued eligibility redeterminations based on your August 20, 2014 modified application. It found that [REDACTED] were eligible to enroll in Child Health Plus (CHP) at no cost.

On August 26, 2014, the Marketplace redetermined your household's eligibility on an expected annual household income of \$46,709.26.

On August 27, 2014, the Marketplace issued a notice of eligibility redetermination based on the August 26, 2014 application. It found that while [REDACTED] [REDACTED] remained eligible to enroll in CHP coverage, their premium had increased to a total of \$18.00 per month.

On August 29, 2014, you spoke with the Marketplace's Account Review unit and appealed the August 27, 2014 eligibility determination insofar as it set the CHP premium at \$18.00 per month for [REDACTED].

On September 26, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open because the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: pay stubs for income your spouse received from [REDACTED] during August and September 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by October 11, 2014.

Accordingly, the record was closed on October 11, 2014.

Findings of Fact

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

- 1) In your application, you attested that you are currently married and have three children: [REDACTED] (10-year-old son), [REDACTED] (5-year-old daughter) and [REDACTED] (1-year-old daughter).
- 2) You testified that you expect to file a U.S. Income Tax return for 2014, file as "married, filing jointly" and claim your three children as dependents.
- 3) On April 7, 2014, the Marketplace received non-consecutive paystubs for pay dates between February 14, 2014 and March 17, 2014 relating to your spouse's employment with [REDACTED]. Although a paystub for one week in February is missing, the available paystubs, which include year-to-date payments, contain sufficient information to confirm that during February 2014 your spouse received four paychecks in the gross amounts of \$811.96, \$819.48, \$961.08 and \$1,217.02.
- 4) On February 11, 2014, you uploaded to your Marketplace account a signed letter, dated February 11, 2014, stating that you had been unemployed since October 3, 2011 and that your husband supported your family on his income alone.

- 5) In a letter uploaded to your account on March 14, 2014, you stated that you were unable to provide a termination of employment letter because more than two years had passed since you had stopped working. You testified during the hearing that you have been unemployed since October 3, 2011.
- 6) On April 3, 2014, the Marketplace received a copy of your payment history from your Unemployment Insurance Benefits Online account, indicating that you last received benefits of \$351.00 for the week ending February 3, 2013; that payment was released to you on February 4, 2013.
- 7) Your spouse testified that his employer, [REDACTED], has reduced his work schedule and that he expects this to continue through the end of 2014. However, you provided no additional documentation as directed by the Hearing Officer to corroborate the testimony on your household's current income level.
- 8) You testified that when the August 21, 2014 determination was issued by the Marketplace finding your children, [REDACTED], eligible for CHP coverage at no cost, your expected income was accurately stated as \$43,820.40. On August 26, 2014, the Marketplace redetermined your eligibility based on an expected 2014 annual income of \$46,709.26.
- 9) You testified that you did not understand why a new determination had been issued on August 27, 2014, which found that while [REDACTED] [REDACTED] remained eligible for CHP coverage, the total premium cost increased to \$18.00 per month. You further testified that \$46,709.26 did not accurately reflect your household's expected earnings in 2014.

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 (CHP) 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 federal poverty level (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the federal poverty level. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

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The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the federal poverty level (PHL § 2510(9)(d)(ii)).

For a CHP eligibility determination, the 2014 FPL for a five-person household is \$27,910.00 (79 Fed. Reg. 3593).

Legal Analysis

The only issue under review is whether the Marketplace properly determined the amount of your children's Child Health Plus (CHP) premium.

The amount of your children's CHP premium is calculated for a five-person household: you, your spouse, and your three children.

At the hearing, you testified that the household income amount of \$46,709.26 as stated in your August 27, 2014 determination was inaccurate. You further stated during the hearing that the \$43,820.40 household income amount was closer to your actual expected income as a result of your spouse's decrease in expected income through his employment with [REDACTED].

The subsequent determination listing your annual household income for 2014 income as \$46,709.26 was based on the paystubs you submitted to the Marketplace on April 7, 2014 as proof of your income. You submitted a total of four paystubs, the latest from Tuesday, March 17, 2014, that showed year-to-date earnings of \$9,831.62. Assuming that all paychecks were paid on Tuesdays, this would be the earnings from eleven paychecks out of a potential 52 paychecks. If earnings continued at this rate for the rest of the year, this would support an expected annual income of \$46,476.75.

The 2014 FPL for a five-person household is \$27,910.00; household incomes between 160% and 222% of that figure (\$44,656.00 to \$61,960) would result in premium payments of \$9.00 per month.

Therefore, basing your household's estimated earnings for 2014 on the only documented information available, the Marketplace properly determined that your premiums would be \$9.00 per child, based on annual earnings.

You were directed by the Hearing Officer to provide additional evidence to corroborate your spouse's testimony that he was working fewer hours and expected reduced pay through the end of 2014. Since you did not provide the additional documents, there is insufficient evidence to support your contention that your current income level as of August 26, 2014 is less than either the \$46,476.75 calculated above or the \$46,709.26 relied upon by the Marketplace to determine [REDACTED] CHP premium level.

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Decision

The August 27, 2014 eligibility redetermination that [REDACTED] are eligible to enroll in Child Health Plus with a total premium of \$18.00 per month is AFFIRMED.

Effective Date of this Decision: January 14, 2015

How this Decision Affects Your Eligibility

You children's August 27, 2014 eligibility determination was correct. The combined Child Health Plus premium for [REDACTED] remains \$18.00 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.

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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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:
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- By fax: 1-855-900-5557

Summary

The August 27, 2014 eligibility redetermination that [REDACTED] are eligible to enroll in Child Health Plus with a total premium of \$18.00 per month is AFFIRMED.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]