



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

## Notice of Decision

Decision Date: April 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001173

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On January 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 14, 2014 eligibility determination.

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).

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 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001173

[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 [REDACTED] was not eligible for financial assistance through the Marketplace as of December 14, 2014?

## Procedural History

The Marketplace received your 2015 application for health insurance for your son, [REDACTED], on November 20, 2014.

Between December 2, 2014 and December 11, 2014, you modified your application for your son several times.

On December 11, 2014, the Marketplace received your modified application for your son.

On that same day, the Marketplace prepared a preliminary eligibility determination in your son's case. It said that he was not eligible for financial assistance.

On that same day, you spoke with the Marketplace's Account Review Unit and appealed that preliminary determination.

On December 14, 2014, the Marketplace issued an eligibility determination in your son's case that reflected the December 11, 2014 preliminary eligibility

determination. It said that your son was eligible to purchase a qualified health plan at full cost through New York State of Health effective January 1, 2015.

On January 8, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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 son's December 11, 2014 application, you are married and you have one child, [REDACTED]. You currently live with your spouse and son.
- 2) You testified that you attempted to enroll your son in Child Health Plus through the Marketplace for 2015 health insurance coverage based on your annual salary of \$75,000.00.
- 3) You testified, and the record reflects, that your son was 2 years old at the time of the December 11, 2014 application.
- 4) You testified that you are currently in the United States on an H-1B visa. You further testified that your son is in the United States on an H-4 dependent visa.
- 5) You testified that your family currently resides in East Greenbush, New York and you intend to remain in New York.
- 6) The record reflects that at the time of the December 11, 2014 application, your son did not have other health insurance coverage outside of the Marketplace.

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

## **Applicable Law and Regulations**

### Child Health Plus

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

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To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health Law. § 2511(2)(a)-(e))

Children who are physically located in New York State and are on an H visa, or have a parent on an H visa, satisfy the Child Health Plus residency requirement, unless the family indicates that they intend to return to their home country in the future (N.Y.S. Dept. of Health, Child Health Plus Plan Manual (March 2008); CHIP ADM-52 (December 1, 2006)).

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

The Child Health Plus premium is \$60.00 per month for a child whose family household income is between 350% and 400% of the FPL (N.Y. Pub. Health L. § 2510(9)(d)(vi)).

When a child lives with both parents, the child's eligibility is determined on a three-person family household (42 CFR § 435.603(f)).

### Medicaid

A child who is at least one year old but younger than nineteen years of age is Medicaid eligible at a household income up to 154% of the FPL (42 CFR § 435.118(c); NY Department of Social Services Administrative Directive 13ADM-03).

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 son's application, that was the 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

## Legal Analysis

At issue is whether the Marketplace properly determined that your son, [REDACTED], was not eligible for financial assistance, including Child Health Plus.

According to your testimony at the January 8, 2015 hearing and the information available on the record, your son is 2 years old.

You are currently in the United States on an H-1B visa and your son is in the United States on an H4 dependent visa.

According to the December 11, 2014 application, your son did not have other health insurance coverage outside of the Marketplace.

Your son lives with you and your spouse in [REDACTED], New York. According to your testimony, you plan on remaining in New York.

According to the December 11, 2014 application, you attested to an expected household income of \$75,000.00. You also expect to file as Head of Household with two qualifying dependents, your spouse and your son; therefore, you are a household of three people.

The 2014 federal poverty level (FPL) for a three-person household is \$19,790.00. Your household income of \$75,000.00 is 378.98% of the FPL.

Child Health Plus is available to a child who is under 19 years old, is a resident of New York, does not have other health insurance coverage, and is not eligible for, or enrolled in, Medicaid coverage. For children who are on an H visa or live with a parent who has an H visa, the residency requirement for Child Health Plus eligibility is satisfied if they intend to remain in New York. Since your son is 2 years old, resides with you and your spouse in New York and intends to remain in New York, did not have other health insurance coverage at the time of the December 11, 2014 application, and has a household income (378.98%) above the Medicaid eligibility threshold for children (154%), the Marketplace incorrectly denied your son financial assistance in the form of Child Health Plus coverage.

Therefore, the December 14, 2014 eligibility determination that your son was not eligible for financial assistance is **RESCINDED**.

Your case is **REMANDED** to the Marketplace to determine your son's eligibility for financial assistance as a member of a three-person household with a household income of \$75,000.00.

## **Decision**

The December 14, 2014 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace to determine the Child Health Plus premium amount that [REDACTED] is eligible for based on a household of three and a household income of \$75,000.00 as of December 11, 2014.

**Effective Date of this Decision:** December 11, 2014

## **How this Decision Affects Your Eligibility**

Your son's December 14, 2014 eligibility determination was incorrect. Your son was eligible for Child Health Plus based on the December 11, 2014 application.

This decision directs the Marketplace to determine the Child Health Plus premium amount that your son is eligible for based on a household size of three and a household income of \$75,000.00.

## **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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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## **Summary**

The December 14, 2014 eligibility determination is RESCINDED.

Your son's December 14, 2014 eligibility determination was incorrect. Your son was eligible for Child Health Plus based on the December 11, 2014 application.

Your case is REMANDED to the Marketplace to determine the Child Health Plus premium amount that [REDACTED] is eligible for based on a household of three and a household income of \$75,000.00 as of December 11, 2014.

## **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]