



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003534

[REDACTED]

Dear [REDACTED],

On July 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 19, 2015 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).

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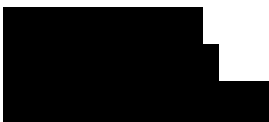


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Issue

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

Did the Marketplace properly determine that, as of August 1, 2015, the monthly premium for Child Health Plus remained at \$30.00 for each of your two children after you reported a decrease in income on June 2, 2015?

Procedural History

On June 18, 2015, the Marketplace issued a preliminary eligibility determination based on your updated income information. It determined that your two minor children were eligible to enroll in Child Health Plus (CHP) at a cost of \$30.00 each per month, effective August 1, 2015.

That same day, you spoke with the Marketplace's Account Review Unit and appealed the preliminary determination insofar as you reported your wife had no income as of June 2015 and you wanted the CHP premium to be based on your household's current income.

On June 19, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the June 18, 2015 preliminary determination.

On July 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days for you to submit your and your wife's earning statements for June 2015.

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On August 4, 2015, you uploaded three documents to your Marketplace account. The first document was a letter from your wife's employer with a copy of her payroll summary, which was made part of the record as "Appellant's Exhibit A." The second and third documents were copies of your June 2015 and July 2015 earning statements, which were made part of the record as "Appellant's Exhibits B and C" respectively.

Since the requested documentation was received on August 4, 2015, the record was closed that same day.

Findings of Fact

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

- 1) According to your Marketplace application, you and your wife plan on filing your 2015 tax return as Married Filing Jointly and will claim your two minor children as dependents on that tax return.
- 2) On June 17 and 18, 2015, you applied for health coverage for your two minor children through the Marketplace.
- 3) According to your Marketplace application, you reported your annual income of \$50,319.96 and your wife's annual income of \$12,213.99, which equals \$62,533.95. You stated these amounts were correct.
- 4) According to the July 31, 2015 letter from your wife's former employer and your testimony, her last day of work was June 2, 2015 (Appellant's Exhibit A, p. 1).
- 5) According to your wife's payroll summary, her year-to-date gross earnings were \$12,318.80 and she was last paid on June 26, 2015 (Appellant's Exhibit A, pp. 2-3).
- 6) You testified that she will not be filing for unemployment insurance benefits and will have no other sources of income after her last paycheck was received on June 26, 2015.
- 7) You testified and provided documentary evidence that your household's monthly income changed as of July 2015 to \$4,193.33, which is your gross salary amount per month, and will remain at \$4,193.33 per month for the remainder of the year (Appellant's Exhibits B and C).
- 8) You testified that you want the Child Health Plus monthly premium for both of your children to be based on the lesser amount of household monthly income of \$4,193.33 as of July 2015.

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 (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 (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

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 FPL. 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)).

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

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (PHL § 2510(9)(d)(iv)).

In an analysis of Child Health Plus 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 2015 FPL, which was \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

Effective January 1, 2014, the State must apply the financial methodologies used to determine Medicaid when determining financial eligibility of all individuals for CHP (45 CFR§ 457.315). The State may elect in its State Plan to base financial

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eligibility either on current monthly household income and family size or income based on projected annual income and family size for the remainder of the calendar year (42 CFR § 435.603). In circumstances where there is a change in income mid-year in CHP cases, New York State has elected to base financial eligibility on income prospectively, that is, for the remainder of the calendar year.

Families are required to report changes that may affect their children's eligibility for CHP, including:

- Changes in New York State residency or health care coverage through insurance that may make a child ineligible for subsidy payments; or
- Changes which affect their subsidy level or make them appear eligible for Medicaid.

The Marketplace and/or the health plan are to act accordingly based upon the new information. If a family submits revised eligibility information that affects their children's CHP eligibility status, the Marketplace and/or the health plan implements this information prospectively. As a result, a family may incur a lower or higher family contribution going forward or be referred to Medicaid based on this new information (42 CFR §§ 457.570 and 457.505(c); Model State Child Health Plan OMB #: 0938-0707; §§ 4.1.8 and 4.3).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that your children were eligible to enroll in Child Health Plus (CHP) with a \$30.00 monthly premium for each child.

According to the record, you and your wife expect to file a joint federal income tax return for the 2015 tax year and claim your two children as dependents. Therefore, your children are in a four-person household.

On your June 18, 2015 application, you attested to an expected annual household income of \$62,533.95. The application also stated that your children are three years old and one year old. The Marketplace relied upon this information in determining your children's eligibility for CHP.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, is not eligible for Medicaid, and has a household income below 400% of the federal poverty level (FPL).

Household income between 251% and 300% of that FPL result in a family contribution responsibility of \$30.00 per month per child in CHP premium payment.

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On the date of your application, the relevant FPL was \$24,250.00 for a four-person household. Since \$62,533.95 is 257.87% of the applicable 2015 FPL, the Marketplace properly found your children to be eligible for Child Health Plus with a \$30.00 per month premium payment for each child.

Therefore, the Marketplace's May 18, 2015 notice of eligibility redetermination correctly stated that the monthly premium for each of your children's CHP plan was \$30.00 and it is AFFIRMED.

However, you credibly testified at the hearing and your Marketplace account since then reflects that your annual household income changed when your wife stopped working as of June 2, 2015, and received her last paycheck on June 26, 2015.

According to the State Child Health Plan, enrollees have the opportunity to request a review of their income and to provide proof of a decrease in income that would make the child eligible for Medicaid or for a lower family contribution as monthly premium by the last day of the month of coverage. The Marketplace and/or the health plan can then redetermine your children's program eligibility and family contribution toward monthly premium based on the revised information.

You submitted earning statements that showed you earn \$4,193.33 per month. You credibly testified and provided documentary proof that your wife stopped working on June 2, 2015 and received her last paycheck on June 26, 2015, and no longer has any sources of income. Therefore, your income in July 2015 changed to \$4,193.33 per month going forward, which is supported by your July earnings statements showing that was your gross monthly salary that month. You testified that you also expect it to be the same for the remainder of the year. Therefore, the applicable month to be considered for an adjustment to your family contribution is July 2015, when your actually monthly income decreased to \$4,193.33 per month.

To be eligible for a lower family contribution toward the monthly CHP premium, your income would have to be at or below 250% of the applicable FPL for a four-person household, which rounded to the nearest dollar is \$5,053.00 per month. Your July 2015 monthly income of \$4,193.33 is 207.49% of the 2015 FPL. The same is true prospectively if your monthly income remains at \$4,193.33 per month for the rest of the year.

For these reasons, your case is RETURNED to the Marketplace to redetermine your family contribution for your children's CHP monthly premium as of July 2015, using a four-person household and an income of \$4,193.33 per month prospectively from July 1, 2015 to December 31, 2015, based on your projected

earned income of \$25,159.98 (\$4,193.33. x 6 months) for the remainder of the year.

Decision

The May 18, 2015 notice of eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your family contribution for your children's CHP monthly premium in June 2015, using a four-person household and a monthly income of \$4,193.33 prospectively from July 1, 2015 to December 31, 2015, which is projected to be \$25,159.98 for the remainder of the year.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

Your two children remained eligible for and are enrolled in a CHP plan with a monthly premium of \$30.00 per child.

This decision does not determine your monthly premium obligation for your children's CHP plan as of July 1, 2015 and going forward.

However, your case is RETURNED to the Marketplace to redetermine your family contribution for your children's CHP monthly premium as of July 1, 2015, using a four-person household and a monthly income of \$4,193.33 prospectively from July 1, 2015 to December 31, 2015, which is projected to be \$25,159.98 for the remainder of the year.

The Marketplace will issue a notice of eligibility redetermination.

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.

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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:
NY State of Health Appeals
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 18, 2015 notice of eligibility determination notice is **AFFIRMED**.

Your two children remained eligible for and are enrolled in a CHP plan with a monthly premium of \$30.00 per child.

This decision does not determine your monthly premium obligation for your children's CHP plan as of July 1, 2015 and going forward.

Your case is **RETURNED** to the Marketplace to redetermine your family contribution for your children's CHP monthly premium as of July 1, 2015, using a four-person household and a monthly income of \$4,193.33 prospectively from July 1, 2015 to December 31, 2015, which is projected to be \$25,159.98 for the remainder of the year.

The Marketplace will issue a notice of eligibility redetermination.

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A Copy of this Decision Has Been Provided To:

