



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

## Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003805

[REDACTED]

Dear [REDACTED]

On September 15, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 25, 2015 eligibility determination 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 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: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003805



## Issue

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

Did the Marketplace properly determine that your child was eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective August 1, 2015?

## Procedural History

On June 24, 2015, the Marketplace received your daughter's application for health insurance.

On June 25, 2015, the Marketplace issued an eligibility determination notice stating that your daughter was eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective August 1, 2015. The notice further stated that she was not eligible to receive premium assistance for Child Health Plus because your household income was over the Child Health Plus income standard.

On July 8, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as your daughter was not eligible for a reduced cost Child Health Plus plan.

On September 15, 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.

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## **Findings of Fact**

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

- 1) You testified that you expect to file your 2015 taxes with a tax filing status of Head of Household. You will claim your daughter as a dependent on that tax return.
- 2) The application that was submitted on June 24, 2015 listed an annual household income of \$64,999.92. You testified that this amount was correct.
- 3) At the time of the June 24, 2015 application, your daughter was four years old.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
- 5) You testified that you intend to take a student loan interest deduction of approximately \$593.87 on your 2015 tax return.
- 6) You testified that, prior to the Marketplace, your daughter had Child Health Plus directly through a health plan and that health plan deducted the amount you pay for child care from your income when determining the amount of Child Health Plus premium you were responsible for. You believe the Marketplace should also consider the amount of money you pay in child care when calculating your daughter's premium assistance eligibility.

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.

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 \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see *also* 26 USC § 62 (17)).

## **Legal Analysis**

The only issue under review is whether the Marketplace properly determined that your child was eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective August 1, 2015.

According to the record, you expect to file as Head of Household on your 2015 income tax return and claim your daughter as a dependent. Therefore, your daughter is in a two-person household.

On your June 24, 2015 application, you attested to an expected household income of \$64,999.92. The application also stated that your daughter is four years old. The Marketplace relied upon this information.

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

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of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$64,999.92 is 408.03% of the 2015 FPL the Marketplace properly found your child to be eligible for a full price Child Health Plus plan.

Therefore, the June 25, 2015 eligibility determination stating your daughter was eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan is AFFIRMED.

At the hearing, you testified that, prior to the Marketplace, your child had Child Health Plus directly through a health plan and that health plan deducted the amount you pay for child care from your income when determining the amount of Child Health Plus premium you were responsible for. You believe the Marketplace should also consider the amount of money you pay in child care when calculating your daughter's premium assistance eligibility.

The Marketplace uses a Modified Adjusted Gross Income (MAGI) standard, which is determined by the Internal Revenue Service (IRS), when determining a person's eligibility for insurance affordability programs. Since the IRS rules do not allow child care expenses to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the Marketplace computes your modified adjusted gross income for Child Health Plus purposes.

However, at the hearing you testified to taking a student loan interest deduction that the IRS does allow. You testified that you expect to claim a student loan interest deduction in the amount of \$593.87. This amounts would result in a MAGI of \$64,406.05. Since \$64,406.05 is 404.31% of the 2015 FPL, your child would still only be eligible for a full price Child Health Plus plan.

## **Decision**

The June 25, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** October 27, 2015

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

Your daughter remains eligible for a full price Child Health Plus plan or Child-Only qualified health plan.

Your daughter is not eligible for a subsidy to help cover the cost of her Child Health Plus plan.

## **If You Disagree with this Decision (Appeal Rights)**

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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):**

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- 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 June 25, 2015 eligibility determination notice is **AFFIRMED**.

Your daughter remains eligible for a full price Child Health Plus plan or Child-Only qualified health plan.

Your daughter is not eligible for a subsidy to help cover the cost of her Child Health Plus plan.

### **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

