



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

## Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003436

[REDACTED]

Dear [REDACTED],

On September 14, 2015, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 2, 2015 eligibility determination and enrollment confirmation notices regarding your newborn child.

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: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003436



## Issue

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

Did the Marketplace properly determine that your child's coverage through Child Health Plus began on July 1, 2015, and not as of his date of birth?

## Procedural History

On June 1, 2015, the Marketplace received your updated application for health insurance, in which you added your newborn child as a household member.

On June 2, 2015, the Marketplace issued an eligibility determination notice stating that your newborn child was conditionally eligible to enroll in Child Health Plus (CHP) with a \$15.00 monthly premium, effective July 1, 2015.

That same day, the Marketplace issued a notice confirming your newborn child's CHP plan selection. The notice confirmed that the total monthly premium was \$15.00 and his coverage could start as early as July 1, 2015, if you pay your first month premium.

On June 11, 2015, you spoke to the Marketplace's Account Review Unit and appealed the June 2, 2015 eligibility determination and enrollment confirmation insofar as your newborn child's coverage under his CHP plan began on July 1, 2015, and not as of his date of birth.

On September 14, 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 support the following findings of fact:

- 1) You testified, and the record reflects, that you are appealing only your newborn child's eligibility and enrollment start date for Child Health Plus (CHP).
- 2) You testified that you contacted the Marketplace before your child was born and asked how you should add him to his siblings' CHP plan. You further testified that you were told to just call back after he is born so he can be added and, at the same time, ask for his coverage to be made retroactive to his date of birth.
- 3) You testified that your child was born on [REDACTED]
- 4) You testified and your Marketplace account reflects that, on June 1, 2015, you contacted the Marketplace and added your newborn child as a household member to your account and enrolled him in the same CHP plan as his siblings.
- 5) You testified that you requested that his CHP coverage be made effective as of his date of birth and were told that it would be "no problem" to do so.
- 6) You testified that you took your newborn child to his pediatrician for his newborn visits in June 2015 only to learn he had no coverage through the CHP plan when, based on previous telephone conversations you had with Marketplace representatives, you believed that he did.
- 7) You testified that this prompted you to contact the Marketplace again, at which time you were told your newborn's coverage could not be made retroactive to his date of birth, and his effective date of coverage was July 1, 2015.
- 8) You testified that you have third-party health insurance through your spouse's employer, but did not know that your newborn child's hospitalization for his birth was covered or that he could become covered under that plan if you notified that plan within 30 days of his birth, so you did not inform your health plan of his birth.
- 9) Your spouse testified that he did not notify his employer-sponsored plan to add the newborn to your health coverage during June 2015 because it was "cost-prohibitive" to do so.
- 10) You testified that your newborn's coverage did become effective July 1, 2015 and you have used it without incident, but you still want your newborn child's coverage to be made effective as of his date of birth.

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

## **Applicable Law and Regulations**

### Newborn Coverage – Third-Party Health Insurance

In general, coverage of the mother and newborn is required for at least 48 hours after a vaginal birth and at least 96 hours after a caesarean birth (New York Insurance Law § 4303).

To add a newborn child as a dependent to a health plan, the parent is required to enroll the newborn child within 30 days after he or she is born so that coverage becomes effective from the moment of birth (NYS Insurance Law § 4305).

### Child Health Plus

Child Health Plus 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. Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

In New York State, Child Health Plus benefits are furnished “By the first day of the month after the application is received if prior to the 15th of the month or the first day after the subsequent month if after the 15th of the month” (Selection made on Form CS 18, Separate Child Health Insurance Program Non-Financial Eligibility – Citizenship. Sections: 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that your newborn child’s enrollment in a Child Health Plus (CHP) plan was effective as of July 1, 2015, and not as of [REDACTED] his date of birth.

In general, New York insurance law provides for 48 hours of coverage for the mother and newborn child for a normal birth and 96 hours of coverage for a caesarean birth under the parent’s or mother’s health plan. In order for the newborn to then be added to the parent’s health plan, the plan must be notified within 30 days of the birth. Here, your spouse testified that you did not notify his employer-sponsored insurance of your child’s birth because it was cost-prohibitive and you intended to have him covered under the same CHP Plus plan in which his siblings were already enrolled.

To this end, you testified that you called the Marketplace before your child was born to see if he could be added to his siblings' CHP plan as of his date of birth. You testified that you were told by the Marketplace that you had to wait until your child was born in order to enroll him in coverage as of his date of birth. On [REDACTED], your son was born.

Your Marketplace account was updated on June 1, 2015 and your newborn child was found eligible for CHP and enrolled into a CHP Plus plan, effective July 1, 2015. The Marketplace issued an enrollment confirmation notice dated June 2, 2015 that states your newborn child's coverage could begin as early as July 1, 2015, if you paid your first month's premiums. The record supports that you updated your Marketplace application on June 1, 2015, to add your newborn child as a household member and you credibly testified that you did so expecting his coverage would take effect as of his date of birth. Instead, as you testified and the record reflects, his coverage became effective July 1, 2015, and the medical bills related to his newborn care as of [REDACTED] and throughout June 2015, were not covered.

Generally, in New York State, if an application for insurance coverage is received through the Marketplace after the 15th of the month, health plan benefits are provided on "the first day of the subsequent month." If an application is received before the 15th of the month, benefits are provided on the first day of the next month. This rule applies to CHP plans.

In New York State, consistent with federal regulation, if an application for CHP insurance coverage is received before the 15<sup>th</sup> of the month, benefits are provided on the first day of the next month.

On June 2, 2015, based on your June 1, 2015 updated application, the Marketplace issued an eligibility determination notice stating that your newborn was eligible to enroll in a CHP plan with a \$15.00 monthly premium, effective July 1, 2015.

Also on June 2, 2015, the Marketplace issued a notice confirming your newborn child's CHP selection.

Since your newborn child's application was filed and his enrollment selection confirmed before the 15<sup>th</sup> of June 2015, his CHP plan properly took effect on July 1, 2015.

## **Decision**

The June 2, 2015 eligibility redetermination and enrollment notices regarding your newborn child are AFFIRMED.

**Effective Date of this Decision:** December 10, 2015

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

This decision does not change your newborn child's eligibility.

The effective date of your child's CHP plan is July 1, 2015.

## **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
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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The June 2, 2015 eligibility redetermination and enrollment notices regarding your newborn child are **AFFIRMED**.

This decision does not change your newborn child's eligibility.

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The effective date of your child's CHP plan is July 1, 2015.

## **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:**

