



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: AP000000003755



Dear [REDACTED],

On September 25, 2015, you appeared by telephone at a hearing on the NY State of Health's determination to not enroll your newborn child in a qualified health plan with an effective date of April 1, 2015.

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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NY State of Health Number: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace fail to properly enroll your newborn child in a qualified health effective April 1, 2015?

Procedural History

On December 12, 2014 the Marketplace issued an enrollment notice confirming that you were enrolled in CareConnect EPO Gold NS INN Pediatric Dental Dep 25 Acupuncture Low Rx and coverage could start as early as January 1, 2015.

On April 9, 2015, you updated your Marketplace application to include your newborn child.

On April 10, 2015 the Marketplace issued an eligibility determination notice that states that your newborn child is conditionally eligible to enroll through Child Health Plus with a \$15.00 premium per month effective May 1, 2015. The notice requested that you confirm your newborn child's eligibility by providing documentation regarding citizenship status and Social Security number by July 8, 2015.

On April 10, 2015 the Marketplace issued an enrollment notice confirming that your newborn child's UnitedHealthcare Community Plan coverage could start as early as May 1, 2015.

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On May 5, 2015 your Marketplace account was updated.

On May 6, 2015 the Marketplace issued an eligibility determination notice that states that your newborn child is eligible to enroll through Child Health Plus with a \$15.00 premium per month effective June 1, 2015.

On July 2, 2015 you spoke to the Marketplace Account Review Unit and requested an appeal insofar as newborn child being added to your qualified health plan for April 2015.

On July 3, 2015 the Marketplace issued a notice stating that you requested a telephone hearing to review "Newborn being Added to QHP for the Month of Birth."

On September 25, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, the appellant gave the Hearing Officer permission to request and listen to the recorded conversations between the appellant and the Marketplace's Customer Service. The record is now complete and closed.

Findings of Fact

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

- 1) According to your Marketplace account, you have been enrolled in CareConnect EPO Gold NS INN Pediatric Dental Dep 25 Acupuncture Low Rx since January 1, 2015.
- 2) Your newborn child was born on [REDACTED].
- 3) According to your Marketplace account, on April 9, 2015 you updated your Marketplace account and added your newborn child to your application.
- 4) On April 9, 2015 you contacted the Marketplace's Customer Service and expressly stated that you wanted to add your newborn child to your qualified health plan for the month of April 2015.
- 5) On April 9, 2015 the Marketplace Customer Service representative expressly stated that your newborn child would be covered under your qualified health for the month of April 2015 and the Child Health Plus health plan would begin on May 1, 2015.
- 6) On April 9, 2015 the Marketplace issued an enrollment notice confirming that your newborn child was enrolled in Child Health Plus and coverage could start as early as May 1, 2015.

- 7) You testified that in May 2015 you began to receive medical bills for your newborn child for medical services received in April 2015.
- 8) You testified that you are seeking to have your newborn child's coverage through your qualified health plan to be effective for the month of April 2015.

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

Applicable Law and Regulations

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)). An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Special Enrollment Period- Newborn Child:

The Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another plan. One circumstance under which a special enrollment can be authorized is when the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care ((45 CFR § 155.420(d)(2)(i)).

Special Enrollment Effective Date:

In the case of birth, adoption, placement for adoption, or placement in foster care of a child for Marketplace Exchanges. The Marketplace must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first of the month following the date of birth, adoption, placement for adoption, or placement in foster care (45 CFR §155.420(b)(2). The Marketplace has elected to make the effective date the first day of the month of birth.

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If the Exchange permits the qualified individual or enrollee to elect a coverage effective date of either the first of the month following the date of birth, adoption, placement for adoption or placement in foster care, the Exchange must ensure coverage is effective on the date duly selected by the qualified individual or enrollee (45 CFR § 155.420(b)(2)).

Legal Analysis

The record does not contain a notice of eligibility determination or redetermination regarding the issue of whether or not your newborn child is eligible to enroll in a qualified health plan effective April 1, 2015. It does, however, contain a July 3, 2015 notice in which the Marketplace acknowledges receipt of an appeal request and identifies the issue on appeal as “Newborn being Added to QHP for the Month of Birth.”

The lack of a notice of eligibility determination on the issue of QHP enrollment does not prevent the Appeals Unit from reaching the merits of the case. Under 45 CFR § 155.505(b), you are as entitled to appeal Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. The text of the July 3, 2015 notice, which acknowledges the appeal on the issue of your newborn’s QHP enrollment, permits an inference that the Marketplace did deny your request that your newborn child be enrolled in a QHP for April 2015. Since Appeal Unit review of Marketplace determinations is performed on a *de novo* basis, no deference would have been granted to the notice of eligibility determination had it been issued.

The Marketplace must provide special enrollment periods during which qualified individuals may enroll in qualified health plans and enrollees may change qualified health plans. The Marketplace must allow for a special enrollment period when the qualified individual gains a dependent through birth.

According to the record, on April 9, 2015 you contacted the Marketplace’s Customer Service and expressly stated that you wanted to add your newborn child to your qualified health plan for the month of April 2015. At the conclusion of the conversation the Marketplace Customer Service representative expressly stated that your newborn child would be covered under your qualified health for the month of April 2015 and the Child Health Plus health plan would begin on May 1, 2015.

When an enrollee gains a dependent through birth, the Marketplace must ensure that the effective date is selected by the qualified individual or enrollee.

The record shows that you contacted the Marketplace on April 9, 2015 with the purpose to enroll your newborn child in your QHP effective April 2015. Therefore, you fulfilled your notice obligation as of April 9, 2015 when you requested that your newborn child

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be added to your QHP. As such, her coverage should have been made effective from the date of her birth or the first of that month since the Marketplace applies the first of the month of birth as the start date of coverage. Therefore, this case is REMANDED to the Marketplace to enroll your newborn child in CareConnect EPO Gold NS INN Pediatric Dental Dep 25 Acupuncture Low Rx from April 1, 2015 until April 30, 2015. Her start date in her CHP plan remains May 1, 2015.

You will be responsible for any premium due for your newborn's coverage in April 2015 and will be billed directly by the insurance carrier.

Decision

This case is REMANDED to the Marketplace to enroll your newborn child in CareConnect EPO Gold NS INN Pediatric Dental Dep 25 Acupuncture Low Rx from April 1, 2015 until April 30, 2015.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

Your newborn child will be enrolled in CareConnect EPO Gold NS INN Pediatric Dental Dep 25 Acupuncture Low Rx from April 1, 2015 until April 30, 2015.

Your newborn will be enrolled in Child Health Plus effective May 1, 2015.

You will be responsible for any premium due for your newborn child's coverage in April 2015 and will be billed directly by the insurance carrier.

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

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

This case is REMANDED to the Marketplace to enroll your newborn child in CareConnect EPO Gold NS INN Pediatric Dental Dep 25 Acupuncture Low Rx from April 1, 2015 until April 30, 2015.

Your newborn child will be enrolled in CareConnect EPO Gold NS INN Pediatric Dental Dep 25 Acupuncture Low Rx from April 1, 2015 until April 30, 2015.

Your newborn will be enrolled in Child Health Plus effective May 1, 2015.

You will be responsible for any premium due for your newborn child's coverage in April 2015 and will be billed directly by the insurance carrier.

Legal Authority

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A Copy of this Decision Has Been Provided To:

