



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: AP000000004343

[REDACTED]

Dear [REDACTED],

On November 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 28, 2015 eligibility redetermination and enrollment notices relative to 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).

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Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004343

[REDACTED]

Issue

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

Did the Marketplace properly determine that your newborn child was not enrolled in your qualified health plan as of his date of birth?

Procedural History

On December 12, 2014, the Marketplace issued an enrollment notice confirming your bronze-level qualified health plan (QHP) selection for you and your spouse, with a monthly premium responsibility of \$346.29 after your advance premium tax credit was applied.

According to your Marketplace account, your health plan coverage began January 1, 2015.

On April 28, 2015, the Marketplace issued a notice of eligibility redetermination that, based on your updated household size, you and your spouse were eligible to receive up to \$430.00 per month in advance premium tax credits (APTC) and were eligible for cost sharing reductions, effective May 1, 2015. That notice also stated that your newborn child was conditionally eligible to enroll through Child Health Plus with a \$15.00 per month premium, effective June 1, 2015, and you needed to submit proof of his citizenship status and his Social Security Number before July 26, 2015.

That same day, the Marketplace issued an enrollment notice confirming (1) your and your spouse's enrollment in a bronze-level QHP, which could start as early as January

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1, 2015; and (2) your newborn child's enrollment in a CHP plan, with coverage that could start as of June 1, 2015 after you paid the first month's premium.

Thereafter, the Marketplace issued other eligibility redetermination and enrollment notices that are not pertinent to this appeal.

On August 17, 2015, the Marketplace prepared a preliminary eligibility redetermination and found in part that your child remained eligible for Medicaid effective August 1, 2015.

That same day, you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as you were "provided misinformation with regards to their child's eligibility. [You] indicated that [you] were informed that the child would automatically be added to the mother's coverage for the first 60 days. The child was enrolled into CHP from 06/01/2015 – 7/31/2015 and is enrolled into Medicaid starting 08/01/2015. Appellant is requesting that the child be covered under her QHP from DOB until 06/01/2015."

On November 12, 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 15 days to allow you the opportunity to submit supporting documentation.

On November 25, 2015, the Appeals Unit received a five-page fax from you, consisting of a cover page and four pages of bank withdrawal statements. That same day, this five-page fax was made part of the record as "Appellant's Exhibit A" and the record was closed.

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 health coverage; specifically, that he was not enrolled under your QHP as of his date of birth, which was [REDACTED].
- 2) You testified that you contacted your health plan and the Marketplace to inform both entities that you were about to give birth and wanted to know how to go about adding your newborn to your existing coverage through your QHP. You testified that your QHP referred you to and deferred to the Marketplace.
- 3) You testified that, on April 27, 2015, you again contacted the Marketplace after your child was born because the hospital expressed concern about his coverage under your QHP. You testified that you spoke with [REDACTED] at the Marketplace, who told you that your newborn was on your QHP for the first 60 days and that this had already been documented. You testified that you requested that she

double-check and she again confirmed that your newborn was covered under your QHP as of his birth.

- 4) According to your Marketplace account, your newborn child was added as a household member to your Marketplace application on April 27, 2015, and it was clearly indicated in the affirmative (“Yes”) on that application that he needed health insurance.
- 5) You testified that your monthly premium statement went up by \$6.00 per month from \$346.29 to \$352.29 during May 2015, which you testified your QHP had indicated was the additional premium to add your newborn child to your health plan that month.
- 6) You testified and provided documentary proof that you made a premium payment that month in the amount of \$352.29 via the telephone, which payment was recorded on your bank withdrawal statement for that month (Appellant’s Exhibit A, p. 4).
- 7) You testified that in May 2015, you received pediatric bills directly for your newborn’s care during April 2015 and May 2015.
- 8) You testified that this prompted you to contact your QHP regarding your child’s enrollment status and were informed that “only the first 48 hours is covered unless you had a C-section” and he was not added to your QHP as of his birth.
- 9) You testified that on several dates during June 2015, you spoke with Marketplace representatives and supervisors and were told your child’s CHP coverage would be made effective June 1, 2015, which according to your Marketplace account was effectuated.
- 10) According to your Marketplace account, on June 17, 2015, your child’s Social Security Number was added to your application and your and your spouse’s United States citizenship and his United States citizenship were confirmed through federal hub sources.
- 11) You testified that you want your newborn child’s coverage under your QHP to be effective as of his date of birth until June 1, 2015, when his CHP plan became effective.

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).

Enrollment Periods - Generally

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 28, 2015 (45 CFR §155.410(e)).

After each open enrollment period ends, 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)).

Newborn Child - Effective Date of Coverage

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

In addition, there are special effective dates 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); NYS Insurance Law § 4305). The Marketplace has elected to make the effective date the first day of the month of birth.

Legal Analysis

Initially, we note that your child was born on [REDACTED], which date is outside the 2015 open enrollment period that ended February 28, 2015. Since your newborn child's enrollment occurred on April 27, 2015, outside the open enrollment, he would have to qualify for a special enrollment period to be added to your QHP as of his date of birth.

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As noted above, there is a special rule regarding newborns, who are considered qualified individuals for a special enrollment period as of their date of birth. The Marketplace has elected to make the first day of the month of the child's birth as the effective date of their coverage and must ensure that coverage is made effective as of that date, provided a request is made within 60 days of the child's birth.

The record reflects that you followed the necessary steps and promptly reported your newborn child's birth both beforehand and again on April 27, 2015 after his birth, the latter of which was well within 60 days of the triggering event of his birth on [REDACTED]. Your Marketplace account also reflects that as of that date he was added as a household member to your Marketplace application and it was indicated that he needed health insurance. Further, you credibly testified that you requested and a Marketplace representative confirmed for you twice that same day that your newborn child was covered under your QHP then in place.

However, there is no notice in your Marketplace account documenting your child's eligibility for or enrollment in your QHP as of his date of birth.

Although the Marketplace did not issue timely notices in this regard, the Appeals Unit is not prevented from reaching the merits of your case on your August 17, 2015 appeal request. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, since the Appeals Unit reviews of Marketplace determinations on a de novo basis, no deference would have been granted to that written determination had it been issued before you filed your appeal.

According to the credible evinced of record, you fulfilled your notice obligations as of April 27, 2015 when you requested that your newborn child be added to your QHP. As such, his coverage should have been made effective from the date of his 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, the April 28, 2015 enrollment notice containing the earliest start date of June 1, 2015 for your newborn child's enrollment is MODIFIED, in part, to state that his start date for coverage with Fidelis Care Bronze, your QHP at the time, is April 1, 2015. His start date in his CHP plan remains June 1, 2015.

You will be responsible for any premium due for your child's coverage for the months of April 2015 and May 2015, if you have not already paid the premiums for those months.

Decision

The April 28, 2015 enrollment confirmation notice is MODIFIED, in part, to state that your child (Marketplace ID: [REDACTED]) is enrolled in Fidelis Care Bronze, your QHP at the time, effective April 1, 2015.

This Decision does not affect any subsequent determinations made by the Marketplace.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

Your newborn child's enrollment start date in Fidelis Care Bronze, your QHP at the time, is made effective April 1, 2015 in accordance with the law.

You will be responsible for any premium due for your child's coverage for the months of April 2015 and May 2015, if you have not already paid the premiums for those months.

The effective start date of your child's CHP plan remains June 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
- By mail at:

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- By fax: 1-855-900-5557

Summary

The April 28, 2015 enrollment confirmation notice is MODIFIED, in part, to state that your child (Marketplace ID: [REDACTED]) is enrolled in Fidelis Care Bronze, your QHP at the time, effective April 1, 2015.

This Decision does not affect any subsequent determinations made by the Marketplace.

Your newborn child's enrollment start date in Fidelis Care Bronze, your QHP at the time, is made effective April 1, 2015 in accordance with the law.

You will be responsible for any premium due for your child's coverage for the months of April 2015 and May 2015, if you have not already paid the premiums for those months.

The effective start date of your child's CHP plan remains June 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:

