



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

Notice of Decision

Decision Date: January 27, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004868

[REDACTED]

Dear [REDACTED],

On December 17, 2015, you appeared by telephone at a hearing on the NY State of Health's May 12, 2015 enrollment 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 and the NY State of Health number and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (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: January 27, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004868

[REDACTED]

Issues

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

Did the Marketplace properly determine that your newborn daughter's enrollment in a Child Health Plus plan was not effective as of [REDACTED], her date of birth?

Procedural History

On May 4, 2015, an application for health insurance was submitted to the Marketplace on behalf of your newborn daughter.

On May 5, 2015, the Marketplace issued an eligibility determination stating that your newborn child was conditionally eligible to purchase a qualified health plan at full cost, effective [REDACTED].

On May 11, 2015, your application was modified and, on May 12, 2015, the Marketplace issued an eligibility determination stating that your newborn child was newly conditionally eligible to enroll in Child Health Plus with a \$30.00 per month premium, effective June 1, 2015.

Also on May 12, 2015, the Marketplace issued an enrollment confirmation notice stating that your newborn child's enrollment in her Child Health Plus plan would be effective June 1, 2015.

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On October 5, 2015, you spoke with the Marketplace's Account Review Unit and appealed the start date of coverage for your newborn child because she needed coverage as of her date of birth, on [REDACTED].

On December 17, 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.

Findings of Fact

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

- 1) You testified that you contacted the Marketplace prior to the birth of your child to determine her prospective eligibility for health insurance, and to confirm that her coverage would be effective as of her date of birth.
- 2) You testified, and your Marketplace application confirms, that your daughter was born on [REDACTED].
- 3) The record reflects that your Marketplace account was created on May 4, 2015 and an application was submitted on your daughter's behalf that day.
- 4) The record reflects that your application was updated on May 11, 2015, and your daughter was enrolled into a Child Health Plus plan on that day.
- 5) The record reflects that your child's coverage in her Child Health Plus plan began, effective June 1, 2015.
- 6) You testified that when your daughter was enrolled into a Child Health Plus plan, you spoke with a Marketplace representative who informed you that your child's coverage would be made retroactively effective to [REDACTED], the day your child was born. You further testified that the representative confirmed that the bills incurred as of your child's date of birth would be covered by the health plan.
- 7) You testified that, in reliance upon the Marketplace representative's statements, you did not enroll your child in your employer-sponsored health plan. You further testified that once you were aware that your daughter's Child Health Plus plan was effective June 1, 2015, the time period in which to enroll your daughter into your employer-sponsored health plan had expired.
- 8) You testified that your child has incurred numerous medical bills associated with her birth.

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

Applicable Law and Regulations

Child Health Plus Effective Date - General

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).

The State of New York has provided that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second subsequent month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Although so-called "qualified health plans" are required to provide coverage as of date of birth (45 CFR § 155.420(b)(2)), as are Medicaid plans (42 CFR § 435.117(a), N.Y. Soc. Serv. Law § 366-g(3)), Medicaid Managed Care Model Contract (Appendix H-3(a), effective 3/1/2014 – 2/28/2019), until recently there was no similar requirement for Child Health Plus plans.

The law that was in effect until the end of 2015 created a gap between the date of birth and the beginning date of coverage through Child Health Plus, through no fault of the enrollee (see Sponsor Memo, 2015 NY Senate Bill S4745B (April 15, 2015)).

On December 22, 2015 the Governor of New York signed into law an amendment to NY Public Health Law § 2511(1)(i) stating that in the case of a newborn enrolled into Child Health Plus, the date of enrollment shall be the date of the child's birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth. However, this amendment did not take effect until January 1, 2016 (S4745B, Chap 577, Laws of New York, 2015).

Legal Analysis

The issue currently under review is whether the Marketplace properly determined that your newborn child's enrollment in a Child Health Plus plan was not effective as of [REDACTED], her date of birth.

You testified that you contacted the Marketplace prior to the birth of your child to inquire about your daughter's prospective eligibility for health insurance. You further testified that you were informed that your child's health insurance coverage would be retroactively made effective to her date of birth.

The record reflects that your newborn child was added to your Marketplace account on May 4, 2015 and, on May 11, 2015, was enrolled into a Child Health Plus plan. This plan was effective June 1, 2015.

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 Qualified Health Plans, Medicaid Managed Care plans, and Child Health Plus plans.

However, special exceptions have been made for newborns seeking coverage through Medicaid or Qualified Health Plans as of the newborn's date of birth. In both cases, newborns are permitted to enroll in coverage, which is guaranteed under the law to begin as of their date of birth. On December 22, 2015 legislation was passed that granted newborns seeking enrollment in Child Health Plus the ability to also have coverage effective as of their date of birth. However, this amendment only became effective on January 1, 2016 and as of the date of this decision the amendment cannot be applied retroactively to cover the birth of your child.

Therefore, your newborn was not eligible for enrollment in Child Health Plus as of her date of birth, and the May 12, 2015 enrollment confirmation notice is AFFIRMED.

Decision

The May 12, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: January 27, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

Your child's enrollment in her Child Health Plus plan is effective 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 12, 2015 enrollment confirmation notice is **AFFIRMED**.

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This decision does not change your child's eligibility.

Your child's enrollment in her Child Health Plus plan is effective June 1, 2015.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

