



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

## Notice of Decision

Decision Date: April 11, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005385

[REDACTED]

Dear [REDACTED]

On February 16, 2016, you appeared by telephone at a hearing on the NY State of Health's July 2, 2015 and August 7, 2015 eligibility determinations.

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 Account ID 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.

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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005385



## Issue

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 could be effective no earlier than August 1, 2015?

## Procedural History

Several applications were submitted for your family in December 2014. However, you and your spouse never enrolled in any health plan.

On July 1, 2015, an application for health insurance was submitted to the Marketplace on behalf of your newborn daughter.

On July 2, 2015, the Marketplace issued an eligibility determination stating that your newborn child was conditionally eligible to enroll in Child Health Plus (CHP) with a \$30.00 per month premium, effective August 1, 2015.

On July 3, 2015, the Marketplace issued an enrollment confirmation notice stating that your newborn child's enrollment in her Child Health Plus plan would be effective August 1, 2015.

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On August 6, 2015, the Marketplace received a revised application for health insurance for your newborn daughter.

On August 7, 2015, the Marketplace issued an eligibility redetermination notice again stating that your newborn child was eligible to enroll in CHP with a \$30.00 per month premium, effective September 1, 2015.

On August 8, 2015, the Marketplace issued an enrollment confirmation notice stating that your newborn child's enrollment in her Child Health Plus plan would be effective August 1, 2015.

On December 1, 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 June 25, 2015.

On February 16, 2016, 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. You further testified that a Marketplace representative stated that you would be issued an "unborn card" to ensure that your newborn daughter's coverage would begin on the day of her birth; however, you never received such a card.
- 2) The record reflects that neither you nor your spouse were ever covered by a health plan through the Marketplace.
- 3) You testified, and your Marketplace application confirms, that your daughter was born on [REDACTED]
- 4) The record reflects that you first submitted an application that included your newborn daughter on July 1, 2015, and your daughter was enrolled into a Child Health Plus plan on July 2, 2015 to become effective August 1, 2015.
- 5) You testified that you first became aware that your newborn daughter did not have insurance coverage when hospital staff informed you on July 1, 2015.

- 6) You testified that your child has incurred approximately \$12,000.00 in medical bills associated with her birth and 5 day stay at the hospital's NICU.

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 after the application is received, it 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 generally so-called "qualified health plans" and Medicaid plans are required to provide coverage as of date of birth (45 CFR § 155.420(b)(2), 42 CFR § 435.117(a), NY Social Services 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 effective until the end of 2015 created a gap between the date of birth and the beginning date of coverage through Child Health Plus (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 could not be effective until August 1, 2016, instead of [REDACTED] her date of birth.

You testified that you contacted the Marketplace prior to the birth of your child to inquire about your unborn daughter's prospective eligibility for health insurance. You further testified that you were informed by a Marketplace representative that your child would be issued an "unborn card" to ensure her health insurance coverage would begin as of her birth.

The record reflects that your newborn child was added to your Marketplace account on July 1, 2015 and, on July 2, 2015, was enrolled into a Child Health Plus plan. This plan was effective August 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.

Certain 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, effective 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. Any information purportedly given to you by a Marketplace representative is an insufficient basis for backdating your daughter's coverage.

Therefore, your newborn daughter was not eligible for enrollment in Child Health Plus as of her date of birth, and the July 2, 2015 and August 7, 2015 eligibility determinations are AFFIRMED.

## Decision

The July 2, 2015 and August 7, 2015 eligibility determinations are AFFIRMED.

**Effective Date of this Decision:** April 11, 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 August 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 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 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
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## **Summary**

The July 2, 2015 and August 7, 2015 eligibility determinations are AFFIRMED.

This decision does not change your child's eligibility.

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

## **Legal Authority**

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



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

