



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

Notice of Decision

Decision Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006441

[REDACTED]

Dear [REDACTED]

On May 23, 2016, you and your broker appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 2016 eligibility determination and enrollment confirmation notice.

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 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) 45 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 Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006441

[REDACTED]

Issue

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

Did NY State of Health properly determine that your child's enrollment in his Child Health Plus plan was effective March 1, 2016, and not the date of his birth?

Procedural History

On January 22, 2016, your newborn child was added to your NY State of Health (NYSOH) account and an application was submitted on his behalf.

On January 23, 2016, NYSOH issued an eligibility determination, based on your January 22, 2016 application, stating that your child was conditionally eligible to enroll in Child Health Plus with a \$60.00 per month premium, effective March 1, 2016.

On January 23, 2016, NYSOH issued an enrollment confirmation notice stating your child was enrolled in a Child Health Plus plan, effective March 1, 2016.

On January 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's enrollment in a Child Health Plus plan insofar as it did not begin effective January 1, 2016.

On May 23, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, your broker appeared to offer

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testimony on your behalf. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record support the following findings of fact:

- 1) You testified that you are appealing only your son's eligibility.
- 2) You testified, and the record reflects, that your child was born on [REDACTED]
[REDACTED]
- 3) You submitted an application to NYSOH for financial assistance on behalf of your child on January 22, 2016.
- 4) You testified, and the record reflects, that you enrolled your child into a Child Health Plus plan on January 22, 2016.
- 5) You testified that you want your child's Child Health Plus plan to begin on January 1, 2016 because you incurred medical costs during the month of February for your child.
- 6) Your broker testified that your spouse was covered during the birth by her employer sponsored insurance plan and as such your son was covered during the day of birth and up to 48 hours after.

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 of 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).

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Although so-called “qualified health plans” are generally required to provide coverage as of date of birth (45 CFR § 155.420(b)(2)), as are Medicaid plans (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, 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. This amendment took effect as of January 1, 2016 (S4745B, Chap 577, Laws of New York, 2015).

Legal Analysis

The issue under review is whether NYSOH properly determined that your newborn child’s enrollment in a Child Health Plus plan was not effective as of [REDACTED] his date of birth.

Your child was born on [REDACTED] and on January 22, 2016 your child was added to your NYSOH account. He was subsequently found eligible for enrollment in Child Health Plus and he was enrolled in a Child Health Plus plan on January 22, 2016.

In New York State, if an application for insurance coverage is received through NYSOH by the 15th of the month, benefits are provided on the first day of the next month. If an application is received after the 15th of the month, coverage begins the first day of the second following month.

Special exceptions have been made for some 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. This amendment became effective on January 1, 2016.

Your broker testified that although your spouse was covered under her employer sponsored insurance when your son was born, it only covered the immediate 48

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hour period after his birth. You testified that you want your child's own Child Health Plus plan to begin on January 1, 2016 because you incurred medical costs during the month of February for your child. You testified that you incurred medical costs in the amount of \$800.00 because of the gap in coverage your child experienced.

The new amendment for newborn Child Health Plus applicants took effect as of January 1, 2016. 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. Because your application and enrollment was made within 60 days after the birth of your child on January 22, 2016, and your child was born [REDACTED], he is eligible for an earlier enrollment date.

Therefore, the January 23, 2016 eligibility determination, and enrollment confirmation notice stating that your child's eligibility for and enrollment in his Child Health Plus plan was effective March 1, 2016 is MODIFIED to reflect that your son is eligible for and enrolled in Child Health Plus as of January 1, 2016.

Decision

The January 23, 2016, enrollment confirmation notice and eligibility determination notices are MODIFIED to reflect that your son is eligible for and enrolled in Child Health Plus as of January 1, 2016.

Your case is RETURNED to NYSOH to ensure your child's enrollment in his Child Health Plus plan is effective as of the date of his birth.

Effective Date of this Decision: June 21, 2016

How this Decision Affects Your Eligibility

The effective date of your child's Child Health Plus plan is January 1, 2016.

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

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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):

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 January 23, 2016, enrollment confirmation notice and eligibility determination notices are MODIFIED to reflect that your son is eligible for and enrolled in Child Health Plus as of January 1, 2016.

Your case is RETURNED to NYSOH to ensure your child's enrollment in his Child Health Plus plan is effective as of the date of his birth.

The effective date of your child's Child Health Plus plan is January 1, 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]