



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

## Notice of Decision

Decision Date: October 5, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007501

[REDACTED]

Dear [REDACTED],

On August 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 13, 2016 eligibility determination and January 27, 2016 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007501



## Issue

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

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

## Procedural History

On January 12, 2016, your newborn child was added to your NY State of Health (NYSOH) account, and an application was submitted on her behalf and she was enrolled into a Child Health Plus (CHP) plan.

On January 13, 2016, NYSOH issued an eligibility determination, based on your March 2, 2016 application, stating that your newborn child was conditionally eligible to enroll in CHP with a \$30.00 per month premium, effective February 1, 2016.

On January 27, 2016, NYSOH issued an enrollment confirmation notice stating your newborn child was enrolled in a CHP plan, effective February 1, 2016.

On February 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your newborn child's eligibility for, and enrollment in, a CHP plan, insofar as it did not begin January 1, 2016.

On August 8, 2016, you had a telephone hearing with a Hearing Officer from NYSOH'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 support the following findings of fact:

- 1) You testified that you are appealing the start date of your youngest child's CHP coverage, as you would like it to begin January 1, 2016.
- 2) The record reflects that your child was born on [REDACTED].
- 3) You submitted an application to NYSOH for your child on January 12, 2016.
- 4) You testified, and the record reflects, that you also enrolled your child into a CHP plan on January 12, 2016.
- 5) You testified that while you were pregnant you were trying to figure out how to get coverage for your newborn for the date she was born because you could not add her to your insurance plan.
- 6) You testified that you tried to add her to your NYSOH account before the delivery but the application would not allow you to.
- 7) You testified that the person that assisted you with your NYSOH application after the birth of your child, told you that a law had been passed that granted newborn's CHP coverage as the date of their birth. Two documents supporting this statement were uploaded to your NYSOH account.

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

CHP 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 CHP 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).

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 CHP 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 CHP, 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(2)(g) stating that in the case of a newborn enrolled into CHP, 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 (S04745B, Chap 577, Laws of New York, 2015).

However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your newborn child's enrollment in a CHP plan was not effective as of [REDACTED], her date of birth.

Your child was born on [REDACTED] and on January 12, 2016 your newborn child was added to your NYSOH account. She was subsequently found eligible for enrollment in CHP, and a plan was selected on January 12, 2016, with an enrollment start date of February 1, 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.

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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 CHP the ability to also have coverage effective as of their date of birth. This amendment went into effect on January 1, 2016. Subsequently, on April 8, 2016, an amendment was signed by the Governor which pushed the effective date back to January 1, 2017.

You testified that while you were pregnant you were trying to figure out how to get coverage for your newborn for the date she was born because you could not add her to your insurance plan and that you tried to add her to your NYSOH account before the delivery but the application would not allow you to. You further testified that the person that assisted you with your NYSOH application after the birth of your child, told you that a law had been passed that granted newborn's CHP coverage as the date of their birth. Two documents supporting this statement were uploaded to your NYSOH account.

The new amendment for newborn CHP applicants that went into effect on January 1, 2016 provided that, in the case of a newborn enrolled into CHP, the date of enrollment would 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 (S04745B, Chap 577, Laws of New York, 2015).

On April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

The law that was in effect on the date of your child's birth ( [REDACTED] ) and the date of your application (January 12, 2016) was S04745B, Chap 577, Laws of New York, 2015. This law specifically provided that, in the case of a newborn enrolled into CHP, the date of enrollment would 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 12, 2016, and your child was born [REDACTED], she is eligible for an earlier enrollment date.

Therefore, the January 13, 2016 eligibility determination and January 27, 2016 enrollment confirmation notices stating that your newborn child's eligibility for and enrollment in her CHP plan was effective February 1, 2016 are MODIFIED to reflect that your child is eligible for and enrolled in CHP as of January 1, 2016.

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## **Decision**

The January 13, 2016 eligibility determination and January 27, 2016 enrollment confirmation notices stating that your newborn child's eligibility for and enrollment in her CHP plan was effective February 1, 2016 are MODIFIED to reflect that your newborn child was eligible for and enrolled in CHP as of January 1, 2016.

Your case is RETURNED to NYSOH to ensure your child's enrollment in her CHP plan is effective as of the date of her birth.

**Effective Date of this Decision:** October 5, 2016

## **How this Decision Affects Your Eligibility**

The effective date of your newborn child's CHP 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 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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## **Summary**

The January 13, 2016 eligibility determination and January 27, 2016 enrollment confirmation notices stating that your newborn child's eligibility for and enrollment in her CHP plan was effective February 1, 2016 are MODIFIED to reflect that your newborn child was eligible for and enrolled in CHP as of January 1, 2016.

Your case is RETURNED to NYSOH to ensure your child's enrollment in her CHP plan is effective as of the date of her birth.

The effective date of your newborn child's CHP plan is January 1, 2016.

## **Legal Authority**

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



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

