



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

### Notice of Decision

Decision Date: October 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007613

[REDACTED]

Dear [REDACTED],

On August 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s February 26, 2016 notice of enrollment and March 3, 2016 eligibility determination 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) § 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

Decision Date: October 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007613



## Issue

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

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

## Procedural History

On February 25, 2016, NYSOH received a revised application in which you first included your newborn daughter, and attested to an annual household income of \$75,000.00.

On February 26, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 25, 2016 application. The notice stated that your newborn daughter was eligible for Medicaid, effective January 1, 2016. The notice also stated that this was "[b]ecause your household income of \$75,000.00 is at or below the allowable income limit of \$63,355.00."

On February 26, 2016, NYSOH issued a notice of enrollment confirming your selection of Empire Blue Cross Blue Shield (BCBS) as her Medicaid Managed Care (MMC) as of February 25, 2016. The notice also confirmed that your daughter's MMC coverage would begin effective April 1, 2016.

On February 27, 2016, NYSOH reviewed your February 25, 2016 application, and on February 28, 2016, NYSOH issued an eligibility redetermination notice. The notice stated that your newborn daughter was no longer eligible for

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Medicaid; however, her Medicaid coverage would continue until January 31, 2017.

On February 29, 2016, NYSOH issued a notice of enrollment confirming your selection of BCBS as her MMC as of February 28, 2016. The notice also confirmed that your daughter's MMC coverage would begin effective April 1, 2016.

On March 2, 2016, NYSOH again reviewed your February 25, 2016 application, and on March 3, 2016, a NYSOH representative took independent action to override your daughter's Medicaid eligibility based on continuous coverage.

Also on March 3, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the March 2, 2016 application. The notice stated that your newborn daughter was eligible to enroll in Child Health Plus (CHP) at a cost of \$30.00 per month, effective April 1, 2016.

Also on March 3, 2016, NYSOH issued a cancellation notice confirming that your MMC plan coverage with BCBS would end effective April 1, 2016.

Finally on March 3, 2016, NYSOH issued a notice of enrollment confirming your newborn daughter's enrollment in her CHP plan with BCBS, effective January 1, 2016.

On March 18, 2016, NYSOH received two revised applications; in the first you reported a lower annual household income of \$40,000.00, and in the second you reported \$75,000.00. In response to the second revision, NYSOH prepared a preliminary eligibility determination finding that your newborn daughter was eligible for Medicaid, effective January 1, 2016.

Also on March 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were seeking either CHP coverage with a start date of January 1, 2016, which coincides with the month your daughter was born, to cover out-of-pocket medical expenses.

On March 19, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the March 18, 2016 application. The notice stated that your newborn daughter remained eligible for Medicaid, effective January 1, 2016.

Also on March 19, 2016, NYSOH issued a cancellation notice confirming that your daughter's CHP plan coverage with BCBS would end effective April 1, 2016.

On March 22, 2016, NYSOH issued a notice of enrollment confirming your selection of BCBS as her MMC as of March 21, 2016. The notice also confirmed that your daughter's MMC coverage would begin effective May 1, 2016.

On July 28, 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 only your newborn daughter's eligibility.
- 2) You and your spouse were enrolled in a gold-level QHP issued by BCBS, effective January 1, 2016.
- 3) Your daughter was born on [REDACTED].
- 4) You submitted an application to NYSOH for financial assistance on behalf of your newborn daughter on February 25, 2016.
- 5) You testified, and the record reflects, that you enrolled your newborn daughter into a Child Health Plus plan on March 2, 2016.
- 6) You testified that it was your belief, based on what you were told by your wife's doctors and the hospital where she gave birth, that you could apply for health coverage for your daughter after she was born, and her coverage would be made retroactive to the date of her birth.
- 7) You testified that you were seeking to have your newborn daughter enrolled in a Child Health Plus plan effective [REDACTED] to coincide with her birth. You testified that you incurred up to \$400.00 in out-of-pocket expenses in connection with her care between [REDACTED] and March 31, 2016.

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 child's enrollment in her Child Health Plus plan was effective April 1, 2016.

Your daughter was found eligible for enrollment in Child Health Plus for a cost of \$30.00 per month, effective April 1, 2016, and was enrolled in a Child Health Plus plan with an April 1, 2016 start date.

You testified that you want your child's Child Health Plus plan to begin on [REDACTED], because you had incurred several medical bills during the month of January 2016 in connection with your newborn daughter's medical care.

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 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 it was your belief, based on what you were told by your wife's doctors and the hospital where she gave birth, that you could apply for health coverage for your daughter after she was born, and her coverage would be made retroactive to the date of her birth.

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 (February 25, 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 February 25, 2016, and your child was born [REDACTED], she is eligible for an earlier enrollment date.

Therefore, the February 26, 2016 notice of enrollment and March 3, 2016 eligibility determination notice, stating that your newborn daughter's eligibility for and enrollment in her CHP plan was effective April 1, 2016 is MODIFIED to reflect that your newborn daughter is eligible for and enrolled in her CHP plan as of January 1, 2016.

## **Decision**

The February 26, 2016 notice of enrollment and March 3, 2016 eligibility determination notice are MODIFIED to reflect that your newborn daughter is eligible for and enrolled in her CHP plan as of January 1, 2016.

You may owe premiums for that coverage.

**Effective Date of this Decision:** October 12, 2016

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

Your newborn daughter's CHP coverage began effective 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)).

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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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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The February 26, 2016 notice of enrollment and March 3, 2016 eligibility determination notice are MODIFIED to reflect that your newborn daughter is eligible for and enrolled in her CHP plan as of January 1, 2016.

You may owe premiums for that coverage.

Your newborn daughter's CHP coverage began effective 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:**

