



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

## Notice of Decision

Decision Date: November 08, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007679

[REDACTED]

Dear [REDACTED],

On August 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 2, 2015 notices of eligibility determination and enrollment confirmation regarding your child.

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

## Decision

Decision Date: October 20, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007679

[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 coverage through Child Health Plus began on June 1, 2015, and not as of his date of birth?

## Procedural History

On January 28, 2015, NY State of Health (NYSOH) issued an enrollment confirmation notice stating that you were enrolled in platinum-level qualified health plan and coverage could start as early as March 1, 2015.

On May 1, 2015, your newborn child was added to your NYSOH account and an application was submitted on his behalf.

On May 2, 2015, NYSOH issued an eligibility determination stating that your child was conditionally eligible to enroll in Child Health Plus, effective June 1, 2015.

Also on May 2, 2015, NYSOH issued an enrollment confirmation notice stating your child was enrolled in a Child Health Plus plan with a \$191.88 per month premium, effective June 1, 2015.

On March 4, 2016, you spoke to the NYSOH Account Review Unit and requested an appeal insofar as you wanted to add your newborn child to your qualified health plan for April 2015.

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On March 5, 2016, NYSOH issued a notice confirming that, on March 4, 2016, you requested a hearing to review, "Request to add newborn to QHP."

On August 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you requested that the Hearing Officer listen to the recorded conversations between yourself and the NYSOH's Customer Service that occurred on May 1, 2015. The record is now complete and closed.

## **Findings of Fact**

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

- 1) You testified that you are appealing because NYSOH failed to add your newborn to your qualified health plan as of his date of birth.
- 2) According to your NYSOH account, you were enrolled in a platinum-level qualified health plan starting March 1, 2015.
- 3) According to your NYSOH account and your testimony, your child was born on [REDACTED].
- 4) You testified that before the birth of your child, you called your qualified health plan and asked about insuring your newborn. You testified that the health plan told you to call NYSOH within 40 days after birth to add him to the plan.
- 5) You testified that you called NYSOH on May 1, 2015 to add your child to your NYSOH account.
- 6) During the May 1, 2015 call, the NYSOH Customer Service representative went through a checklist of questions to update your account information. The representative expressly asked if he had permission to run an eligibility determination for your newborn child and you said "yes."
- 7) According to the May 1, 2015 recorded telephone conversation you had with the NYSOH Customer Service representative, you did not expressly state that you wanted your newborn child to be added to your qualified health plan.
- 8) On May 1, 2015, NYSOH prepared a preliminary eligibility determination. According to the May 1, 2015 recorded telephone conversation you had with the NYSOH Customer Service representative, you were advised that your newborn child was eligible for a full cost Child Health Plus plan. The representative further advised you of the available Child Health Plus

plans. You selected the Healthfirst Child Health Plan with a \$191.88 per month premium. The NYSOH Customer Service representative stated that this Child Health Plus plan would start June 1, 2015 and provided you with a confirmation number.

- 9) You testified that you were never informed by the NYSOH Customer Service representative during the May 1, 2015 call that you could add your child to your qualified health plan so that he could have coverage for the period prior to the start of his Child Health Plus plan.
- 10) According to your NYSOH account, your child's Child Health Plus plan was effective June 1, 2015.
- 11) You testified that you have pediatric visit bills for your child during the month of April 2015 that are not covered and remain unpaid and you are seeking to add him to your qualified health plan for that period of time.

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

## **Applicable Law and Regulations**

### Newborn Child – Effective Date of Coverage

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a qualified health plan (45 CFR § 155.420(c)(1)).

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

There are special effective dates in the case of birth, adoption, placement for adoption, or placement in foster care of a child. NYSOH must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first of the month following the date of birth, adoption, placement for adoption, or placement in foster care (45 CFR §155.420(b)(2); NYS Insurance Law § 4305). NYSOH has elected to make the effective date the first day of the month of birth.

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If the Exchange permits the qualified individual or enrollee to elect a coverage effective date of either the first of the month following the date of birth, adoption, placement for adoption or placement in foster care, the Exchange must ensure coverage is effective on the date duly selected by the qualified individual or enrollee (45 CFR §155.420(b)(2)).

### Child Health Plus-Enrollment

The “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid, or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

The State of New York law that was in effect during this time and what must be applied in this case 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 following month (see State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

### **Legal Analysis**

The issue under review is whether NYSOH properly determined that your newborn child’s enrollment in a Child Health Plus plan was effective as of June 1, 2015, and not as of [REDACTED], his date of birth.

The record reflects that you followed the necessary steps and promptly reported your newborn child’s birth on May 1, 2015, which was well within 60 days of the triggering event of his birth on [REDACTED]. Your NYSOH account also reflects that as of that date he was added as a household member to your NYSOH application and it was indicated that he needed health insurance.

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You credibly testified that prior to giving birth, you called your health plan and inquired about adding your newborn to your plan. You testified the health plan representative advised you to call NYSOH within 40 days of the birth to add him to your plan.

However, a review of the May 1, 2015 conversation with the NYSOH Customer Service representative makes it is clear that you did not specifically request to have your newborn child added to your qualified health plan during that telephone call. During that May 1, 2015 call, the NYSOH representative told you that your child was eligible for a full cost Child Health Plus plan. The record is clear that you selected a Child Health Plus plan from a list of available plans. The record supports that you expressly selected a Child Health Plus plan with the same insurance carrier that provided your health coverage. The record reflects that on May 1, 2015, the NYSOH Customer Service representative stated that your child's Child Health Plus plan had a premium of \$191.88 a month and would start June 1, 2015. There is nothing in the recorded conversation or your NYSOH account to support your contention that you requested to have your newborn child added to your qualified health plan as of his date of birth within the required time frame.

During the time period in question, in New York State, if an application for insurance coverage for Child Health Plus was received through NYSOH before the 15th of the month, benefits were provided on the first day of the next month. If an application was received after the 15th of the month, Child Health Plan benefits were provided on the first day of the second subsequent month.

On May 2, 2015, based on your May 1, 2015 updated application, NYSOH issued an eligibility redetermination notice stating, in relevant part, that your newborn child was conditionally eligible to enroll in a Child Health Plus plan, effective June 1, 2015.

Also on May 2, 2015, NYSOH issued a notice confirming your newborn child's Child Health Plus selection, which you made on May 1, 2015, and indicated that coverage could start as early as June 1, 2015 if you paid the first month's premium.

Since your newborn child's application was filed and his enrollment selection confirmed before the 15<sup>th</sup> of May 2015, his Child Health Plus plan properly took effect on June 1, 2015.

## **Decision**

The May 2, 2015 eligibility redetermination and enrollment confirmation notices regarding your newborn child are **AFFIRMED**.

**Effective Date of this Decision:** October 20, 2016

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

This decision does not change your newborn child's eligibility.

The effective date of your child's Child Health Plus plan is 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 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:

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- By fax: 1-855-900-5557

## **Summary**

The May 2, 2015 eligibility redetermination and enrollment confirmation notices regarding your newborn child are AFFIRMED.

This decision does not change your newborn child's eligibility.

The effective date of your child's Child Health Plus plan is June 1, 2015.

## **Legal Authority**

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

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

