



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: AP000000007721

[REDACTED]

Dear [REDACTED],

On August 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 3, 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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NY State of Health Account ID: [REDACTED]
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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 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 March 2, 2016, your newborn child was added to your NY State of Health (NYSOH) account, and an application was submitted on her behalf.

On March 3, 2016, NYSOH issued an eligibility determination, based on your March 2, 2016 application, stating that your child was conditionally eligible to enroll in Child Health Plus (CHP) with a \$30.00 per month premium, effective April 1, 2016.

Also on March 3, 2016, NYSOH issued an enrollment confirmation notice stating your child was enrolled in a CHP plan, effective April 1, 2016.

On March 7, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's eligibility for, and enrollment in, a CHP plan, insofar as it did not begin March 1, 2016.

On August 18, 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.

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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 child's CHP coverage, as you would like it to begin March 1, 2016.
- 2) The record reflects that your child was born on [REDACTED].
- 3) You submitted an application to NYSOH for your child on March 2, 2016.
- 4) You testified, and the record reflects, that you also enrolled your child into a CHP plan on March 2, 2016.
- 5) You testified that you were advised by your spouse's doctors, and the hospital where your child was born, that you could apply after she was born, and her coverage would be retroactive to the date of her birth.
- 6) You testified that you did not think that you could call to enroll your child in health coverage prior to her birth date.
- 7) You testified that you spoke with your child's CHP plan, and that they initially told you that your child's coverage could be backdated, but then both they and NYSOH informed you that it could not be backdated.
- 8) You testified that you had a couple of medical bills for your child that you paid for out of pocket for the month of March 2016.
- 9) You testified that you believe a newborn should have coverage from the day of birth, and that if your child had had any serious medical issues, her lack of coverage could have been a major problem for you and your spouse.

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).

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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 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 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], [REDACTED], her date of birth.

Your child was born on [REDACTED] and on March 2, 2016 your child was added to your NYSOH account. She was subsequently found eligible for enrollment in CHP, and a plan was selected on March 2, 2016, with an enrollment start date of April 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.

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. You further testified that you were under the impression that you could not apply for health coverage for your daughter prior to her birth. Lastly, you testified that you incurred some out of pocket expenses as a result of the fact that your daughter's CHP coverage did not begin until April 1, 2016.

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 (March 2, 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 March 2, 2016, and your child was born [REDACTED], she is eligible for an earlier enrollment date.

Therefore, the March 3, 2016 eligibility determination and enrollment confirmation notices stating that your child's eligibility for and enrollment in her CHP plan was

effective April 1, 2016 are MODIFIED to reflect that your child is eligible for and enrolled in CHP as of February 1, 2016.

Decision

The March 3, 2016, enrollment confirmation notice and eligibility determination notices are MODIFIED to reflect that your child is eligible for and enrolled in CHP as of February 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 child's CHP plan is February 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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You can contact us in any of the following ways:

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

Summary

The March 3, 2016, enrollment confirmation notice and eligibility determination notices are MODIFIED to reflect that your child is eligible for and enrolled in CHP as of February 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 child's CHP plan is February 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:

