



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: AP000000008063

[REDACTED]

Dear [REDACTED],

On September 9, 2016, your wife appeared on your behalf by telephone at a hearing on your appeal of NY State of Health's January 27, 2016 eligibility determination and enrollment confirmation notices.

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

Decision Date: October 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008063

[REDACTED]

## 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 son's eligibility for, and enrollment in, his Child Health Plus plan was effective March 1, 2016, and not his date of birth?

## Procedural History

On [REDACTED], an NY State of Health (NYSOH) account was created and an application for health insurance was submitted on your son's behalf.

On January 5, 2016, NYSOH issued a notice stating that your newborn child may be eligible for health insurance through NYSOH but that more information was needed to make a determination.

On January 21, 2016, paystubs and a W-2 were uploaded to your NYSOH account ([REDACTED] [REDACTED] [REDACTED]).

On January 26, 2016 the income information in your NYSOH account was updated.

On January 27, 2016, NYSOH issued an eligibility determination, stating that your son was eligible to enroll in Child Health Plus (CHP) for a cost of \$30.00 per month, effective March 1, 2016.

Also on January 27, 2016, NYSOH issued an enrollment confirmation notice stating your son was enrolled in a CHP plan with a cost of \$30.00 per month, effective March 1, 2016.

On March 18, 2016, your wife spoke to NYSOH's Account Review Unit and appealed the start date of your newborn son's eligibility for, and enrollment in, a CHP plan, insofar as it did not begin [REDACTED], your son's date of birth.

On September 9, 2016, your wife appeared on your behalf and 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) Your wife testified that you are appealing the start date of your son's CHP coverage, as you would like it to begin [REDACTED].
- 2) The record reflects that your son was born on [REDACTED].
- 3) You submitted an application to NYSOH for your son on [REDACTED].
- 4) Your wife testified, and the record reflects, that you enrolled your son into a CHP plan on January 26, 2016.
- 5) Your wife testified that you did not think that you could call to enroll your son in health coverage prior to his birth date.
- 6) Your wife testified that you were advised by NYSOH, that you could apply after he was born, and his Child Health Plus coverage would be retroactive to the date of his birth regardless of how much money you made.
- 7) Your wife testified that you spoke with NYSOH, and they initially told your wife that your son's coverage could be backdated, but then informed your wife it could not be backdated.
- 8) The records reflect that your son's CHP coverage was subsequently backdated to be effective February 1, 2016.
- 9) Your wife testified that you had medical bills for your son for the month of January 2016.

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

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## **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 (March 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 March 18, 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 son's enrollment in a CHP plan was not effective as of [REDACTED], his date of birth.

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Your son was born on [REDACTED] and on [REDACTED] you applied for insurance for your son through NYSOH. He was subsequently found eligible for enrollment in CHP, and a plan was selected on January 21, 2016, with an enrollment start date of March 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.

Your wife testified that it was her belief, based on what she was told by NYSOH, prior to her giving birth, that she could apply for health coverage for your son after he was born, and his coverage would be made retroactive to the date of his birth. She further testified that she was under the impression that she could not apply for health coverage for your son prior to his birth. Lastly, she testified that you incurred some out of pocket expenses as a result of the fact that your son's CHP coverage did not begin until February 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 son's birth ([REDACTED]) and the date of your son's completed application (January 26, 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.

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Because your completed application was dated January 26, 2016 and that date is within 60 days after the birth of your son on [REDACTED], he is eligible for an earlier enrollment date.

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

## **Decision**

The January 27, 2016, enrollment confirmation notice and eligibility determination notices are MODIFIED to reflect that your son is eligible for and enrolled in CHP as of January 1, 2016.

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

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

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

The effective date of your son'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 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).

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 27, 2016, enrollment confirmation notice and eligibility determination notices are MODIFIED to reflect that your son is eligible for and enrolled in CHP as of January 1, 2016.

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

The effective date of your son'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:**

