



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

Notice of Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009722



Dear [REDACTED],

On November 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 19, 2016 eligibility determination and enrollment 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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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 newborn child was eligible for Child Health Plus and their Child Health Plus plan enrollment start date was July 1, 2016?

Procedural History

On May 18, 2016, your newborn child was added to your NYSOH account and a financial assistance application was submitted on their behalf. NYSOH rendered a preliminary eligibility determination, in relevant part, that your newborn child was eligible for Child Health Plus with a \$15.00 premium per month.

Also on May 18, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility and enrollment start dates of your newborn child's coverage.

On May 19, 2016, NYSOH issued an eligibility determination notice, based on your May 18, 2016 application, stating that your child was conditionally eligible to enroll in Child Health Plus with a \$15.00 per month premium, effective July 1, 2016. The notice directed you to submit additional information, regarding your newborn child's citizenship status and Social Security number, to confirm their eligibility.

Also on May 19, 2016, NYSOH issued an enrollment notice confirming that your newborn child's Child Health Plus (Fidelis Care) plan enrollment start date was July 1, 2016.

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On November 22, 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 child's Child Health Plus coverage, as you would like it to begin [REDACTED]
- 2) You testified that you contacted NYSOH before giving birth and was told by a NYSOH representative that your newborn child's coverage could be backdated to their date of birth.
- 3) According to your NYSOH account and testimony, your child was born on [REDACTED].
- 4) According to your NYSOH account, you added your newborn child and submitted a financial assistance application for your child on [REDACTED].
- 5) According to your NYSOH account, you enrolled your newborn child in a Child Health Plus plan on [REDACTED].
- 6) According to your NYSOH account, your newborn child's Child Health Plus coverage began on July 1, 2016.
- 7) You testified that you are seeking to be reimbursed for the out-of-pocket medical expenses that you incurred, for your newborn child, in May and June 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

The State of New York has 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 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).

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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 Child Health Plus, 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 was scheduled to take 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. The effect of this amendment is that there will continue to be a gap between the date of birth and the beginning date of Child Health Plus coverage for newborns until 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 eligibility and enrollment in a Child Health Plus plan was July 1, 2016.

Your newborn child was born on [REDACTED], and on May 18, 2016 your child was added to your NYSOH account. Your child was subsequently found eligible for enrollment in Child Health Plus, and a plan was selected on May 18, 2016, with an enrollment start date of July 1, 2016.

Generally, if an application for insurance coverage under Child Health Plus 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.

On December 22, 2015 legislation was passed that granted newborns seeking enrollment in Child Health Plus the ability to also have coverage effective their date of birth. This amendment was originally scheduled to go into effect on January 1, 2016, but an amendment signed by the Governor on April 8, 2016 pushed the effective date back to January 1, 2017.

The new amendment for newborn Child Health Plus applicants that was originally scheduled to go into effect on January 1, 2016 provided that, in the case of a newborn enrolled into Child Health Plus, the date of enrollment would be effective their date of birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth. The amendment signed by the Governor on April 8, 2016 means that this new law regarding coverage for newborns repealed the January 1, 2016 start date and the new law will not go into effect until January 1, 2017.

Your child was: born; added to your NYSOH account; found eligible for Child Health Plus; enrolled in a Child Health Plus plan, and this appeal was requested after the law was repealed.

Since you selected your child's Child Health Plus plan on May 18, 2016, it properly took effect on the first day of the second month following after May 18, 2016; that is, on July 1, 2016.

Therefore, the May 19, 2016 eligibility determination and enrollment notices are **AFFIRMED** insofar as stating that your newborn child was found eligible for and their enrollment in their Child Health Plus health plan was effective July 1, 2016.

Decision

The May 19, 2016, eligibility determination notice is **AFFIRMED**.

The May 19, 2016, enrollment notice is **AFFIRMED**.

Effective Date of this Decision: January 17, 2017

How this Decision Affects Your Eligibility

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

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If You Have Questions about this Decision (Customer Service Resources):

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The May 19, 2016, eligibility determination notice is AFFIRMED.

The May 19, 2016, enrollment notice is AFFIRMED.

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

