



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

## Notice of Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010360

[REDACTED]

Dear [REDACTED],

On December 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 25, 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) § 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: December 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010360

[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 newborn child's enrollment in her Child Health Plus plan was effective June 1, 2016, and not her date of birth?

## Procedural History

On April 29, 2016, your newborn child was added to your NY State of Health (NYSOH) account and an application was submitted on her behalf.

On April 30, 2016, NYSOH issued an eligibility determination, based on your April 29, 2016 application, stating that your newborn child was conditionally eligible to enroll in Child Health Plus (CHP) with a \$15.00 per month premium, effective June 1, 2016. That notice stated that you must provide proof of your child's citizenship status and her Social Security number.

Also on April 30, 2016, NYSOH issued an enrollment confirmation notice, based on your April 29, 2016 application, stating your children were enrolled in a CHP plan at a cost of \$45.00 per month, effective January 1, 2016.

On May 24, 2016, you updated your newborn child's application for health insurance.

On May 25, 2016, NYSOH issued an eligibility determination, based on your May 24, 2016 update, stating that your newborn child was eligible to enroll in CHP with a \$15.00 per month premium, effective July 1, 2016.

Also on May 25, 2016, NYSOH issued an enrollment confirmation notice, based on your May 24, 2016 update, stating your children were enrolled in a CHP plan at a cost of \$45.00 per month, effective June 1, 2016.

On June 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your newborn child's enrollment in a CHP plan insofar as it did not begin [REDACTED], the date of her birth.

On December 9, 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 supports the following findings of fact:

- 1) You testified that you are appealing only your newborn child's eligibility.
- 2) You testified, and the record reflects, that your newborn child was born on [REDACTED].
- 3) You testified that you called NYSOH in December 2015 to enroll your child in health care and you were advised by the NYSOH representative that you could not enroll your newborn until after she was born. You testified that you were not advised of the enrollment rules for CHP.
- 4) According to your NYSOH account and your testimony, you submitted an application to NYSOH for financial assistance on behalf of your newborn child on April 29, 2016. You testified that you were told by the NYSOH representative you could not enroll her until you received her Social Security number.
- 5) According to your NYSOH account and your testimony, On May 24, 2016, you provided your newborn child's Social Security number and updated her enrollment in a CHP plan.
- 6) You testified that the office manager at the doctor's office told you that your coverage would be backdated after you applied, so you went ahead and brought your child to her well baby visits. You believe the office manager was confused and thought you'd be eligible for Medicaid and not CHP.

- 7) You testified that you did not find out that CHP could not be backdated until June 2016. You were told the only way to backdate coverage was to appeal.
- 8) You testified that you have medical bills for April and May 2016 for your newborn child. You tried to obtain private medical insurance but the cost of that was as much as or higher than your medical bills.

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

Child Health Plus 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 another amendment to chapter 577 of the Laws of 2015, which delayed the effective date of the change to the date of enrollment for newborns into CHP 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], her date of birth.

Your newborn child was born on [REDACTED]. You added her to your NYSOH account on April 29, 2016 and she was found eligible to enroll in a CHP plan, effective June 1, 2016. Subsequently, on May 24, 2016, you provided your newborn child's Social Security number and updated her enrollment in a CHP plan with an effective start day of coverage of June 1, 2016.

In New York State, if an application for insurance coverage, here CHP, 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 became effective on January 1, 2016. However, on March 18, 2016, an amendment was signed by the Governor, which pushed the effective date back to January 1, 2017. Since your newborn child was born after the March 18, 2016 amendment, coverage cannot be retroactively applied to cover her from the date of her birth.

Notwithstanding, on April 30, 2016, NYSOH issued simultaneous notices regarding the start date of your newborn child's CHP plan. The eligibility determination notice that stated your newborn child's eligibility for CHP was effective June 1, 2016, and the enrollment confirmation notice that stated your children's enrollment in CHP was effective January 1, 2016.

Although, these two notices are conflicting, you testified that when you added your child to your NYSOH account on April 29, 2016, the NYSOH representative told you that you could not enroll your newborn child into a CHP plan until you received her Social Security number. You stated that you were also told that the

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only way to backdate your newborn child's CHP plan was to file an appeal. This testimony indicates that you did not believe that your newborn child's coverage was effective January 1, 2016. Since logically you cannot get health coverage for a child who is not yet born and your testimony indicates that you did not rely upon the April 30, 2016 enrollment confirmation notice when you appealed your newborn child's start date, the fact that the notices conflict is irrelevant and cannot be used to backdate your newborn child's CHP plan.

Since you initially applied for and enrolled your newborn child in CHP on April 29, 2016, her coverage properly became effective the first day of the second month following April 2016; that is, on June 1, 2016.

Therefore, The May 25, 2016 enrollment confirmation notice stating that your newborn child's enrollment in her CHP plan was effective June 1, 2016, is correct and must be AFFIRMED.

The April 30, 2016 enrollment confirmation notice is MODIFIED to state that your older children's enrollment in their CHP plan was effective January 1, 2016 and your newborn child's enrollment in her CHP plan was effective June 1, 2016.

The May 25, 2016 eligibility determination notice stating that your newborn child's enrollment in her CHP plan was effective July 1, 2016, is MODIFIED to state that your newborn child's eligibility in her CHP plan was effective June 1, 2016.

## **Decision**

The May 25, 2016 enrollment confirmation notice is AFFIRMED.

The April 30, 2016 enrollment confirmation notice is MODIFIED to state that your older children's enrollment in their CHP plan was effective January 1, 2016 and your newborn child's enrollment in her CHP plan was effective June 1, 2016.

The May 25, 2016 eligibility determination notice stating that your newborn child's enrollment in her CHP plan was effective July 1, 2016, is MODIFIED to state that your newborn child's eligibility in her CHP plan was effective June 1, 2016.

**Effective Date of this Decision:** December 21, 2016

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

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

The effective date of your newborn child's CHP plan is June 1, 2016.

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## **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The May 25, 2016 enrollment confirmation notice is **AFFIRMED**.

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The May 25, 2016 eligibility determination notice stating that your newborn child's enrollment in her CHP plan was effective July 1, 2016, is MODIFIED to state that your newborn child's eligibility in her CHP plan was effective June 1, 2016.

The April 30, 2016 enrollment confirmation notice is MODIFIED to state that your older children's enrollment in their CHP plan was effective January 1, 2016 and your newborn child's enrollment in her CHP plan was effective June 1, 2016.

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

The effective date of your newborn child's CHP plan is June 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:**

