



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

## Notice of Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011814

[REDACTED]

Dear [REDACTED],

On December 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 1, 2016 eligibility determination notice and September 1, 2016 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 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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## Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011814



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the NY State of Health (NYSOH) properly determine that your child's eligibility for and enrollment in her Child Health Plus plan was effective October 1, 2016?

## Procedural History

On February 24, 2016, you created your NYSOH account.

On August 31, 2016, your newborn child was added to your NYSOH account and an application was submitted on her behalf.

On September 1, 2016, NYSOH issued an eligibility determination, based on your August 31, 2016 application, stating that your child was eligible to enroll in a Child Health Plus plan with a \$60.00 per month premium, effective October 1, 2016.

On September 1, 2016, NYSOH issued an enrollment confirmation notice stating your child was enrolled in a Child Health Plus plan, effective October 1, 2016.

On September 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's enrollment in a Child Health Plus plan insofar as it did not begin August 1, 2016.

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On December 1, 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 child's eligibility and enrollment start date.
- 2) You testified that on February 24, 2016, you created your NYSOH account with a certified application counselor. You further testified that you were unable to add your child to your account at that time as you were still pregnant and the child did not have a name, date of birth, or social security number.
- 3) You testified, and the record reflects, that your child was born on [REDACTED].
- 4) You testified that you did not have coverage through NYSOH at the time of your child's birth, rather, you had employer sponsored health insurance at that time.
- 5) The record reflects that a certified application counselor updated your account to include your child on August 31, 2016, and submitted an application to NYSOH for financial assistance on behalf of your child that same day.
- 6) The record reflects, that your child was enrolled into a Child Health Plus plan on August 31, 2016.
- 7) You testified that NYSOH informed you that your child's enrollment in her Child Health Plus plan was back dated to September 1, 2016 and medical bills since September 1, 2016 have been covered by your child's Child Health Plus plan.
- 8) On August 31, 2016, NYSOH created incident # [REDACTED] which indicates that your child's enrollment in her Child Health Plus plan was back dated to September 1, 2016.
- 9) You testified that you need your child's Child Health Plus plan to begin on August 1, 2016 because your child had medical issues following her birth and had to go to the doctor several times in August 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

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 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).

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 it repealed the January 1, 2016 start date and 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 is whether NYSOH properly determined that your newborn child's eligibility for and enrollment in her Child Health Plus plan was effective October 1, 2016.

Your child was born on [REDACTED] and on August 31, 2016 your child was added to your NYSOH account. She was subsequently found eligible for enrollment in Child Health Plus, and a plan was selected on August 31, 2016, with an enrollment start date of October 1, 2016.

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You testified that you did not have coverage through NYSOH at the time of your child's birth, rather, you had employer sponsored health insurance at that time. You testified that you need your child's Child Health Plus plan to begin on August 1, 2016 because your child had medical issues following her birth and had to go to the doctor several times in August 2016.

As of the date of your application for financial assistance, in New York State the date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. 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.

Your application and Child Health Plus enrollment for your newborn child was received on August 31, 2016, so the effective date of that plan would be by the first day of the next following month, October 1, 2016.

However, as per incident # [REDACTED] NYSOH has voluntarily elected to begin your child's enrollment in her Child Health Plus plan earlier than is required.

In as much as the September 1, 2016 eligibility determination notice finding your daughter eligible to enroll in a Child Health Plus plan effective October 1, 2016 and the September 1, 2016 enrollment confirmation notice stating your child is enrolled in her Child Health Plus plan effective October 1, 2016 are inconsistent with incident # [REDACTED] the September 1, 2016 eligibility determination notice is MODIFIED to reflect that your child's eligibility to enroll in a Child Health Plus plan is effective as of October 1, 2016 and the September 1, 2016 enrollment confirmation notice is MODIFIED to reflect that your child is enrolled in her Child Health Plus plan effective September 1, 2016.

## **Decision**

The September 1, 2016 eligibility determination notice is MODIFIED to reflect that your child is eligible to enroll in a Child Health Plus plan effective September 1, 2016.

The September 1, 2016 enrollment confirmation notice is MODIFIED to reflect that your child is enrolled in her Child Health Plus plan as of September 1, 2016.

**Effective Date of this Decision:** December 8, 2016

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

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).

Your child is eligible for Child Health Plus effective September 1, 2016.

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

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**

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The September 1, 2016 eligibility determination notice is MODIFIED to reflect that your child is eligible to enroll in a Child Health Plus plan effective September 1, 2016.

Your child is eligible for Child Health Plus effective September 1, 2016.

The September 1, 2016 enrollment confirmation notice is MODIFIED to reflect that your child is enrolled in her Child Health Plus plan as of September 1, 2016.

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

