



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

## Notice of Decision

Decision Date: January 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011820

[REDACTED]

[REDACTED]

On December 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 27, 2016 eligibility determination notice and August 27, 2016 enrollment 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) § 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011820



## 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 child's eligibility for, and enrollment in, her Child Health Plus plan was effective October 1, 2016, and not her date of birth?

## Procedural History

On August 26, 2016, NYSOH received your initial application, in which you first included your newborn daughter.

On August 27, 2016, NYSOH issued an eligibility determination notice based on the information contained in the August 26, 2016 application. The notice stated that your newborn daughter was eligible for Child Health Plus (CHP) for a limited time, at a monthly premium rate of \$45.00. The eligibility determination was effective October 1, 2016. You were directed to produce her Social Security number and proof of citizenship by November 24, 2016.

Also on August 27, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your newborn daughter's coverage as of August 26, 2016. The notice also confirmed that your daughter's CHP plan coverage would begin effective October 1, 2016.

On September 1, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the August 27, 2016 eligibility determination and enrollment notices insofar as you were seeking for your daughter's CHP

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coverage to begin as of her date of birth ([REDACTED]), rather than October 1, 2016.

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 support the following findings of fact:

- 1) You testified that you are appealing only your newborn daughter's eligibility.
- 2) Your daughter was born on [REDACTED].
- 3) You submitted your initial application to NYSOH for financial assistance on behalf of your newborn daughter on August 26, 2016.
- 4) You testified, and the record reflects, that you enrolled your newborn daughter into a Child Health Plus plan on August 26, 2016.
- 5) You testified that your spouse was told by the hospital staff 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.
- 6) You testified that you and your spouse were enrolled in an employer-sponsored plan, Aetna, through your spouse's employer at the time of your daughter's birth. You further testified that you elected not to include your newborn daughter on that plan since it would be cost-prohibitive.
- 7) You testified that you were seeking to have your newborn daughter enrolled in a Child Health Plus plan effective [REDACTED] to coincide with her birth. You testified that you incurred approximately \$1,100.00 in out-of-pocket expenses in connection with her medical care between her birth and September 30, 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

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 (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 child's enrollment in her CHP plan was effective October 1, 2016.

Your daughter was found eligible for enrollment in CHP for a cost of \$45.00 per month, effective October 1, 2016, and was enrolled in a CHP plan, for an October 1, 2016 start date.

You testified that you want your child's CHP plan to begin on August [REDACTED], 2016, because you had incurred several medical bills during the months of August and September 2016 in connection with your newborn daughter's medical care.

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 hospital staff had told your spouse, 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.

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 (August 23, 2016) and the date of your application (August 26, 2016) was S06421A, Chap 27, Laws of New York, 2016. 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. However, this law is deemed not to take effect until January 1, 2017.

Therefore, the August 27, 2016 eligibility determination notice and August 27, 2016 enrollment notice, stating that your newborn daughter's eligibility for and enrollment in her CHP plan was effective October 1, 2016 is AFFIRMED.

## **Decision**

The August 27, 2016 eligibility determination notice and August 27, 2016 enrollment notice, stating that your newborn daughter's eligibility for and enrollment in her CHP plan was effective October 1, 2016 is AFFIRMED.

**Effective Date of this Decision:** January 3, 2017

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

Your newborn daughter's CHP coverage began effective October 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
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## **Summary**

The August 27, 2016 eligibility determination notice and August 27, 2016 enrollment notice, stating that your newborn daughter's eligibility for and enrollment in her CHP plan was effective October 1, 2016 is **AFFIRMED**.

Your newborn daughter's CHP coverage began effective October 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:**

