



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

## Notice of Decision

Decision Date: January 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011898

[REDACTED]

[REDACTED]

On December 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's determination that coverage in a qualified health plan for your newborn child would not be effective as of the date of her birth.

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: January 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011898

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) improperly fail to enroll your newborn child in a qualified health effective on the date of her birth?

## Procedural History

On December 4, 2015, NYSOH issued an enrollment notice confirming that you, your spouse, and your two oldest children were enrolled in "Oscar Simple+, Gold, NS, INN, Dep25, Free Generic Drugs, \$50 Preferred Drugs, Free PCP/Mental Health Visits, Free Urgent Care, No deductible Specialist, Wellness Rewards, Step Tracking, Free Telemedicine" (Oscar Gold) on November 27, 2015, and that your family's coverage could start as early as January 1, 2016 if you paid the premium.

On June 30, 2016, NYSOH received an update to your application on-line, in which you added your newborn child to your account.

On July 1, 2016, NYSOH issued an eligibility determination notice stating that your newborn child was conditionally eligible to purchase a qualified health plan at full cost through NY State of Health, effective August 1, 2016. The notice also stated that you must have a qualifying event in order to select and enroll your daughter in a plan outside of open enrollment, and directed you to provide your daughter's Social Security number and proof of citizenship by September 28, 2016.

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On September 6, 2016, NYSOH received a further update to your application for health insurance.

On September 7, 2016, NYSOH issued an eligibility determination notice that stated that your newborn child was conditionally eligible to purchase a qualified health plan at full cost through NY State of Health, effective October 1, 2016. The notice also stated that you must have a qualifying event in order to select and enroll in a plan outside of open enrollment.

Also on September 7, 2016, NYSOH issued an enrollment notice again confirming that you, your spouse, and your two oldest children were enrolled in Oscar Gold as of January 1, 2016. The notice also stated that your newborn child's coverage could not begin until you picked a plan for her.

Finally, on September 7, 2016, you contacted NYSOH's Account Review Unit and requested an appeal insofar as you were seeking for your newborn child to be enrolled in your family's Oscar Gold plan as of the date of her birth.

On December 7, 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, your spouse, and your two oldest children were enrolled in Oscar Gold beginning January 1, 2016 as the result of an annual renewal of coverage.
- 2) Your third child was born on [REDACTED].
- 2) You testified, and the record reflects, that you updated your application on June 30, 2016 to add your newborn child to your NYSOH account. You further testified that you believed that you had enrolled her in your family's Oscar Gold plan at that same time. The application reflected a special enrollment period reason that your daughter became eligible for coverage in a qualified health plan (QHP).
- 3) Your child was found conditionally eligible to enroll in a QHP at full cost, effective August 1, 2016, pending receipt of proof of her citizenship status and Social Security number by September 28, 2016.

- 4) You testified that you became started to believe something was wrong with your child's enrollment when you did not receive a card reflecting your daughter's enrollment in Oscar Gold.
- 5) You testified that you contacted NYSOH during July 2016 to provide your child's Social Security number as requested by NYSOH.
- 6) You testified, and your account reflects, that you contacted NYSOH on September 6, 2016 to further update your application and to enroll her within your family's QHP when you realized that had not been done during your June 30, 2016 application update.
- 7) You testified that on or about September 6, 2016, during a three-way call with an Oscar representative and NYSOH representative, you were told that there was no record of your daughter's enrollment in your family's Oscar plan, and that since it was 60 days since her birth, she could not enroll in your family's plan until open enrollment for the 2017 plan year.
- 8) You testified that you were seeking for your newborn child to be enrolled in your Oscar Gold plan from the date of her birth, [REDACTED], until the end of the 2016 plan year.
- 9) You testified that as a result of her non-enrollment in your family's Oscar Gold plan, you incurred considerable expense in connection with your newborn child's diagnoses of hip dysplasia, a thyroid cyst, and croup.

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

## **Applicable Law and Regulations**

### Special Enrollment Period - Newborn Child

NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another plan. One circumstance under which a special enrollment can be authorized is when the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care (45 CFR § 155.420(d)(2)(i)).

### Length of Special Enrollment Period

Generally, a qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

## Special Enrollment Effective Date

In the case of birth, adoption, placement for adoption, or placement in foster care of a child, NYSOH must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first of the month following the date of birth, adoption, placement for adoption, or placement in foster care (45 CFR § 155.420(b)(2)).

## **Legal Analysis**

The first issue is whether NYSOH improperly failed to enroll your newborn child in a QHP, effective as of her date of birth.

The Marketplace must provide special enrollment periods during which qualified individuals may enroll in qualified health plans and enrollees may change QHP. The Marketplace must allow for a special enrollment period when the qualified individual gains a dependent through birth.

According to the record, on June 30, 2016, you updated your NYSOH online account to include your newborn child insofar as you were seeking to have her included in your Oscar Gold plan as a dependent. However, while she was added to the account as a dependent, you testified that you were prevented from enrolling her in the plan at that time, for not having qualified for a special enrollment period.

While the record reflects that you updated the application on June 30, 2016 for her to obtain health coverage, you were given a special enrollment period as of June 30, 2016. While it does not appear that your newborn child was ever formally denied from enrolling in a QHP through NYSOH, the effect was the same insofar as she was prevented from joining your family's Oscar Gold plan. Indeed, the July 1, 2016 and September 7, 2016 eligibility determination notices each state that she might be eligible to enroll in a plan, but did not definitively state that she did not qualify for a special enrollment period.

When an enrollee gains a dependent through birth, NYSOH must ensure that the effective date of coverage is either the dependent's date of birth or a date selected by the qualified individual or enrollee, if the selection is made within 60 days of the dependent's date of birth.

The credible evidence of record reflects that your newborn child was born on June 28, 2016, and you attempted to enroll them in a qualified health plan on June 30, 2016. Since you took the proper steps to enroll your newborn child in a qualified health plan, within 60 days of their date of birth, but were erroneously

prevented from doing so, her coverage should have been effective their date of birth.

The September 7, 2016 enrollment notice is MODIFIED to state that as of June 30, 2016, your newborn child was enrolled in the Oscar Gold plan with an enrollment start date of June 1, 2016.

This case is RETURNED to NYSOH to enroll your newborn child in Oscar Gold for the period of June 1, 2016 through December 31, 2016, provided the necessary premium adjustment, if any, is remitted to the insurance carrier.

## **Decision**

The September 7, 2016 enrollment notice is MODIFIED to state that as of June 30, 2016, your newborn child was enrolled in the Oscar Gold plan with an enrollment start date of June 1, 2016.

Your case is RETURNED to NYSOH to enroll your newborn child in Oscar Gold for the period of June 1, 2016 through December 31, 2016, provided the necessary premium adjustment, if any, is remitted to the insurance carrier.

**Effective Date of this Decision:** January 12, 2017

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

Your newborn child's enrollment under your family's Oscar Gold plan begin effective June 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

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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 September 7, 2016 enrollment notice is MODIFIED to state that as of June 30, 2016, your newborn child was enrolled in the Oscar Gold plan with an enrollment start date of June 1, 2016.

Your case is RETURNED to NYSOH to enroll your newborn child in Oscar Gold for the period of June 1, 2016 through December 31, 2016, provided the necessary premium adjustment, if any, is remitted to the insurance carrier.

Your newborn child's enrollment under your family's Oscar Gold plan begin effective 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:**

