



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

Notice of Decision

Decision Date: March 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013213

[REDACTED]

Dear [REDACTED],

On February 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 12, 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) § 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: March 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013213

[REDACTED]

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's Child Health Plus coverage did not begin as of his date of birth, [REDACTED]?

Procedural History

On November 11, 2016, NYSOH received your first application in which you included your newborn child. Based on the information contained in this application, NYSOH prepared a preliminary eligibility determination finding your newborn child eligible for Child Health Plus (CHP), with a premium of \$30.00 per month, effective December 1, 2016.

Also on November 11, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the November 11, 2016 preliminary eligibility determination notice insofar as you were seeking for your newborn child's CHP coverage to begin as of her date of birth ([REDACTED]), rather than December 1, 2016.

On November 12, 2016, NYSOH issued an eligibility determination notice based on the information contained in the November 11, 2016 application. The notice stated that your child was eligible for CHP with a premium of \$30.00 per month, effective December 1, 2016.

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Also on November 12, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your newborn child's coverage as of November 11, 2016. The enrollment details in your NYSOH account reflected that his CHP coverage began effective December 1, 2016.

On November 22, 2016, the enrollment details in your NYSOH account reflect that your newborn child's CHP coverage start date was backdated to October 1, 2016.

On February 15, 2017, 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) The record reflects that you are appealing only your newborn child's eligibility.
- 2) Your child was born on [REDACTED].
- 3) The record reflects that you submitted your first application to NYSOH for financial assistance that included your newborn child on November 11, 2016.
- 4) You testified, and the record reflects, that you selected a CHP plan for your newborn child on November 11, 2016.
- 5) You testified that you were told by NYSOH representatives that you could apply for health coverage for your child only after he was born, and have the child's bills covered based on his eligibility determination.
- 6) You testified that you could not be found eligible for Medicaid prior to your child's birth because you were enrolled in Medicare Parts A and B, together with a supplemental Medicare plan. You testified that you were not permitted to enroll in a qualified health plan for the same reasons.
- 7) You testified that after your child was born, you attempted to update your application on September [REDACTED], 2016, but were unable to due to a system defect. You further testified that after multiple calls and application update attempts, you were not able to include your newborn child in your application until November 10, 2016.

- 8) As a result of your November 11, 2016 application, your newborn child was initially found eligible for CHP with a \$30.00 per month premium, effective December 1, 2016.
- 9) The record reflects that on November 22, 2016, NYSOH took independent action to backdate the start of your newborn child's coverage from December 1, 2016 to October 1, 2016.
- 10) You testified that you were seeking for your child's CHP coverage to begin no later than his birth on [REDACTED] since you had incurred approximately \$17,000.00 in medical expenses associated with his delivery and care.

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 under review is whether NYSOH properly determined that your newborn child's enrollment in his CHP plan could not begin as of his date of birth, [REDACTED].

Your newborn child was found eligible for enrollment in CHP for a cost of \$30.00 per month, effective December 1, 2016, and was enrolled in a CHP plan, for a December 1, 2016 start date.

You testified that you want your newborn child's CHP plan coverage to begin no later than [REDACTED], because you had substantial medical expenses during the month September 2016 in connection with your child's birth and subsequent medical care.

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 November 11, 2016, so the effective date of that plan would be by the first day of the following month, December 1, 2016.

However, after his initial enrollment, NYSOH took independent action to backdate the start of your newborn child's coverage from December 1, 2016 to October 1, 2016.

Therefore, the November 12, 2016 eligibility determination notice and November 12, 2016 enrollment notice, stating that your newborn's eligibility for and enrollment in her CHP plan was effective December 1, 2016 is MODIFIED to reflect that your newborn child's CHP plan coverage was effective October 1, 2016.

Decision

The November 12, 2016 eligibility determination notice and November 12, 2016 enrollment notice are MODIFIED to reflect that your newborn child's CHP plan coverage was effective October 1, 2016.

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).

Effective Date of this Decision: March 15, 2017

How this Decision Affects Your Eligibility

Your newborn child's eligibility has not changed; it went into effect on 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
- By mail at:

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- By fax: 1-855-900-5557

Summary

The November 12, 2016 eligibility determination notice and November 12, 2016 enrollment notice are MODIFIED to reflect that your newborn child's CHP plan coverage was effective October 1, 2016.

Your newborn child's eligibility has not changed; it went into effect on 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:



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