



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

Notice of Decision

Decision Date: March 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013644



Dear [REDACTED],

On March 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 24, 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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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 his Child Health Plus plan was effective October 1, 2016, and not as of his date of his birth?

Procedural History

On August 23, 2016, your newborn child (child) was added to your NY State of Health (NYSOH) account and an application was submitted on his behalf.

On August 24, 2016, NYSOH issued an eligibility determination, based on your August 23, 2016 application, stating that your child was conditionally eligible to enroll in Child Health Plus (CHP) with a \$30.00 per month premium, effective October 1, 2016. That notice also stated that you need to provide proof of your child's Social Security number and citizenship status by November 21, 2016.

Also on August 24, 2016, NYSOH issued an enrollment confirmation notice stating in part that your child was enrolled in a CHP plan at a cost of \$90.00 per month.

On November 28, 2016, NYSOH issued an eligibility redetermination notice stating that your child is not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost. This was because you did not provide

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proof of his Social Security number and citizenship status within the required timeframe. His eligibility ended December 1, 2016.

Also on November 28, 2016, NYSOH issued a plan disenrollment notice, stating that your child's coverage in his CHP plan will end on November 30, 2016.

On November 30, 2016, NYSOH issued an eligibility redetermination notice, based on your November 29, 2016 updated application, stating that your child was conditionally eligible to enroll in CHP with a \$30.00 per month premium, effective January 1, 2017.

On November 30, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your newborn's eligibility for and enrollment in a CHP plan, insofar as it did not begin December 1, 2016.

On March 2, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The Hearing Officer granted your request to amend your appeal to review your child's eligibility for and enrollment in CHP, solely for the months of August 2016 and September 2016. 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.
- 2) According to your NYSOH account and your testimony, your child was born on [REDACTED]
- 3) You submitted an application to NYSOH for financial assistance on behalf of your child on August 23, 2016 and enrolled him in a CHP plan on that day.
- 4) During the hearing, the Hearing Officer allowed you to amend your appeal to seek CHP coverage for your child for the months of August 2016 and September 2016.
- 5) You testified that although your income decreased in August 2016 and September 2016, you did not want your child's eligibility reviewed for Medicaid because his doctors will not accept it.
- 6) You testified that your child was covered for his first two days of birth, but you have one medical bill from August 2016 and 2 medical bills from September 2016 that you would like covered.

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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 (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 child 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 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 a CHP plan was effective October 1, 2016 and not as of [REDACTED], his date of birth.

You added your child to your NYSOH account on August 23, 2016. He was found eligible for enrollment in CHP and he was enrolled in a plan on that same day, both effective October 1, 2016.

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 originally 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, his CHP plan coverage cannot be retroactively applied to cover him from the date of his birth.

Since your child was added to your NYSOH application on August 23, 2016, his eligibility for and enrollment in CHP begins on the first day of the second month following August 2016; that is, on October 1, 2016.

Therefore, the August 24, 2016 eligibility determination and enrollment confirmation notices stating that your child's eligibility for and enrollment in his CHP plan were effective October 1, 2016, are correct and must be AFFIRMED.

Decision

The August 24, 2016 eligibility determination and enrollment confirmation notices stating that your child's eligibility for and enrollment in his CHP plan were effective October 1, 2016, are correct and must be AFFIRMED.

Effective Date of this Decision: March 9, 2017

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The effective start date of your child's CHP plan is 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):

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Summary

The August 24, 2016 eligibility determination and enrollment confirmation notices stating that your child's eligibility for and enrollment in his CHP plan were effective October 1, 2016, are correct and must be AFFIRMED.

This decision does not change your child's eligibility.

The effective start date of your child's CHP plan is 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:

