



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

## Notice of Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015211



Dear [REDACTED]

On April 19, 2017, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's November 30, 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 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: April 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015211



## 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 newborn child's eligibility for and enrollment in his Child Health Plus plan was effective January 1, 2017?

## Procedural History

On November 29, 2016, NYSOH received your initial application for health insurance, which included your newborn child.

On November 30, 2016, NYSOH issued a notice of eligibility determination, based on your November 28, 2016 application, stating that your newborn child was eligible to enroll in Child Health Plus (CHP) with a premium of \$30.00 per month, effective January 1, 2016.

Also on November 30, 2016, NYSOH issued a notice of enrollment, based on your plan selection on November 29, 2016, stating that your newborn child was enrolled in a CHP plan at \$30.00 per month, and that his enrollment would begin effective January 1, 2017.

On January 26, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your newborn child's CHP plan insofar as it did not begin as of the date of your newborn child's birth, [REDACTED]

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On April 19, 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) Your spouse testified that you are appealing only your newborn child's eligibility and enrollment start date.
- 2) Your spouse testified, and your NYSOH account reflects, that your newborn child was born [REDACTED]
- 3) Your spouse testified that prior to submitting your initial application to NYSOH, you attempted to add your newborn child to your employer-sponsored health insurance plan, but were advised that you could not because the enrollment period had lapsed by two days.
- 4) Your spouse testified, and your NYSOH account reflects, that on November 29, 2016, you submitted your initial application to NYSOH for your newborn child's coverage. This application resulted in your newborn child being found eligible for CHP coverage with a \$30.00 monthly premium, effective January 1, 2017.
- 5) Your spouse testified, and the record reflects, that you enrolled your newborn child into a CHP plan with a \$30.00 premium on November 29, 2016.
- 6) The record reflects that you and your spouse did not have coverage through NYSOH at the time of your newborn child's birth.
- 7) Your spouse testified that you need your newborn child's CHP plan to begin on [REDACTED] his date of birth, because you incurred significant medical expenses associated with his birth and post-natal pediatrician visits.

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

## **Applicable Law and Regulations**

### Child Health Plus

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).

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 “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

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, if 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 following 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 his CHP plan was effective January 1, 2017.

Your newborn child was born on [REDACTED] and, on November 29, 2016, your newborn child was included in your initial application submitted to NYSOH. He was found eligible for enrollment in CHP with a monthly premium of \$30.00 and a plan was selected on November 29, 2016, with an enrollment start date of January 1, 2017.

You testified that neither you nor your spouse had coverage through NYSOH at the time of your newborn child's birth. You testified that you need your newborn child's CHP plan to begin as of his birth, [REDACTED] because you incurred significant medical expenses associated with his birth and post-natal pediatrician visits.

As of the date of your newborn child's birth, in New York State the date on which a CHP 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 initial application and CHP enrollment for your newborn child was received on November 29, 2016, so the effective date of that plan would be the first day of the second month following November 2016, that is, on January 1, 2017.

Although section 2511 of the Public Health Law has been amended to provide for retroactive coverage to the first of the month of birth for newborns, this amendment did not become effective until January 1, 2017. As your newborn child was born prior to January 1, 2017, Child Health Plus coverage cannot be made retroactive to the first day of the month of birth for your newborn child.

Therefore, the November 30, 2016 eligibility determination and enrollment notice stating that your newborn child's eligibility for and enrollment in his CHP plan was effective January 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The November 30, 2016, 2016 eligibility determination notice is AFFIRMED.

The November 30, 2016 enrollment notice is AFFIRMED.

**Effective Date of this Decision:** April 21, 2017

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

This decision does not change your child's eligibility.

The effective date of your child's CHP plan is January 1, 2017.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061

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).

- By fax: 1-877-369-0129

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 November 30, 2016, 2016 eligibility determination notice is AFFIRMED.

The November 30, 2016 enrollment notice is AFFIRMED.

This decision does not change your child's eligibility.

The effective date of your child's CHP plan is January 1, 2017.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.



**A Copy of this Decision Has Been Provided To:**



## Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### 中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### 中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### 한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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