



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

Notice of Decision

Decision Date: June 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015706

[REDACTED]

Dear [REDACTED],

On May 26, 2017, you and your spouse, acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health's September 16, 2016 eligibility determination and 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 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 Date: June 28, 2017

NY State of Health Account ID: [REDACTED]
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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 youngest child's eligibility for and enrollment in her Child Health Plus plan was effective October 1, 2016?

Did NYSOH properly determine that your newborn child did not have health insurance coverage through a qualified health plan as of September 2016, the month of her birth?

Procedural History

On September 15, 2016, your newborn child was added to your NYSOH account.

On September 16, 2016, NYSOH issued a notice of eligibility determination, based on your September 15, 2016 application, stating that your youngest child was eligible to enroll in Child Health Plus (CHP) plan with a \$15.00 monthly premium for a limited time, effective October 1, 2016. This notice directed you to provide proof of your youngest child's citizenship status and Social Security number by December 14, 2016.

Also on September 16, 2016, NYSOH issued a notice of enrollment, based on your plan selection on September 15, 2016, stating that your children were enrolled in a CHP plan with a \$15.00 monthly premium, and that this enrollment in the plan began effective January 1, 2016. However, your NYSOH account enrollment details clarified that it was your oldest child's CHP coverage that

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began effective January 1, 2016, while your youngest child's CHP coverage would begin effective October 1, 2016.

On October 8, 2016, NYSOH received a copy of your youngest child's Social Security Card and birth certificate.

On October 19, 2016, NYSOH redetermined your youngest child's eligibility.

On October 20, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was eligible to enroll in CHP with a \$15.00 monthly premium, without condition, effective December 1, 2016.

Also on October 20, 2016, NYSOH issued an enrollment notice confirming your youngest child's enrollment in her CHP plan as October 19, 2016. The notice stated that her coverage under this CHP plan began effective October 1, 2016.

On February 9, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest child's Child Health Plus plan insofar as it did not begin as of the date of your youngest child's birth, [REDACTED]

On April 4, 2017, NYSOH received a completed Authorized Representative Designation Form confirming that you wanted your spouse, [REDACTED], to act as your Authorized Representative for all matters related to your account, including the appeal.

On May 26, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse, acting as your Authorized Representative, also attended the hearing. 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 youngest child's eligibility and enrollment start date.
- 2) You testified that you contacted NYSOH and your other children's Child Health Plus plan prior to your youngest child's birth, to try and obtain coverage for your youngest child, but were advised that your youngest child could not be added until she was born. You further testified that you were told by a NYSOH representative that your youngest child would be covered under your and your spouse's plan until her CHP plan took effect.

- 3) You testified, and your NYSOH account reflects, that your youngest child was born [REDACTED].
- 4) You testified, and your NYSOH account reflects, that on September 15, 2016 you updated your NYSOH account to include your youngest child.
- 5) You testified, and the record reflects, that you enrolled your youngest child into a CHP plan with a \$15.00 premium on September 15, 2016.
- 6) Your youngest child's CHP plan coverage began effective October 1, 2017.
- 7) You testified, and your NYSOH account reflects, that you and your spouse had coverage through a silver-level qualified health plan (QHP) through NYSOH at the time of your youngest child's birth, and during all of 2016.
- 8) You testified that you need your youngest child's CHP plan to begin on [REDACTED], her date of birth, because you incurred extensive medical expenses in connection with her [REDACTED] care during the month of September 2016. In the alternative, you are seeking for your youngest child to be added to your and your spouse's QHP plan as of the date of her birth, to cover costs incurred during September 2016.
- 9) You testified that you were confused as to how NYSOH could allow newborns to be without coverage and not make Child Health Plus retroactive to the date of birth for all children. You further testified that you specifically took steps to avoid this scenario since your oldest child, who was born [REDACTED] had gone through the same issue, which has only recently been resolved.

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

Applicable Law and Regulations

Child Health Plus

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

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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 would 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)).

Newborn Child – Effective Date of Coverage

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

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following

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month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

There are special effective dates 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); NYS Insurance Law § 4305). NYSOH has elected to make the effective date the first day of the month of birth.

If NYSOH permits the qualified individual or enrollee to elect a coverage effective date of either the first of the month following the date of birth, adoption, placement for adoption or placement in foster care, NYSOH must ensure coverage is effective on the date duly selected by the qualified individual or enrollee (45 CFR § 155.420(b)(2)).

Legal Analysis

The first issue is whether NYSOH properly determined that your youngest child's eligibility for and enrollment in her CHP plan was effective no earlier than October 1, 2017.

Your youngest child was born on [REDACTED], and on September 15, 2016 your youngest child was added to your NYSOH account. She was subsequently found eligible for enrollment in CHP with a \$15.00 monthly premium and a plan was selected on September 15, 2016, with an enrollment start date of October 1, 2016.

You testified that you need your youngest child's CHP plan to begin as of her birth, [REDACTED], because incurred extensive medical expenses in connection with her [REDACTED] care during the month of September 2016.

As of the date of your youngest 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 Child Health Plus enrollment for your youngest child was received on September 15, 2016, so the effective date of that plan would be the first day of the month following September 2016, that is, on October 1, 2016.

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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 youngest child was born prior to January 1, 2017, CHP coverage cannot be made retroactive to the first day of the month of birth for your youngest child.

Therefore, the September 16, 2016 eligibility determination notice and enrollment notice, as modified by your NYSOH account enrollment details, stating that your youngest child's eligibility for and enrollment in her CHP plan was effective October 1, 2016, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your youngest child did not have health insurance coverage through a QHP as of September 2016, the month of her birth.

You credibly testified that when you initially called NYSOH to add your youngest child to your NYSOH account, you were told that your child would be added to your and your spouse's silver-level QHP for the first month. However, you were told that she was eligible for Child Health Plus so you should enroll her in that plan.

In New York State if an application for insurance coverage is received through NYSOH before 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, health plan benefits are provided on the first day of the second subsequent month.

However, special exceptions have been made for newborns seeking coverage through Qualified Health Plans as of the newborn's date of birth. Newborns are permitted to enroll in coverage that is generally guaranteed to begin as of their date of birth if their parents have requested the enrollment within 60 days from the child's date of birth.

The record reflects that you clearly expressed your need for your child to be covered as of the date of her birth to NYSOH and NYSOH erred in not enrolling your child into your and your spouse's silver-level QHP as you requested. Furthermore, you clearly contacted NYSOH within the 60-day time frame seeking coverage for your child as of the date of his birth.

Therefore, your case is RETURNED to NYSOH to enroll your youngest child into your and your spouse's qualified health plan as of [REDACTED] continuing until her own CHP plan became effective on October 1, 2016.

You will be responsible for any premium due for your newborn's coverage.

Decision

The September 16, 2016 eligibility determination notice is AFFIRMED.

The September 16, 2016 enrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to enroll your youngest child into your and your spouse's qualified health plan as of [REDACTED] continuing until her own CHP plan became effective on October 1, 2016.

Effective Date of this Decision: June 28, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to facilitate enrolling your youngest child into your and your spouse's qualified health plan as of [REDACTED] due to NYSOH's error in not following the request you made.

This decision has no effect on your youngest child's CHP plan that became effective on October 1, 2016.

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

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- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- 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 September 16, 2016 eligibility determination notice is AFFIRMED.

The September 16, 2016 enrollment notice is AFFIRMED.

Your case is being sent back to NYSOH to facilitate enrolling your youngest child into your and your spouse's qualified health plan as of [REDACTED] due to NYSOH's error in not following the request you made.

This decision has no effect on your youngest child's CHP plan that became effective on October 1, 2016.

Legal Authority

We are issuing this determination in accordance with 45 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).

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。我们可以为您免费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 مجانًا.

বাংলা (Bengali)

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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. y&b&tumi 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.

שׂוֹדִישׁ (Yiddish)

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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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