



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

## Notice of Decision

Decision Date: November 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021691

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On November 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 19, 2017 eligibility determination notice and plan enrollment notices and that your newborn child was not enrolled into your qualified health plan as of his date of 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 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: November 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021691

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your newborn child was eligible for and enrolled in a full price Child Health Plus plan, effective September 1, 2017?

Did NY State of Health properly determine that your newborn child did not have health insurance coverage from March 1, 2017 through August 31, 2017?

## Procedural History

On February 16, 2017, NY State of Health (NYSOH) received your non-financial application for health insurance. The application indicated that you were pregnant with one child and your due date was [REDACTED].

On February 17, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective April 1, 2017.

Also on February 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a full pay qualified health plan, effective January 1, 2017.

On April 27, 2017, NYSOH received your updated non-financial application for health insurance. This application included your newborn child.

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On April 28, 2017, NYSOH issued an eligibility determination notice stating in part that your newborn child was eligible to purchase a qualified health plan at full cost through NYSOH, effective June 1, 2017.

On July 18, 2017, NYSOH received your updated application for financial assistance with health insurance.

On July 19, 2017, NYSOH issued an eligibility determination notice stating in part that your newborn child was eligible for a full price Child Health Plus plan or a Child-Only qualified health plan, effective September 1, 2017.

Also on July 19, 2017, NYSOH issued a plan enrollment notice stating in part that your newborn child was enrolled in a full price Child Health Plus plan, effective September 1, 2017.

On August 22, 2017, you spoke with NYSOH's Account Review Unit and appealed the start date of your newborn child's Child Health Plus plan insofar as it did not begin as of April 1, 2017.

On November 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to allow the Hearing Officer to listen to NYSOH's Call Center recordings from April 27, 2017 and July 6, 2017.

The Hearing Officer listened to the three available phone recordings from April 27, 2017 and July 6, 2017, after which the record was closed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, your child was born [REDACTED].
- 2) You testified that after your child was born, you received a letter in the mail indicating that you needed to add your newborn child to your NYSOH account.
- 3) You testified that you called NYSOH on April 27, 2017 to add your child to your NYSOH account.
- 4) NYSOH's Appeals Unit received and listened to the phone call you made to NYSOH on April 27, 2017, in which:

- a. You called NYSOH because you recently had a baby, and you would like to add him to your policy.
  - b. The NYSOH representative asked you if you would like to apply for assistance to help pay for health coverage, and you responded “no.”
  - c. The NYSOH representative informed you that your newborn child was eligible for a full pay qualified health plan, and that he would be automatically enrolled in the same plan that you had.
  - d. The NYSOH representative informed you that your newborn child was enrolled in the same qualified health plan that you had before ending the call.
  - e. At no time during this call did you seek to have your newborn child’s eligibility redetermined nor did you object to the fact that your newborn child was being enrolled into your qualified health plan.
- 5) NYSOH’s Appeals Unit reviewed the phone call you made to NYSOH on July 6, 2017, which was a three-way call between you, a representative from your qualified health plan, and a NYSOH representative and in which:
- a. The NYSOH representative informed you that you did in fact add your newborn child to your NYSOH account on April 27, 2017, but that an enrollment was never selected for your newborn child.
  - b. The NYSOH representative informed you that he would review the phone call made on April 27, 2017 to inquire as to what had happened that day, and that he would get back to you.
- 6) According to your NYSOH account, on July 7, 2017, NYSOH reviewed the phone record on April 27, 2017 and determined that your newborn child’s qualified health plan coverage should have started as of April 1, 2017, but for agent error in not enrolling your newborn child in your qualified health plan. [REDACTED]
- 7) According to your NYSOH account, you updated your NYSOH account on July 18, 2017, from anon-financial application to a financial application, and your newborn child was found eligible for a full pay Child Health Plus plan.
- 8) According to your NYSOH account and your testimony, you enrolled your newborn child into a Child Health Plus plan on July 18, 2017, which enrollment was effective September 1, 2017.
- 9) You testified that you want your newborn child to have his Child Health Plus plan coverage backdated to April 1, 2017, because you were never

fully informed of the difference between financial and non-financial applications when you added your child to your NYSOH account.

- 10) You further testified that you have unpaid medical bills associated with your newborn child's care from the date of his birth to the time when your newborn child's Child Health plus plan became effective.

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

## **Applicable Law and Regulations**

### Child Health Plus

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).

### Newborn Child, Qualified Health Plan– 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

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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 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 the Exchange 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, the Exchange 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 under review is whether NYSOH properly determined that your child's enrollment in his Child Health Plus plan was effective September 1, 2017.

You testified that you contacted NYSOH on July 18, 2017. The record indicates that on July 18, 2017, you submitted an application for financial assistance with health insurance, and your newborn child was found eligible to enroll in a full pay Child Health Plus plan, effective September 1, 2017.

You testified that you would like your newborn child's Child Health Plus plan coverage to start as of April 1, 2017 because you were never fully informed of the difference between a financial and a non-financial application when you added your newborn child to your account on April 27, 2017. However, a review of the telephone record indicates that on April 27, 2017, you stated that you would like your newborn child to be added to your policy. You further answered "no", when the NYSOH representative asked if you were seeking assistance to help pay for your or your newborn child's health insurance.

As a result, there was no indication on April 27, 2017 that you were unaware of the differences between financial and non-financial applications. There is also no indication in the record that you contacted NYSOH between April 27, 2017 and July 18, 2017 to seek advise about the difference between financial and non-

financial applications. Further, the record indicates that you contacted NYSOH on July 6, 2017 with a representative from your qualified health plan because your newborn child had never been enrolled into your qualified health plan and you wanted to rectify this issue. It was not until July 18, 2017 that you sought to enroll your child in a Child Health Plus plan as of April 1, 2017. Therefore, the credible evidence does not indicate that prior to July 18, 2017, NYSOH made any error or misrepresentations in regard to the application process, or your child's eligibility.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the July 19, 2017 eligibility determination and plan enrollment notices stating that your newborn child's eligibility for and enrolled in his Child Health Plus plan was effective September 1, 2017, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your newborn child did not have health insurance coverage as of March 1, 2017 through August 31, 2017.

Your child was born on [REDACTED] and, on April 27, 2017, your child was added to your NYSOH account. He was subsequently found eligible for enrollment in a full pay qualified health 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.

A review of the telephone record indicates that on April 27, 2017, the NYSOH representative informed you that your newborn child had been added to your qualified health plan, and gave you confirmation of the enrollment. However, this enrollment was never processed, and the record indicates that your newborn child was never enrolled in a qualified health plan that day. As such, NYSOH erred in not enrolling your newborn child into your qualified health plan as you requested.



Therefore, your case is RETURNED to NYSOH to enroll your newborn child into your qualified health plan as of March 1, 2017 continuing until his own Child Health Plus plan became effective on September 1, 2017.

You will be responsible for any premium payments due for your newborn's coverage from March 1, 2017 through August 31, 2017.

## **Decision**

The July 19, 2017 eligibility determination is AFFIRMED.

The July 19, 2017 plan enrollment notice is AFFIRMED.

NYSOH erred in not enrolling your newborn child into your qualified health plan as of March 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into your qualified health plan from March 1, 2017 through August 31, 2017, and to notify you accordingly.

**Effective Date of this Decision:** November 24, 2017

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

Your case is being sent back to NYSOH to facilitate enrolling your child into your qualified health plan as of March 1, 2017 due to NYSOH's error in not enrolling your newborn child into your qualified health plan. NYSOH will notify you once this is done.

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

This decision has no effect on your child's Child Health Plus plan that became effective on September 1, 2017.

## **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.

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).

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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The July 19, 2017 eligibility determination is **AFFIRMED**.

The July 19, 2017 plan enrollment notice is **AFFIRMED**.

NYSOH erred in not enrolling your newborn child into your qualified health plan as of March 1, 2017.

Your case is **RETURNED** to NYSOH to enroll your child into your qualified health plan from March 1, 2017 through August 31, 2017, and to notify you accordingly.

Your case is being sent back to NYSOH to facilitate enrolling your child into your qualified health plan as of March 1, 2017 due to NYSOH's error in not enrolling your newborn child into your qualified health plan. NYSOH will notify you once this is done.

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

This decision has no effect on your child's Child Health Plus plan that became effective on September 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:**

[REDACTED]  
[REDACTED]  
[REDACTED]

## **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 مجاناً.

### **বাংলা (Bengali)**

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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।

### **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 bɛtumi ama wo obi a okyerɛ 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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