



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

## Notice of Decision

Decision Date: January 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021954



On December 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 6, 2017 eligibility determination notice and the July 6, 2017 enrollment confirmation 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.

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## Decision

Decision Date: January 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021954



## 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 did not have health insurance coverage as of March 1, 2017?

## Procedural History

On October 21, 2016, NY State of Health (NYSOH) issued renewal notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2017.

On November 22, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan and that your coverage was effective January 1, 2017.

On June 20, 2017, your newborn child was added to your NYSOH account and an application was submitted stating that he was in need of health insurance, but that you did not want to provide his Social Security Number.

On July 5, 2017, you updated your application to include your newborn child's Social Security Number.

On July 6, 2017, NYSOH issued an eligibility determination stating that your newborn child was eligible to purchase a qualified health plan at full cost through

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NYSOH, effective August 1, 2017. This notice also stated that you must confirm your plan selection for your newborn by September 3, 2017.

On July 6, 2017, NYSOH issued an enrollment confirmation notice stating your newborn child was enrolled in a qualified health plan.

On August 29, 2017, you spoke with NYSOH's Account Review Unit and appealed the start date of coverage for your newborn child because you wanted to add him to your qualified health plan as of the date of his birth.

On December 21, 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) You testified that you are appealing because NYSOH failed to add your newborn to your qualified health as of his date of birth.
- 2) You testified, and the record reflects, that your child was born on [REDACTED].
- 3) You testified that you contacted NYSOH to add your newborn child to your qualified health plan in May 2017. You further testified that you believe this contact was more than thirty days after the birth of your newborn, but less than sixty days after the birth of your newborn.
- 4) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 5) The record reflects that you first contacted NYSOH to add your newborn to your NYSOH account on June 20, 2017. A review of the recording of that phone call reflects that you advised the NYSOH representative that you did not have your newborn child's Social Security Number available and were in the process of getting your newborn's Social Security Card reissued.
- 6) The record reflects that you next contacted NYSOH on July 5, 2017. A review of the recording of that phone call reflects that you provided NYSOH with your newborn's Social Security Number at that time. The NYSOH representative advised you that your newborn would only be able to enroll in a qualified health plan if he qualified for a special enrollment period. The NYSOH representative provided you with a list of reasons for

a special enrollment to be granted. You indicated that your newborn became a dependent through birth. The NYSOH representative then indicated that the event date was July 5, 2017, you advised the representative that your newborn child was born on [REDACTED]. The NYSOH representative advised you that the event date that should be used in the application was that day, July 5, 2017. You selected a qualified health plan for enrollment for your newborn that day.

- 7) In the application submitted on July 5, 2017 a special enrollment period reason of “gained a dependent due to birth, adoption, placement for adoption, placement in foster care or court ordered medical support” was selected with an event date of “July 5, 2017”.
- 8) On July 6, 2017, NYSOH issued a notice indicating that your newborn qualified to enroll in a qualified health plan outside of the open enrollment period and that you needed to select a health plan for your newborn by September 3, 2017.
- 9) The enrollment tab within your NYSOH account indicates that your newborn’s enrollment in his qualified health plan began as of July 5, 2017.

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

## **Applicable Law and Regulations**

### Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan and enrollees may change qualified health plans (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (45 CFR § 155.410(e)(2)).

### Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent either:

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- (i) Loses minimum essential coverage.
- (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
- (iii) Loses pregnancy-related coverage.
- (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.

(2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.

(ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.

(3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.

(4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

(5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;

(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

- (i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or
  - (ii) Was living outside of the United States or in a United States territory at the time of the permanent move;
- (8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.
- (9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;
- (10) A qualified individual or enrollee—
  - (i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or
  - (ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;
- (11) A qualified individual or dependent—
  - (i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or
  - (ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;
- (12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days. NYSOH has not elected to adopt this subsection at this time.

(45 CFR § 155.420(d)).

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)).

### Newborn Child – Effective Date of Coverage

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

NYSOH provided an open enrollment period to enroll into qualified health plans from November 1, 2016 until January 31, 2017. Once the annual open enrollment

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period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

[REDACTED]. Becoming a dependent through birth is considered a triggering life event. However, when a triggering life event occurs, the qualified individual has sixty (60) days from the date of that event to select a qualified health plan.

[REDACTED]; your newborn would have qualified to select a qualified health plan outside of the open enrollment period until May 22, 2017.

You did not contact NYSOH to add your newborn to your account until June 20, 2017; which is outside of the 60-day window. Therefore, your newborn should not have been granted a special enrollment period based on becoming a dependent through birth because you did not notify NYSOH of his birth within 60-days from that event.

On July 5, 2017, you updated your application to include your newborn's Social Security Number. The application submitted on July 5, 2017 was also updated to indicate that you were seeking a special enrollment period for your newborn in order to be able to enroll him in a qualified health plan. The special enrollment period reason was "gained a dependent due to birth, adoption, placement for adoption, placement in foster care or court ordered medical support".

However, when you updated your application on July 5, 2017, NYSOH mistakenly entered July 5, 2017 as the event date, rather than your newborn's date of birth, [REDACTED]. This resulted in your newborn erroneously being granted a special enrollment period until September 3, 2017.

As NYSOH has not filed an appeal of the July 6, 2017 eligibility determination notice, NYSOH's determination that your newborn child was entitled to a special enrollment period and permitted to enroll in a qualified health plan, even though erroneous based on the event input into the application, will not be disturbed.

Based on the granting of the special enrollment period, you were able to enroll your newborn child into a qualified health plan. The enrollment tab within your NYSOH account indicates that your newborn's enrollment in his qualified health plan began as of July 5, 2017.

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.

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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. As discussed above, you did not contact NYSOH within 60 days from the date of birth and therefore your child's actual date of birth was not the triggering event that allowed for him to enroll into a special enrollment period.

In the application you submitted on July 5, 2017, the special enrollment triggering event date listed was July 5, 2017. As such, your newborn's eligibility for and enrollment in his qualified health plan should have begun as of the first of the month in which the triggering event that was listed in your application occurred.

Therefore, the July 6, 2017 eligibility determination notice and the July 6, 2017 enrollment confirmation notice are MODIFIED to reflect that your newborn's eligibility for and enrollment in his qualified health plan are effective as of July 1, 2017.

Your case is RETURNED to NYSOH to begin your newborn child's enrollment in his qualified health plan as of July 1, 2017.

## **Decision**

The July 6, 2017 eligibility determination notice and the July 6, 2017 enrollment confirmation notice are MODIFIED to reflect that your newborn's eligibility for and enrollment in his qualified health plan are effective as of July 1, 2017.

Your case is RETURNED to NYSOH to begin your newborn child's enrollment in his qualified health plan as of July 1, 2017.

**Effective Date of this Decision:** January 9, 2018

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

Your newborn child's enrollment in his qualified health plan is not effective as of March 1, 2017 because you failed to add him to your NYSOH account within 60 days of his birth.

Your newborn child's eligibility for and enrollment in his qualified health plan is effective as of July 1, 2017, the first day of the month in which the triggering event is listed as occurring.

Your case is being sent back to NYSOH to ensure that your child's enrollment in his qualified health plan began as of July 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.

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

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## **Summary**

The July 6, 2017 eligibility determination notice and the July 6, 2017 enrollment confirmation notice are MODIFIED to reflect that your newborn's eligibility for and enrollment in his qualified health plan are effective as of July 1, 2017.

Your newborn child's enrollment in his qualified health plan is not effective as of March 1, 2017 because you failed to add him to your NYSOH account within 60 days of his birth.

Your newborn child's eligibility for and enrollment in his qualified health plan is effective as of July 1, 2017, the first day of the month in which the triggering event is listed as occurring.

Your case is RETURNED to NYSOH to begin your newborn child's enrollment in his qualified health plan as of July 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)

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### 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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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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