



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

Notice of Decision

Decision Date: May 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: APM26984731

[REDACTED]

Dear [REDACTED],

On April 7, 2016, you and your spouse appeared by telephone at a hearing on the NY State of Health's determination to not enroll your newborn child in a qualified health plan effective on the date of their 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: APM26984731

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace fail to enroll your newborn child in a qualified health effective on the date of his birth?

Procedural History

On December 17, 2014, the Marketplace issued an enrollment notice confirming that you and your spouse were enrolled in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 and coverage could start as early as January 1, 2015.

On November 20, 2015, you updated your Marketplace account to include your newborn child.

On November 22, 2015, the Marketplace issued an eligibility determination notice that states that your newborn child is eligible to purchase a qualified health plan at full cost through NY State of Health, effective as of October 1, 2015.

On November 30, 2015, the Marketplace issued an enrollment notice confirming that your newborn child's UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 coverage could start as early as January 1, 2016.

On December 24, 2015, the Marketplace issued a cancellation notice stating that you requested to cancel you, your spouse and child's UnitedHealthcare coverage on

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December 22, 2015. The notice stated that your family's UnitedHealthcare coverage would end effective January 1, 2016.

On January 5, 2016, you requested an appeal insofar as your newborn child being added to your qualified health plan effective their date of birth.

On April 7, 2016, you and your spouse had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding. The record is now complete and closed.

Findings of Fact

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

- 1) According to your Marketplace account, you and your spouse were enrolled in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 from January 1, 2015 through December 31, 2015.
- 2) Your newborn child was born on [REDACTED].
- 3) You testified that you contacted UnitedHealthcare on October 10, 2015 to add your newborn child to your qualified health plan. You were told by a representative that nothing further needed to be done to effectuate your newborn's coverage in your health plan through UnitedHealthcare.
- 4) You testified that you became aware that your newborn's coverage with UnitedHealthcare was not active at a medical appointment, for your child, in October 2015.
- 5) According to your Marketplace account, on November 20, 2015 your Marketplace account was updated, and your child was added to your account.
- 6) According to your Marketplace account, your child was enrolled in your UnitedHealthcare plan on November 30, 2015.
- 7) According to the "Appeal Summary" in the Evidence Packet, that was created in anticipation of your appeal, you are looking to add your newborn to your UnitedHealthcare plan for October, November and December 2015 (Incident # [REDACTED] January 5, 2016).
- 8) You testified that you were contacted by a representative from the Department of Health prior to the scheduled hearing, with the Marketplace Appeals Unit, and was told that your child's UnitedHealthcare coverage would be backdated to cover the medical bills in October, November and December 2015. However, you

testified that UnitedHealthcare is currently denying all claims regarding your newborn's medical appointments with specialists.

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

Applicable Law and Regulations

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "*De novo review* means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

The Marketplace is required to provide "timely written notice to an applicant of any eligibility determination" made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)). An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Special Enrollment Period- Newborn Child:

The Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another plan. One circumstance under which a special enrollment can be authorized is when the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care ((45 CFR § 155.420(d)(2)(i)).

Special Enrollment Effective Date:

In the case of birth, adoption, placement for adoption, or placement in foster care of a child for Marketplace Exchanges. The Marketplace 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)).

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 record does not contain a notice of eligibility determination or redetermination regarding the issue of whether or not your newborn child is eligible to enroll in a qualified health plan effective their date of birth. It does, however, contain within the "Appeal Summary" in the Evidence Packet, that was created in anticipation of your appeal, that you are looking to add your newborn to your UnitedHealthcare plan for October, November and December 2015 (Incident # [REDACTED]; January 5, 2016).

The lack of a notice of eligibility determination on the issue of QHP enrollment does not prevent the Appeals Unit from reaching the merits of the case. Under 45 CFR § 155.505(b), you are as entitled to appeal Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. The text of the Appeal Summary, which acknowledges the appeal on the issue of your newborn's QHP enrollment, permits an inference that the Marketplace did deny your request that your newborn child be enrolled in a QHP effective their date of birth. Since Appeal Unit review of Marketplace determinations is performed on a *de novo* basis, no deference would have been granted to the notice of eligibility determination had it been issued.

The Marketplace must provide special enrollment periods during which qualified individuals may enroll in qualified health plans and enrollees may change qualified health plans. The Marketplace must allow for a special enrollment period when the qualified individual gains a dependent through birth.

According to the record, on October 10, 2015, you contacted UnitedHealthcare to add your newborn to your qualified health plan. Furthermore, you contacted the Marketplace's Customer Service on November 20, 2015, to add your child to your Marketplace account and enrolled them in your qualified health plan on November 30, 2015.

When an enrollee gains a dependent through birth, the Marketplace must ensure that the effective date is selected by the qualified individual or enrollee.

The record reflects that you contacted your health plan on October 10, 2015 and the Marketplace in November 2015 with the purpose to enroll your newborn child in your QHP effective their date of birth.

Therefore, this case is REMANDED to the Marketplace to enroll your newborn child in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 from October 1, 2015 through December 31, 2015.

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 will be responsible for any premium due for your newborn's coverage in October, November and December 2015 and will be billed directly by the insurance carrier.

Furthermore, you testified that you were contacted by a representative from the Department of Health prior to the scheduled hearing, with the Marketplace Appeals Unit, and was told that your child's UnitedHealthcare coverage would be backdated to cover the medical bills in October, November and December 2015. However, you testified that UnitedHealthcare is currently denying all claims regarding your newborn's medical appointments with specialists.

Your case will be RETURNED to the Marketplace's Plan Management Unit to ensure compliance with this Decision.

Decision

The case is REMANDED to the Marketplace to enroll your newborn child in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 from October 1, 2015 until December 31, 2015.

You will be responsible for any premium due for your newborn's coverage in October, November and December 2015 and will be billed directly by the insurance carrier.

Your case will be RETURNED to the Marketplace's Plan Management Unit to ensure compliance with this Decision.

Effective Date of this Decision: May 4, 2016

How this Decision Affects Your Eligibility

Your newborn child will be enrolled in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 from October 1, 2015 until December 31, 2015.

You will be responsible for any premium due for your newborn child's coverage in October, November and December 2015 and will be billed directly by the insurance carrier.

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.

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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 after the date 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 date 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
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- By fax: 1-855-900-5557

Summary

The case is REMANDED to the Marketplace to enroll your newborn child in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 from October 1, 2015 until December 31, 2015.

You will be responsible for any premium due for your newborn's coverage in October, November and December 2015 and will be billed directly by the insurance carrier.

Your case will be RETURNED to the Marketplace's Plan Management Unit to ensure compliance with this Decision.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]