
Appellant: [REDACTED]
For: MinnesotaCare
Agency: Department of Human Services
Docket: 264516

**DECISION OF
STATE AGENCY
ON APPEAL**

On November 15, 2023, Human Services Judge Patrick Kontz held a hearing under Minnesota Statutes, section 256.045, subdivision 3.¹

The following people appeared at the hearing:

[REDACTED], Appellant

The human services judge, based on the evidence in the record and considering the arguments of the parties, recommends the following Findings of Fact, Conclusions of Law, and Order.

¹The Minnesota Department of Human Services conducts state fair hearings pursuant to Minnesota Statutes, section 256.045, subdivision 3.

STATEMENT OF ISSUES

The issue raised in this appeal is:

Did the appellant timely file an appeal so as to give the Commissioner of Human Services authority to hear the matter?

Recommended Decision:

No. The appellant did not file the appeal request within 90 days of the date of the notice of action. The appeal should be dismissed.

PROCEDURAL HISTORY

1. **Notice of Action.** On May 15, 2023, the Minnesota Department of Human Services (agency) sent [REDACTED] (appellant) written notice that their MinnesotaCare would end on May 31, 2023. *Exhibit 1.* On May 23, 2023, the agency sent the appellant a follow-up notice clarifying that coverage would end June 30, 2023. *Id.* The notices were sent to the appellant's correct address and including important appeals rights information that explained to the appellant that if they thought the decision about their health care was wrong, they had a right to appeal, but must do so within 30 days of receiving the notice, or up to 90 days after the date of the notice if they could show good cause for not filing within 30 days. *Id.* The appellant received the first notice around May 30, 2023 and the second notice in June 2023. *Testimony of Appellant.*

2. **Request for Appeal.** On September 18, 2023, 118 days after the May 23, 2023 notice was sent, the appellant filed an appeal. *Exhibit 2.* The appeal delayed filing the appeal because they were confused by the notice, could not get through to the agency helpline, and thought they could get insurance through their work at the next open enrollment. *Testimony of Appellant.* At one point, they Googled the issue and learned they could appeal, so they did. *Id.*

3. **Evidentiary Hearing.** On November 15, 2023, Human Services Judge Patrick Kontz held an evidentiary hearing on the matter by telephone conference. The record was held open after the hearing to allow the agency time to respond to the appellant's additional evidence. On November 24, 2023, the record closed consisting of the hearing testimony and two exhibits.²

² Exhibit 1 - Appeal Summary and attachments, including information submitted after the hearing. Exhibit 2 – Appeal Request and attachments.

FINDINGS OF FACT

1. **Coverage.** On November 24, 2020, the appellant was approved for MinnesotaCare beginning November 1, 2020 based on a reported household size of one and a projected annual income (PAI) of \$24,560.00. *Exhibit 1.* However, the appellant also reported that effective January 1, 2021, their projected annual income would increase to \$29,640.00, putting them over the income limit for MinnesotaCare eligibility. *Id.* Due to the COVID-19 peacetime emergency, the appellant's coverage was kept open. *Id.* After the emergency ended on April 1, 2023, the agency redetermined the appellant's eligibility, resulting in the May 2023 notices. *Id.*

2. **Appellant's Position.** The appellant does not dispute their household size, but would like a review of the income used to determine their eligibility. *Exhibit 2 and Testimony of Appellant.* As part of the appeal, the appellant submitted their 2021 and 2022 federal tax returns, showing adjusted gross incomes of \$31,911.00 and \$45,028.00. *Exhibit 1.* The appellant is currently working full-time and expects similar income in 2023 as in 2022, but has been accepted into nursing program for the Spring 2024 that will result in them becoming a student and having reduced income in the upcoming year. *Exhibit 2 and Testimony of Appellant.*

APPLICABLE LAW

1. **Jurisdiction.** The Commissioner of Human Services has jurisdiction over appeals involving matters listed in Minnesota Statutes, section 256.045, subdivision 3. Among other circumstances, hearings are available for any person applying for, receiving or having received medical care whose application for assistance is denied or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid. *Minn. Stat. § 256.045, subd. 3(a)(1).*

2. **Appeal Time Limit.** Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization specified in this section may contest the specified action by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or within 90 days of such written notice if the person shows good cause why the request was not submitted within the 30 day time limit. *Minn. Stat. § 256.045, subd. 3(i).* The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence. *Id.*

3. **Tolling.** Tolling provisions that could extend the time limit beyond ninety days do not apply to statutorily created deadlines such as these unless the statute itself contains a clause stating that general tolling statutes or other exceptions apply. *See, Whitener ex rel Miller v. Dahl, 625 N.W.2d 827, 829 (Minn. 2001).* Because Minnesota Statutes, section 256.045

contains no such language, the Commissioner of the Department of Human Services is barred from considering any appeal filed more than ninety days after a notice is issued, no matter the reason for the delay in filing the appeal.

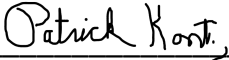
CONCLUSIONS OF LAW

1. **Conclusion.** The appellant filed their appeal more than 90 days after the notice was issued. The notice sent by the agency to the appellant was proper notice containing all of the elements of notice required by law and was sent to the correct address the agency had on file for the appellant. The appellant received the notice soon after it was sent. Because the appellant filed the appeal more than 90 days after the notice was issued, I conclude that the appeal is untimely and thus barred. Unfortunately for appellant, there is no good cause exception for filing an appeal more than 90 days after a notice of action is issued. Therefore, I recommend that the matter be dismissed. If the appellant believes they are eligible for Medical Assistance or MinnesotaCare at this time, they can reapply.

RECOMMENDED ORDER

Based on all of the evidence, I recommend that the Commissioner of Human Services:

- DISMISS the appeal as untimely.



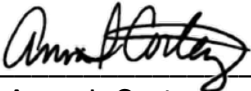
Patrick Kontz
Human Services Judge

12/06/2023

Date

ORDER

On behalf of the Commissioner of Human Services and for the reasons stated above, I adopt the recommended Findings of Fact, Conclusions of Law, and Recommended Order as the final decision of the Department of Human Services.



Anna I. Cortez
Co-Chief Human Services Judge

December 7, 2023

Date

cc: [REDACTED]
DHS – Eligibility Appeals Unit (via email)

FURTHER APPEAL RIGHTS

This decision is final unless you take further action.

Appellants who disagree with this decision should consider seeking legal counsel to identify further legal action. If you disagree with this decision, you may:

- **Request the appeal be reconsidered.** The request must state the reasons why you believe your appeal should be reconsidered. The request may include legal arguments and may include proposed additional evidence supporting the request. If you propose additional evidence, you must explain why the evidence was not provided at the hearing. **The request must be in writing and be made within 30 days of the date this decision was issued by the co-chief human services judge.** You can mail the request to: Appeals Division, Minnesota Department of Human Services, P.O. Box 64941, St. Paul, MN 55164-0941. You can also fax the request to (651) 431-7523. **You must send a copy of the request to the other parties.** To ensure timely processing of your request, please include the name of the human services judge assigned to your appeal and the docket number. The law that describes this process is Minnesota Statutes, section 256.0451, subdivision 24.
- **Start an appeal in the district court.** This is a separate legal proceeding that you must start **within 30 days of the date this decision was issued by the co-chief human services judge.** You start this proceeding by: 1) serving a written copy of a notice of appeal upon the Commissioner of Human Services and upon any other adverse party of record; and 2) filing the original notice and proof of service with the court administrator of the county district court. The law that describes this process is Minnesota Statutes, section 256.045, subdivision 7.³

³ County agencies do not have the option of appealing decisions about Supplemental Nutrition Assistance Program (SNAP), Minnesota Family Investment Program (MFIP), or Diversionary Work Program (DWP) benefits to district court under 7 Code of Federal Regulations, section 273.15(q)(2), and Minnesota Statutes, section 256J.40. A prepaid health plan may not appeal this order under Minnesota Statutes, section 256.045, subdivision 7.