



**DECISION  
OF AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: MinnesotaCare  
Medical Assistance  
Qualified Health Plan  
Agency: MNsure Board  
Minnesota Department of Human Services  
Docket: 148939

On February 25, 2014, Appeals Examiner David E. Gassoway held an evidentiary hearing under 42 United States Code §18081(f) and Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED] Appellant

Based on the evidence in the record and considering the arguments of the parties, I recommend the following findings of fact, conclusions of law, and order.

## STATEMENT OF ISSUES

Whether the MNsure Board properly determined the Appellant's eligibility for a Qualified Health Plan under the Affordable Care Act.

Whether the Minnesota Department of Human Services properly determined Appellant's eligibility for Medical Assistance and MinnesotaCare benefits.

## FINDINGS OF FACT

1. On or about November 6, 2013, MinnesotaCare sent the appellant a notice via U.S. Postal mail informing the appellant that her MinnesotaCare coverage would end on December 31, 2013 because the appellant's income rose above the statutory guidelines for continued eligibility.<sup>1</sup> The appellant's income rose above the MinnesotaCare income eligibility limits due to changes in applicable law effective January 1, 2014 which changed the income eligibility limits for MinnesotaCare.<sup>2</sup>

2. The appellant's income for MinnesotaCare eligibility purposes was based on income information submitted by the appellant in her February 2013 renewal application.<sup>3</sup> The appellant's household income is derived from employment income from a company known as [REDACTED]. Her annual income at the time of her February 2013 renewal application was \$37,389 (\$7,989.54 from employment, \$14,700 from her own social security benefits, and \$14,700 from her son's social security benefits).<sup>4</sup>

3. The appellant's household size is two, consisting of the appellant and her son.<sup>5</sup>

4. On an unspecified date, the appellant submitted an application for insurance coverage through MNsure.<sup>6</sup> On an unspecified date, the MNsure Board sent the appellant a written Health Care Notice.<sup>7</sup> The notice informed the appellant that she did not qualify for Medical Assistance (MA) benefits because her household income was more than the limit for a household size of two.<sup>8</sup> The notice advised the appellant that she did not qualify for MinnesotaCare benefits because her household income was more than the limit for her household size of two.<sup>9</sup> The appellant was approved for a Qualified Health Plan with a silver-level plan consisting of an annual deductible of \$2,500 and a monthly premium of \$259.64 through MNsure.<sup>10</sup>

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<sup>1</sup> Exh. 4, p. 1.

<sup>2</sup> Exh. 4, p. 2.

<sup>3</sup> Exh. 4, p. 2. See also Exh. 4.A.

<sup>4</sup> Id.

<sup>5</sup> Test. of Appellant.

<sup>6</sup> Test. of Appellant. See also Exh. 3, p. 7.

<sup>7</sup> Exh. 3, p. 7.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Test. of Appellant.

5. The appellant does not dispute that she does not qualify for MA benefits.<sup>11</sup>

6. The appellant does not challenge MinnesotaCare's November 6, 2013 action; and admits that her income was above MinnesotaCare's eligibility limit when the agency made the decision to terminate her MinnesotaCare benefits on November 6, 2013.<sup>12</sup>

7. The appellant believes she should be eligible for MinnesotaCare effective January 1, 2014 because her household income decreased.<sup>13</sup> The appellant contends her annual household income is \$29,856, consisting only of unearned income from social security benefits for her and her son.<sup>14</sup> As such, the appellant submitted an appeal request on December 23, 2013.<sup>15</sup>

8. On February 25, 2014, Appeals Examiner and Human Services Judge David Gassaway held an evidentiary hearing by telephone conference. The record, consisting of four exhibits,<sup>16</sup> was closed at the end of the hearing.

9. The appellant had not submitted updated income information to MinnesotaCare or to MNsure as of the date of the hearing in this matter.<sup>17</sup>

#### APPLICABLE LAW

10. Federal regulations concerning eligibility for advance payment of a premium tax credit are found at 45 C.F.R. §155.305(f)(1) and 26 C.F.R. §1.36B-2. MNsure must determine a tax filer eligible for an advance premium tax credit if he or she is expected to have household income, as defined in 26 C.F.R. 1.36B-1(e), between 100% and 400% of federal poverty guidelines during the benefit year for which coverage is requested (unless he or she is a lawfully present noncitizen), and one or more applicants for whom the tax filer expects to claim a personal exemption deduction on his or her federal tax return for the benefit year are: (a) eligible for enrollment in a Qualified Health Plan through the Exchange as specified in 45 C.F.R. 155.305(a), and (b) are not eligible for minimum essential coverage, with the exception of coverage in the individual market, in accordance with section 26 C.F.R. 1.36B-(a)(2) and (c). *45 C.F.R. §155.305(f)*.

11. Federal rules and regulations governing Medical Assistance and Exchange appeals require that, if an individual appeals the advance payment of the premium tax credit or cost sharing reduction level, the appeal will also automatically be treated as an appeal of Medical Assistance and MinnesotaCare eligibility.<sup>18</sup>

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<sup>11</sup> Test. of Appellant.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Exh. 3.

<sup>16</sup> Exhibit 1- Appellant's Appeal with supporting documents; Exhibit 2 – Appellant's MNsure Appeal Request Form; Exhibit 3 – Appellant's supporting documents; Exhibit 4 – State Agency (MinnesotaCare) Appeals Summary with attachments.

<sup>17</sup> Test. of Appellant.

<sup>18</sup> 78 Fed. Reg. 4683 (proposed Jan. 22, 2013) (to be codified at 42 C.F.R. § 431.221(e)); 78 Fed. Reg. 4595 (Jan. 22, 2013)(comments regarding proposed 42 C.F.R. § 431.221(e)); 45 C.F.R. § 155.510(b)(3); 45 C.F.R. § 155.505(b)(1)(i); and 78 Fed. Reg. 54096 (Aug. 30, 2013)(comments regarding 45 C.F.R. § 155.510(b)(3)).

12. A “taxpayer's family” means the individuals for whom a taxpayer properly claims a deduction under 26 U.S.C. §151 for the taxable year. *26 C.F.R. §1.36B-1(d)*. Family size means the number of individuals in the family. *Id.* Family and family size may include individuals who are not subject to or are exempt from the penalty under 26 U.S.C. § 5000A for failing to maintain minimum essential coverage. *Id.*

13. “Household income” means the sum of a taxpayer's modified adjusted gross income plus the aggregate modified adjusted gross income of all other individuals who are included in the taxpayer’s family and are required to file a tax return for the taxable year. *26 C.F.R. §1.36B-1(e)(1)*.

14. “Modified adjusted gross income” (MAGI) means adjusted gross income increased by: (i) amounts excluded from gross income under 26 U.S.C. §911 (foreign income and housing costs); (ii) tax exempt interest the taxpayer receives or accrues during the taxable year; and (iii) social security benefits not included in gross income under 26 U.S.C. §86. *26 C.F.R. §1.36B-1(e)(2)*.

15. A taxpayer's premium assistance credit amount for a taxable year is the sum of the premium assistance amounts determined under 26 C.F.R. §1.36B-3(d) for all coverage months for individuals in the taxpayer's family. *26 C.F.R. §1.36B-3(a)*.

#### CONCLUSIONS OF LAW

16. This appeal was started within the allowed time limits. *45 C.F.R §155.520(b)*. The MNsure Board has the legal authority to review and decide issues in this appeal regarding Appellant’s eligibility through MNsure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program. *Minn. Stat. § 62V.05, subd. 6*. The MNsure Board has an agreement with the Department of Human Services to hear and decide appeals involving premium assistance. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues in this appeal regarding Appellant’s eligibility for Medical Assistance and MinnesotaCare. *Minn. Stat. § 256.045, subd. 3*.

17. Even though Appellant did not specifically contest eligibility for Medical Assistance, federal rules and regulations require that a determination be made as to Appellant’s eligibility for the program if Appellant appeals eligibility for either advance payment of the premium tax credit or cost sharing reduction level. Because Appellant’s income was above 200% of the federal poverty level for her household size at the time of MinnesotaCare’s action, the Agency correctly determined that Appellant was not eligible for either Medical Assistance or MinnesotaCare. As such, the determination that Appellant was not eligible for either Medical Assistance or MinnesotaCare stands. The appellant is required under applicable law to update changes in her

income so that MinnesotaCare can redetermine her eligibility.<sup>19</sup> The appellant should update her attested income with MNsure and MinnesotaCare so that the agencies can redetermine her eligibility for MinnesotaCare.

18. This decision is effective March 1, 2014.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board AFFIRM the Agency’s determination of the Appellant’s eligibility for a Qualified Health Plan under the Affordable Care Act.

And

The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant is not eligibility for Medical Assistance or MinnesotaCare benefits as of November 6, 2013.

/s/ David E. Gassoway  
David E. Gassoway  
Appeals Examiner/Human Services Judge

April 10, 2014  
Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board and the Commissioner of the Minnesota Department of Human Services adopt the Appeals Examiner’s findings of fact, conclusions of law and order as each agency’s final decision.

FOR THE COMMISSIONER OF HUMAN SERVICES as to any effect the decision has on Appellant’s eligibility for Medical Assistance and/or MinnesotaCare benefits.

FOR THE MNSURE BOARD as to any effect the decision has on Appellant’s eligibility through MNsure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program.

\_\_\_\_\_

\_\_\_\_\_ Date

<sup>19</sup> Minn. Stat. § 256L.05, subd. 3a.

## 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 recourse.

If you disagree with the effect this decision has on your eligibility for **Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program**, you may:

- **Appeal to the United States Department of Health and Human Services (DHHS)** under 42 U.S.C. § 18081(f) and 45 C.F.R. § 155.520(c). This decision is the final decision of MNsure, unless an appeal is made to DHHS. An appeal request may be made to DHHS *within 30 days of the date of this decision* by calling the Marketplace Call Center at 1-800-318-2596 (TTY 855-889-4325); or by downloading the appeals form for Minnesota from the appeals landing page on [www.healthcare.gov](http://www.healthcare.gov).

If you disagree with this effect this decision has on your eligibility for **Medical Assistance and/or MinnesotaCare** benefits, you may:

- **Request the Appeals Office reconsider this decision.** 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; however, if you submit additional evidence, you must explain why it was not provided at the time of the hearing. The request must be *in writing*, be made *within 30 days of the date of this decision*, and a *copy of the request must be sent to the other parties*. Send your written request, with your docket number listed, to:

Appeals Office  
Minnesota Department of Human Services  
P.O. Box 64941  
St. Paul, MN 55164-0941  
Fax: (651) 431-7523

- **Start an appeal in the district court.** This is a separate legal proceeding, and you must start this *within 30 days of the date of this decision* by serving a notice of appeal upon the other parties and the Commissioner. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.

cc: [REDACTED] Appellant  
[REDACTED] MNsure  
[REDACTED] Minnesota Department of Human Services - 0989

