



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Advance Payment of Premium Tax Credit
MinnesotaCare
Medical Assistance
Agency: MNsure Board
Minnesota Department of Human Services
Docket: 150694

On March 24, 2014 Appeals Examiner David Gassoway held an evidentiary hearing under 42 U.S.C. §18081(f) and Minn. Stat. §62V.05, Subd. 6(a).

The following people appeared at the hearing:

[REDACTED] Appellant
[REDACTED] MNsure Representative

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 ISSUE

Whether the MNsure Board correctly denied the Appellant's application for advanced payment of a Premium Tax Credit because the Appellant is married, but does not intend to file joint taxes with her spouse.

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

FINDINGS OF FACT

1. On February 24, 2014, the appellant applied for healthcare coverage through the MNsure system. *Exhibit 2, p. 3*. On February 24, 2014, the MNsure Board (herein agency) advised the appellant that the appellant was not eligible for advanced payment of a Premium Tax Credit because the appellant is married and indicated she does not intend to file federal taxes jointly with her husband. *Id.* The appellant is married, but residing separately from her husband. *Testimony of Appellant.* The appellant's husband and son applied for healthcare coverage through the MNsure eligibility system on a separate application from the appellant. *Exhibit 2, p. 3*.

2. On February 24, 2014, the appellant submitted an appeal request to challenge the agency's determination that she was not eligible for advance payment of premium tax credits. *Exhibit 1*.

3. On March 24, 2014, Human Services Judge David Gassoway held an evidentiary hearing via telephone conference. The record closed on March 24, 2014 consisting of two exhibits.¹

4. The appellant contends that she and her husband live separately because they are considering obtaining a divorce. *Testimony of Appellant.* The appellant does not intend to file taxes jointly with her husband. *Exhibit 2, p. 3*.

APPLICABLE LAW

1. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minn. R. 770.0105, subp. 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination.

2. 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

¹ Exhibit 1 – Appellant's Appeal Request; Exhibit 2 – Agency Appeals Summary.

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*.

3. Federal regulations governing Medical Assistance and Exchange appeals require that, if an individual appeals a determination of eligibility for the advance payment of the premium tax credit or cost sharing reductions, the appeal will automatically be treated as a request for a fair hearing of the denial of eligibility of Medicaid.² The reason for this automatically pairing of Medicaid appeals with appeals concerning advance payment of the premium tax credits is to further the goal of providing a streamlined, coordinated appeals process for appellants which avoids the need for the appellant to file multiple appeals with different agencies. *Id.* In Minnesota, Medicaid programs include Medical Assistance and MinnesotaCare.

4. Federal regulations concerning eligibility for advanced payment of a Premium Tax Credit (APTC) 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 a APTC if he or she is expected to have Modified Adjusted Gross Income (MAGI) 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 claim a personal exemption deduction on their federal tax return for the benefit year, are eligible for enrollment in a Qualified Health Plan, and are not eligible for minimum essential coverage.

5. “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 year³. *26 C.F.R. §1.36B-1(e)(1)*. “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)*. Losses incurred in a trade or business during the taxable year which are not compensated for by insurance or otherwise are allowed as a deduction from income. *26 U.S.C. § 165(a)-(c)*. *26 U.S.C. §*

² 45 C.F.R. § 155.510(b)(3); 78 Fed. Reg. 4598 (proposed Jan. 22, 2013)(comments regarding proposed 42 C.F.R. § 431.221(e)); and 78 Fed. Reg. 54096 (Aug. 30, 2013)(comments regarding 45 C.F.R. § 155.510(b)(3)).

³ 26 U.S.C. § 1 sets forth those individuals who must file a tax return. Pursuant to 26 U.S.C. § 1(c) unmarried individuals (other than a surviving spouse or head of a household) must file a return if taxable income is over \$22,100.

162 authorizes the deduction from gross income of all ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

6. A taxpayer who is married (within the meaning of section 7703) at the close of the taxable year is an applicable taxpayer only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year. *26 C.F.R. §1.36B-2(b)(2)*.

CONCLUSIONS OF LAW

1. This appeal was started within the allowed time limits. *45 C.F.R. §155.520(b)*.

2. Even though Appellant did not specifically contest eligibility for Medical Assistance and MinnesotaCare, federal rules and regulations require that a determination be made as to Appellant's eligibility for these programs if Appellant appeals eligibility for either advance payment of the premium tax credit or cost sharing reduction level. Because Appellant's income is above 200% of the federal poverty level, the Agency correctly determined that Appellant was not eligible for either Medical Assistance or MinnesotaCare. Appellant's household income is 255% of the 2014 federal poverty level, which is \$11,490 for a family size of one [$\$29,260 \div \$11,490 = 2.5465 \times 100 = 254.65$ or 255% rounded]. As such, the determination that Appellant was not eligible for either Medical Assistance or MinnesotaCare stands.

3. A person meets the general requirements for APTC eligibility if the following prerequisites are met as provided in 45 C.F.R. §155.305(f):

- (a) Appellant is expected to have a household income, as defined in 26 C.F.R. 1.36B-1(e), of greater than or equal to 100% but not more than 400% of the federal poverty level of benefit year for which coverage is requested;
- (b) Appellant is eligible to enroll in a Qualified Health Plan through MNsure as specified in 45 C.F.R. 155.305(a); and
- (c) Appellant is not already eligible for minimum essential coverage, with the exception of coverage in the individual market, in accordance with 26 C.F.R. 1.36B-(a)(2) and (c).

4. Federal regulations concerning eligibility for advanced payment of a Premium Tax Credit (APTC) 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 a APTC if he or she is expected to have Modified Adjusted Gross Income (MAGI) 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 claim a personal exemption deduction on their federal tax return for the benefit year, are eligible for

enrollment in a Qualified Health Plan, and are not eligible for minimum essential coverage. A taxpayer who is married (within the meaning of section 7703) at the close of the taxable year is an applicable taxpayer only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year. *26 C.F.R. §1.36B-2(b)(2)*. In this case, the appellant confirmed that she will not file taxes jointly with her husband. Because married applicants must file taxes jointly and the appellant will not do so, the agency correctly denied the appellant's application for Advance Payment of Premium Tax Credits.

5. This decision is effective February 24, 2014.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board AFFIRM the Agency's determination to deny the Appellant's application for advance payment of a premium tax credit provided in the Affordable Care Act.

The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant is not eligibility for MinnesotaCare coverage.

The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant is not eligibility for Medical Assistance benefits and MinnesotaCare benefits.

/s/ David E. Gassoway
David E. Gassoway
Appeals Examiner

April 30, 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

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.
- **Seek judicial review to the extent it is available by law.**

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