



Minnesota Department of **Human Services**

**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: MinnesotaCare
Medical Assistance
Agency: Minnesota Department of Human Services
Docket: 151210

On April 7, 2014 Human Services Judge Douglass C. Alvarado held an evidentiary hearing under Minn. Stat. § 256.045, subd. 3.

The following people appeared at the hearing:

[REDACTED] Appellant
[REDACTED] Minnesota Department of Human Services

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.

STATEMENT OF ISSUES

Whether the Minnesota Department of Human Services correctly processed the Appellant's application for Medical Assistance benefits and MinnesotaCare coverage for himself and his child, [REDACTED]

FINDINGS OF FACT

1. The Appellant applied for health care assistance, specifically Medical Assistance or MinnesotaCare coverage, through the MNsure eligibility system on January 31, 2014. *Testimony of the Appellant and [REDACTED]* That application is pending. *Testimony of [REDACTED]* The Appellant filed a request challenging the Agency's failure to provide him with Medical Assistance or MinnesotaCare coverage for himself and [REDACTED] which MNsure received on March 13, 2014. *Appellant's Exhibit A*. On April 7, 2014, Human Services Judge Alvarado held an evidentiary hearing via telephone conference. The judge accepted into evidence one exhibit from the Minnesota Department of Human Services (herein Agency)¹ and one exhibit from the Appellant². The record was closed at the conclusion of the hearing.

2. The Appellant, age 32, lives with his girlfriend, [REDACTED] and their child, [REDACTED] age 1. *Agency Exhibit # 1 and Appellant's testimony.*

3. The Appellant attested to anticipated adjusted gross income of \$25,000 for himself and \$24,294 for [REDACTED] *Agency Exhibit # 1.* [REDACTED] Social Security number was not provided on the MNsure application. *Testimony of [REDACTED]*

4. The Appellant did not apply for health care assistance on behalf of [REDACTED] because she has employer-sponsored health care coverage. *Appellant's testimony.* [REDACTED] may be covered under [REDACTED] employer-sponsored health care insurance. *Id.*

5. The Appellant does not file taxes with [REDACTED] *Appellant's testimony.*

¹ The Agency submitted one exhibit which were marked as follows: 1) State Agency Appeal Summary.

² The Appellant submitted one exhibit which was marked as follows: A) Appeal Request Form.

6. No determination had been made regarding the household's eligibility for Medical Assistance or MinnesotaCare coverage pending receipt of additional verification of household income. *Testimony of* [REDACTED]

CONCLUSIONS OF LAW

1. A person may request a state fair hearing by filing an appeal either: 1) within thirty days of receiving written notice of the action; or 2) within ninety days of such notice if the appellant can show good cause why the request for an appeal was not submitted within the thirty day time limit. *Minn. Stat. 256.045, subd. 3(h)*. This appeal is timely.

2. The Commissioner of Human Services has jurisdiction over this appeal under *Minn. Stat. § 256.045, subd. 3*.

3. Effective January 1, 2014, to be eligible for Medical Assistance a parent or caretaker relative may have an income up to 133 percent of the federal poverty level (FPL) for the household size.³ *Minn. Stat. § 256B.056, subd. 4(b)*. Medical Assistance may be paid for a child under two years of age whose countable family income is above 275 percent of the federal poverty guidelines for the same size family but less than or equal to 280 percent of the federal poverty guidelines for the same size family or an equivalent standard when converted using modified adjusted gross income methodology as required under the Affordable Care Act. *Minn. Stat. § 256B.057, subd. 8*. The equivalent standard in Minnesota as approved by the Centers for Medicare and Medicaid Services (CMS) is 283% of the federal poverty guidelines. *Minnesota Insurance Affordability Programs Manual (IAPM), Chapter 300.10.10.05*.

4. The modified adjusted gross income methodology as defined in the Affordable Care Act is used for eligibility categories based on: (i) children under age 19 and their parents and relative caretakers; (ii) children ages 19 to 20; (iii) pregnant women; (iv) infants; and (v) adults without children. *Id.* at subd. 1a(b)(1). An amount equivalent to five percent of the federal poverty level is subtracted from the individual's modified adjusted gross income for individuals whose Medical Assistance income eligibility is determined using the modified adjusted gross income methodology. *Id.* at subd. 1a(b)(2).

³ 100 percent of the applicable federal poverty level (FPL) is \$15,510 for a household of two people and \$19,530 for a household of three people. *Federal Register, Vol. 78, No. 16, January 24, 2013, p. 5183*. 133 percent of FPL is \$20,628 annually for a household of two people and \$25,975 for a household of three people.

5. “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)*. Pursuant to the Affordable Care Act “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)*.

6. Effective January 1, 2014 or upon federal approval, families with children with family income above 133 percent of the federal poverty guidelines and equal to or less than 200 percent of FPL for the applicable family size are eligible for MinnesotaCare.⁴ *Minn. Stat. § 256L.04, subd. 1 as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 42*. When determining eligibility for MinnesotaCare coverage as of January 1, 2014, "income" is determined by using modified adjusted gross income methodology, as defined in *26 C.F.R. § 1.36B-1. Minn. Stat. § 256L.01, subd. 5*.

7. 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.* For MinnesotaCare purposes, “family" has the meaning given for family and family size as defined in Code of Federal Regulations, title 26, section 1.36B-1. *Minn. Stat. § 256L.01, subd. 3a, as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 29*. With regard to Medical Assistance, “family size” means the number of persons counted as members of an individual's household. *42 C.F.R. 435.603(b)*. The Medical Assistance household consists of the individual and, if living with the individual, (i) the individual's spouse; (ii) the individual's natural, adopted and step children under age 19 or in the case of full-time students, age 21; and (iii) in the case of individuals under the age 19 or in the case of full-time students, age 21, the individual's natural, adopted and step parents and natural, adoptive and step siblings. *Id.* at (f)(3).

8. The Exchange must require the applicant to attest regarding a tax filer's projected annual household income. *45 C.F.R. § 155.320(c)(3)(ii)(B)*. To

⁴ 200 percent of FPL is \$31,020 people for a household of two people and \$39,060 for a household of three. *Federal Register, Vol. 78, No. 16, January 24, 2013, p. 5183*.

the extent that the applicant's attestation indicates that the projected annual household income for the family represents an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must determine the tax filer's eligibility for advance payments of the premium tax credit and cost-sharing reductions based on the household income data. *Id.* at (c)(3)(ii)(C). To the extent that the data is unavailable, or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and so it does not represent an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must require the applicant to attest to the tax filer's projected household income for the benefit year for which coverage is requested. *Id.* at (c)(3)(ii)(D). If a tax filer qualifies for an alternate verification process and the applicant's attestation to projected annual household income is no more than ten percent below the annual household income the Exchange must accept the applicant's attestation without further verification. *Id.* at (c)(3)(v). If electronic data are unavailable or an applicant's attestation to projected annual household income is more than ten percent below the annual household income the Exchange must follow the procedures specified in §155.315(f)(1) through (4) which include providing the tax filer with a notice of the inconsistency, providing the tax filer with 90 days from date of the notice for to present verification of information attested to, and providing advance payments of the premium tax credit and cost-sharing reductions on behalf of an applicant within this period who is otherwise qualified for such payments and reduction if the tax filer attests to the Exchange that he or she understands that any advance payments of the premium tax credit paid on his or her behalf are subject to reconciliation. *Id.* at (c)(3)(vi)(D) & 45 § 155.315(f).

9. For MinnesotaCare purposes electronic verification through MNsure is the primary method of income verification. *Minn. Stat. § 256L.05, subd. 2.* If there is a discrepancy between reported income and electronically verified income, an individual may be required to submit additional verification to the extent permitted under the Affordable Care Act. *Id.* If information provided by an applicant is not reasonably compatible with electronic data sources, the applicant is approved for MinnesotaCare based on attested income and then given a reasonable opportunity to provide a reasonable explanation of the discrepancy, or paper documentation be sent to the lead agency within 95 days. *Minnesota Insurance Affordability Programs Manual (IAPM) Chapter 500.15.15.*

10. 42 C.F.R. 435.945(a) permits state agencies to accept attestation of information needed to determine the eligibility of an individual for Medical Assistance. However, the agency must request and use information relevant to verifying an individual's eligibility for Medical Assistance in accordance with

electronic verification of income (as set forth in 42 C.F.R. §435.948) and other non-financial information including state residency, Social Security number, age, date of birth and household size (as set forth in 42 C.F.R. § 435.956). *Id.* at (b) and 45 C.F.R. 155.320(c)(2). If information provided by or on behalf of an individual (on the application or renewal form or otherwise) is reasonably compatible with information obtained by the agency, the agency must determine or renew eligibility for Medical Assistance based on such information. 42 C.F.R. 435.952(b). If information provided by or on behalf of an individual is not reasonably compatible with information obtained through an electronic data match, the agency must seek additional information from the individual, including: (i) A statement which reasonably explains the discrepancy; or (ii) Other information (which may include documentation), provided that documentation from the individual is permitted only to the extent electronic data are not available and establishing a data match would not be effective, considering such factors as the administrative costs associated with establishing and using the data match compared with the administrative costs associated with relying on paper documentation, and the impact on program integrity in terms of the potential for ineligible individuals to be approved as well as for eligible individuals to be denied coverage. *Id.* at (c)(2). The agency must provide the individual a reasonable period to furnish any required additional information. *Id.*

11. 45 C.F.R. 155.310(e) requires that Health Care Exchanges must make eligibility determinations promptly and without undue delay. In Minnesota an application for Medical Assistance must be acted on no later than 45 days from the date of a Medical Assistance application on behalf of a person who is neither blind nor disabled. *Minn. R. 9505.0090, subp. 2.* An applicant's eligibility for MinnesotaCare must be determined no more than 30 days from the date that the application is received by the Department of Human Services. *Minn. Stat. § 256L.05, subd. 4.*

12. In this case, the Appellant applied for health care coverage for himself and his child, [REDACTED]. Also residing in the household is [REDACTED] mother, [REDACTED]. The Appellant attested to projected MAGI for the 2014 benefit year of \$25,000 for himself and \$24,294 for [REDACTED]. The Appellant did not apply for health care coverage for [REDACTED] who has employer-sponsored insurance coverage. The Appellant is not married to [REDACTED] nor do they file taxes jointly.

13. The Appellant did not provide [REDACTED] Social Security number on the application for health care coverage for himself and [REDACTED]. The Department of Human Services was unable to verify the attestation of [REDACTED] income in the absence of a Social Security number and the application was pended. As of the date of the hearing no eligibility determinations had been made.

14. The Medical Assistance household for the Appellant consists of himself and his child, [REDACTED]. The Appellant's household income is \$25,000. This represents 161% of the federal poverty level (FPL) for a household of two people.⁵ 5% is subtracted when determining Medical Assistance eligibility. Based upon his attested income, the Appellant is ineligible for Medical Assistance because 156% exceeds income standard for parents/caretakers of 133% FPL. However, he is eligible for MinnesotaCare coverage because his household income is between 133% and 200% FPL for a household of two people. Verification of the attestation of [REDACTED] income was not necessary to determine the Appellant's eligibility for health care coverage since she is not part of his coverage household for Medical Assistance or MinnesotaCare coverage. Therefore, the Agency's failure to process the Appellant's health care application and to provide him with MinnesotaCare coverage is incorrect.

14. The Medical Assistance household for [REDACTED] consists of herself, the Appellant and [REDACTED]. [REDACTED] MAGI must be included when determining [REDACTED] eligibility for Medical Assistance. The Appellant attested to projected MAGI of \$49,294 including [REDACTED] income. This amount represents 252% FPL for a household of three people. 5% is subtracted for Medical Assistance eligibility determinations. Based upon the attested income of the Appellant and [REDACTED], [REDACTED] is eligible for Medical Assistance benefits because 247% FPL does not exceed the income standard for children ages 0-2 of 283% FPL and ineligible for MinnesotaCare coverage because the income exceeded the MinnesotaCare income standard of 200% FPL. However, the Appellant must provide mandatory verification information regarding [REDACTED] in order to process Medical Assistance for [REDACTED] including [REDACTED] Social Security number and information regarding the availability of employer-sponsored health insurance coverage for this child through [REDACTED] employer. The Appellant had not provided this information to the Agency at the time of the hearing. The Agency is not required to provide Medical Assistance based upon an attestation pending the receipt of mandatory verifications. Accordingly, the Agency's determination not to provide Medical Assistance on behalf of [REDACTED] on the basis that the Appellant failed to provide sufficient information to verify her eligibility for this program is affirmed.

15. It is noted that in the event the Appellant has provided such information after the hearing, the Agency should process the application for health care insurance on behalf of [REDACTED] in accordance with the foregoing.

16. This decision is effective January 1, 2014, regarding Medical Assistance

⁵ The percentage of FPL is determined by dividing the household MAGI by 100 percent of the applicable federal poverty guidelines and multiplying the quotient by 100 (rounded to the nearest whole number). During the period from July 1, 2013 through June 30, 2014, 100% of FPL for a household of two people is \$15,510 annually. \$25,000 divided by \$15,510 = 1.6118 x 100 = 161.18 [rounded to 161%]. *Federal Register*, Vol. 78, No. 16, January 24, 2013, p. 5183.

⁶ \$49,294 divided by \$19,530 (100% FPL for a household of 3 people) = 2.5240 x 100 = 252.40 [rounded to 252%].

eligibility and February 1, 2014, regarding MinnesotaCare coverage.

RECOMMENDED ORDER

THE HUMAN SERVICES JUDGE RECOMMENDS THAT the Commissioner of Human Services AFFIRM the determination of the Minnesota Department of Human Services not to provide Medical Assistance benefits and MinnesotaCare coverage on behalf of [REDACTED] effective January 1, 2014.

THE HUMAN SERVICES JUDGE RECOMMENDS THAT the Commissioner of Human Services AFFIRM the determination of the Minnesota Department of Human Services not to provide Medical Assistance benefits on behalf of the Appellant effective January 1, 2014.

THE HUMAN SERVICES JUDGE RECOMMENDS THAT the Commissioner of Human Services REVERSE the determination of the Minnesota Department of Human Services not to provide the Appellant with MinnesotaCare coverage and ORDER the Agency to provide the Appellant with MinnesotaCare coverage retroactive to February 1, 2014.

/s/ Douglass C. Alvarado
Douglass C. Alvarado
Human Services Judge

April 29, 2014
Date

ORDER OF THE COMMISSIONER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the Commissioner of Human Services adopts the Human Services Judge’s recommendation as her final decision.

FOR THE COMMISSIONER OF HUMAN SERVICES:

Date

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

FURTHER APPEAL RIGHTS

This decision is final, unless you take further action.

If you disagree with this decision, you may:

- Request the decision be reconsidered; or
- Appeal to District Court.

Right to Reconsideration

You may make a written request to the Appeals Office to 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

Appeal to District Court

You may 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 Minn. Stat. § 256.045, subd. 7.