



**DECISION  
OF AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]

For: Medical Assistance  
MinnesotaCare  
Advance Payment of Premium Tax Credit  
Cost Sharing Reductions

Agency: Minnesota Department of Human Services  
MNsure Board

Docket: 151654

On April 22, 2014, Appeals Examiner AmyLynne Hermanek held an evidentiary hearing under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a), and Minnesota Statute §256.045, subdivision 3.

The following person appeared at the hearing:<sup>1</sup>

[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.

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<sup>1</sup> Both the MNsure and Department of Human Services agencies were provided with a copy of the Notice and Order for Hearing, but no representative from either agency appeared.

## STATEMENT OF ISSUES

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

Whether the MNsure Board properly determined Appellant's household's eligibility for an advance payment of a premium tax credit as provided in the Affordable Care Act.

## FINDINGS OF FACT

1. On March 27, 2014, Appellant was notified via the MNsure online computer system that Appellant's household was eligible to enroll in a Qualified Health Plan (QHP), was eligible for an advance payment of a premium tax credit of \$0, and was not eligible for either Medical Assistance or MinnesotaCare. *Exhibit 2*. No notices were provided as part of the appeal, and it is unknown if any written notice was sent to Appellant. Appellant challenged each of these determinations when she filed her appeal request, which was received by the MNsure agency on March 28, 2014. *Exhibit 1*.

2. On April 22, 2014, Appeals Examiner AmyLynne Hermanek held an evidentiary hearing by telephone conference. The record, consisting of two exhibits,<sup>2</sup> was closed at the end of the hearing.

3. On March 27, 2014, Appellant applied for health care coverage as a household of five persons to begin on January 1, 2014. *Exhibit 2; Appellant Testimony*. The household included Appellant, her son [REDACTED], and her other household members [REDACTED], [REDACTED], and [REDACTED]. *Id.* On her application, Appellant listed that she was a tax filer and that she claimed her son [REDACTED] as a tax dependent. *Id.* She also listed that the other three household members were not tax filers. *Id.* On her application, Appellant listed that her projected annual income was \$50,573.88. *Id.* She indicated that two other household members had projected annual income: [REDACTED] (\$166) and [REDACTED] (\$5917). *Id.*

4. The MNsure agency determined that Appellant's household for purposes of determining eligibility for the advance premium tax credit included only Appellant and her son. *Exhibit 2*. The agency further determined that Appellant's household income of \$50,573 was 326% of the federal poverty level for a household size of two persons, and that based on this income and the cost of the lowest silver level plan in her zip code for herself and her son, she was eligible for an advance premium tax credit of zero dollars. *Id.*

5. Appellant is employed. *Appellant Testimony*. During the hearing, she attested under oath that she works 36 hours per week at \$20 or \$21 per hour. *Id.* Her pay rate depends on whether she works weekdays or weekends. *Id.* She is paid bi-weekly. *Id.* At the high end, based on this income information, Appellant's actual projected adjusted gross income for tax year 2014 would be \$39,312. She claimed her son [REDACTED] and her sister [REDACTED] as tax dependents for tax

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<sup>2</sup> Appeal Request, Exhibit 1; MNsure State Agency Appeals Summary with Attachments A-B, Exhibit 2.

year 2013, and she intends to continue to do so for tax year 2014. *Id.* [REDACTED] is two years old and was receiving Medical Assistance until December 31, 2013. *Id.* The child's Medical Assistance was closed by the county agency due to her failure to complete his renewal application within time limits. *Id.* Appellant is seeking health care coverage for her son and herself, although her main concern is her son. *Id.* [REDACTED], [REDACTED], and [REDACTED] are recent immigrants who live with Appellant. *Id.* She pays for their housing and utilities in that they live with her for free. *Id.* She intends to claim each of these household members as tax dependents for tax year 2014. *Id.* [REDACTED] and [REDACTED] are the sons of [REDACTED]. *Id.* [REDACTED] attends college and works part-time. *Id.* [REDACTED] gets financial aid for school. *Id.* [REDACTED] works 24 hours per week and earns \$8.00 per hour. *Id.* Appellant attested that his projected adjusted gross income for tax year 2014 would be \$9,984. *Id.* [REDACTED] has summer employment where he works five hours per week at \$7.50 per hour. *Id.* Appellant attested that his projected adjusted gross income for tax year 2014 would be \$1,950. *Id.* [REDACTED] [REDACTED] and [REDACTED] are receiving health care coverage through the state and they also receive Supplemental Nutrition Assistance Program (SNAP) benefits to pay for their food needs. *Id.* Appellant is not seeking health care coverage for [REDACTED] [REDACTED] or [REDACTED]. *Id.* Appellant's sister [REDACTED] lives with her. *Id.* [REDACTED] attends college and has health care coverage through her school. *Id.* Appellant pays a significant amount of [REDACTED] school costs and she lives in her home for free. *Id.*

6. Appellant applied for health care coverage at a library with an agent. *Appellant Testimony.* Appellant believes the person assisting her apply for coverage was a MNsure representative, but it is unclear if this person was a MNsure representative, insurance navigator, or community advocate. *Id.* In any case, after she realized that she should have indicated on her application that [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were tax dependents, she tried to change her application to reflect this fact, and she was unable to. *Id.* Appellant was told by the person assisting her at the library that the only way she could make changes to her application was by filing an appeal. *Id.*

7. According to the MNsure website, the cost of the benchmark plan covering Appellant only in the area where she lives (zip code [REDACTED] and given her age (dob: [REDACTED]) is \$121.32. [https://plans.mnsure.org/mnsa/planadvisor/plan\\_advisor.htm?flow=anonymous#/plans](https://plans.mnsure.org/mnsa/planadvisor/plan_advisor.htm?flow=anonymous#/plans)

#### APPLICABLE LAW

8. For Medical Assistance and MinnesotaCare appeals, a person may request a state fair hearing by filing an appeal either: 1) within 30 days of receiving written notice of the action; or 2) within 90 days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the 30 day time limit. *Minn. Stat. § 256.045, subd. 3(h); Minn. Stat. § 256L.10.* For MNsure appeals, an appeal must be received within 90 days from the date of the notice of eligibility determination. *45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).*

9. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues about a household's eligibility for Medical Assistance and MinnesotaCare. *Minn. Stat. § 256.045, subd. 3.* The MNsure Board has the legal authority to

review and decide issues about a household'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.

10. 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.<sup>3</sup> The reason for this automatic 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. Determinations of eligibility for Medical Assistance and MinnesotaCare are made by the Department of Human Services.

### Medical Assistance

11. For Medical Assistance purposes, in the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household composition consists of the taxpayer and subject to 42 C.F.R. § 435.603(f)(5), all persons whom such individual expects to claim as a tax dependent. *42 C.F.R. § 435.603(f)(1); Minnesota Department of Human Services Insurance Affordability Programs Manual, Chapter 300.10.05.20*. According to 42 C.F.R. § 435.603(f)(5), if a taxpayer cannot reasonably establish that another individual is a tax dependent of the taxpayer for the tax year in which Medicaid is sought, the inclusion of such individual in the household of the taxpayer is determined in accordance with 42 C.F.R. § 435.603(f)(3). *42 C.F.R. § 435.603(f)(5)*. According to 42 C.F.R. § 435.603(f)(3), the 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 the age specified in paragraph (f)(3)(iv) of this section; and
- (iii) In the case of individuals under the age specified in paragraph (f)(3)(iv) of this section, the individual's natural, adopted and step parents and natural, adoptive and step siblings under the age specified in paragraph (f)(3)(iv) of this section.
- (iv) The age specified in this paragraph is either of the following, as elected by the agency in the State plan—
  - (A) Age 19; or
  - (B) Age 19 or, in the case of full-time students, age 21.

*42 C.F.R. § 435.603(f)(3)*.

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<sup>3</sup> 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)).

12. A taxpayer cannot claim a person as a dependent unless that person is a U.S. citizen, U.S. resident alien, U.S. national, or a resident of Canada or Mexico. *Internal Revenue Service, Publication 501*. Four tests must be met for a person to be a taxpayer's qualifying relative. *Id.* The four tests are:

1. Not a qualifying child test,
2. Member of household or relationship test,
3. Gross income test, and
4. Support test.

*Id.* To meet this test, a taxpayer generally must provide more than half of a person's total support during the calendar year. *Id.* Benefits provided by the state to a needy person generally are considered support provided by the state. *Id.* To figure if a taxpayer provided more than half of a person's support, the taxpayer must first determine the total support provided for that person. *Id.* Total support includes amounts spent to provide food, lodging, clothing, education, medical and dental care, recreation, transportation, and similar necessities. *Id.* Generally, the amount of an item of support is the amount of the expense incurred in providing that item. *Id.* For lodging, the amount of support is the fair rental value of the lodging. *Id.* Expenses not directly related to any one member of a household, such as the cost of food for the household, must be divided among the members of the household. *Id.*

13. For Medical Assistance purposes, except for certain individuals with household income below 100% of the federal poverty level and eligibility groups for which modified adjusted gross income (MAGI) based methods do not apply, the agency must determine financial eligibility based on "household income" as defined in 42 C.F.R. § 435.603(d). 42 C.F.R. § 435.603(c).

14. Generally, household income is the sum of the MAGI-based income of every individual included in the individual's household. 42 C.F.R. § 435.603(d); *Minnesota Department of Human Services Insurance Affordability Programs Manual, Chapter 300.10.10.10*. An exception to this rule, however, is that the MAGI-based income of an individual who is included in the household of his or her natural, adopted or stepparent and is not expected to be required to file a tax return under section 6012(a)(1) of the Internal Revenue Code for the taxable year in which eligibility for Medical Assistance is being determined, is not included in household income whether or not the individual files a tax return. 42 C.F.R. § 435.603(d)(2); *Minnesota Department of Human Services Insurance Affordability Programs Manual, Chapter 300.10.10.10*.

15. The state laws about Medical Assistance are set forth in Minnesota Statutes, Chapter 256B. Effective January 1, 2014, to be eligible for Medical Assistance, a parent or relative caretaker may have an income up to 133% of the federal poverty guidelines for the household size. *Minn. Stat. § 256B.056, subd. 4(b)*. Effective January 1, 2014, to be eligible for Medical Assistance, a child under age 19 may have income up to 275 percent of the federal poverty guidelines for the household size or an equivalent standard when converted using modified adjusted gross income methodology as required under the Affordable Care Act. *Minn. Stat. §*

256B.056, subd. 4(e).

16. The modified adjusted gross income methodology as defined in the Affordable Care Act must be used for certain eligibility categories, including adults without children as defined in Minnesota Statute § 256B.055, subdivision 15. *Minn. Stat. § 256B.056, subd. 1a(b)(v)*.

17. Under 26 C.F.R. §1.36B-1, “modified adjusted gross income” 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)*.

18. For individuals whose income eligibility is determined using the modified adjusted gross income methodology in Minnesota Statute § 256B.056, subdivision 1a(b)(1), the Commissioner must subtract from individual’s modified adjusted gross income an amount equivalent to five percent of the federal poverty guidelines. *Minn. Stat. § 256B.056, subd. 1a(b)(2)*.

### MinnesotaCare

19. The state laws about MinnesotaCare are set forth in Minnesota Statutes, Chapter 256L. Applicants may submit applications online, in person, by mail, or by phone in accordance with the Affordable Care Act, and by any other means by which Medical Assistance applications may be submitted. *Minn. Stat. § 256L.05, subd. 1(a)*. Applicants may submit applications through MNSure or through the MinnesotaCare program. *Id.*

20. Effective January 1, 2014, Minnesota Statute § 256L.04, subdivision 7, provides that the definition of eligible persons includes all individuals and families with no children who have incomes that are above 133 percent and equal to or less than 200 percent of the federal poverty guidelines for the applicable family size.<sup>4</sup>

21. The effective date of MinnesotaCare coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. *Minn. Stat. § 256L.05, subd. 3(a)*.

22. Effective January 1, 2014, for MinnesotaCare eligibility “family” has the meaning given for family and family size as defined in Code of Federal Regulations, title 26, section 1.36B-1.5 *Minn. Stat. § 256L.01, subd. 3a(a)*. Under 26 C.F.R. §1.36B-1, a “taxpayer's family” means the individuals for whom a taxpayer properly claims a deduction for a personal exemption 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

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<sup>4</sup> *Laws 2013, chapter 108, article 1, section 45*. The Department of Human Services received federal approval of the changes made to the MinnesotaCare program on December 20, 2013. See [http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs16\\_177299](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs16_177299).

<sup>5</sup> *Laws 2013, chapter 108, article 1, section 29*.

subject to, or are exempt from, the penalty under 26 U.S.C. § 5000A for failing to maintain minimum essential coverage. *Id.*

23. Effective January 1, 2014, for MinnesotaCare eligibility “income” has the meaning given for modified adjusted gross income as defined in Code of Federal Regulations, title 26, section 1.36B-1.<sup>6</sup> *Minn. Stat. § 256L.01, subd. 5.*

24. Effective January 1, 2014, for MinnesotaCare eligibility, a family or individual must not have access to subsidized health coverage that is affordable and provides minimum value as defined in Code of Federal Regulations, title 26, section 1.36B-2.<sup>7</sup> *Minn. Stat. § 256L.07, subd. 2(a).* This subdivision does not apply to a family or individual who no longer has employer-subsidized coverage due to the employer terminating health care coverage as an employee benefit. *Id.* at subd. 2(b).

25. Additionally, effective January 1, 2014, for MinnesotaCare eligibility, a family or individual must not have minimum essential health coverage, as defined by section 5000A of the Internal Revenue Code.<sup>8</sup> *Minn. Stat. § 256L.07, subd. 3(a).* According to section 5000A of the Internal Revenue Code, minimum essential coverage means any of the following: 1) government sponsored coverage; 2) employer sponsored coverage; 3) a health plan offered in the individual market within a State; 4) a grandfathered health plan; or 5) other health benefits coverage. 26 U.S.C. § 5000A(f)(1); *See also 26 C.F.R. § 1.36B-2(c).* Government sponsored programs include coverage under the Medicaid program under title XIX of the Social Security Act. 26 U.S.C. § 5000A(f)(1)(A).

#### Premium Assistance

26. 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-2(a)(2) and (c). 45 C.F.R. § 155.305(f).

27. “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).

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<sup>6</sup> *Laws 2013, chapter 108, article 1, section 30.*

<sup>7</sup> *Laws 2013, chapter 108, article 1, section 55.*

<sup>8</sup> *Laws 2013, chapter 108, article 1, section 55.*

28. The premium assistance amount for a coverage month is the lesser of: (1) the premiums for the month for one or more qualified health plans in which a taxpayer or a member of the taxpayer’s family enrolls through the Exchange; or (2) the excess of the adjusted monthly premium for the applicable benchmark plan (second lowest-cost silver plan) over 1/12 of the product of a taxpayer's household income and the applicable percentage for the taxable year. 26 C.F.R. §1.36B-3(d).

29. The adjusted monthly premium is the premium an insurer would charge for the applicable benchmark plan to cover all members of the taxpayer’s coverage family, adjusted only for the age of each member of the coverage family as allowed under section 2701 of the Public Health Service Act (42 U.S.C. 300GG). 26 C.F.R. §1.36B-3(e). The adjusted monthly premium is determined without regard to any premium discount or rebate under the wellness discount demonstration project under 2705(d) of the Public Health Service Act, and may not include any adjustments for tobacco use. *Id.*

30. The applicable benchmark plan for each coverage month is the second lowest-cost silver plan as described in section 1302(d)(1)(B) of the Affordable Care Act offered through the Exchange for the rating area where the taxpayer resides. 26 C.F.R. §1.36B-3(f). The applicable benchmark plan provides self-only or family coverage. *Id.* Self-only coverage is for a taxpayer: (1) who computes tax under 26 U.S.C. §1(c) (meaning unmarried individuals other than surviving spouses and heads of household) and is not allowed a deduction under section 151 for a dependent for the taxable year; (2) who purchases only self-only coverage for one individual; or (3) whose coverage family includes only one individual. 26 C.F.R. §1.36B-3(f)(1)(i). Family coverage is for all other taxpayers. 26 C.F.R. §1.36B-3(f)(1)(ii). The applicable benchmark plan for family coverage is the second lowest cost silver plan that applies to the members of the taxpayer's coverage family (such as a plan covering two adults if the members of a taxpayer's coverage family are two adults). 26 C.F.R. §1.36B-3(f)(2).

31. The applicable percentage multiplied by taxpayer’s household income determines the taxpayer’s required share of premiums for the benchmark plan. 26 C.F.R. §1.36B-3(g)(1). This required share is subtracted from the adjusted monthly premium for the applicable benchmark plan when computing the premium assistance amount. *Id.* There are several steps to calculate the applicable percentage. First, the percentage that the taxpayer’s household income bears to the federal poverty line for the taxpayer’s family size needs to be determined. *Id.* Second, the resulting federal poverty line percentage is compared to the income categories described in the table in 26 C.F.R. §1.36B-3(g)(2). *Id.* Third, an applicable percentage within an income category increases on a sliding scale in a linear manner, and is rounded to the nearest one-hundredth of one percent. *Id.*

32. The applicable percentage table is:

<b>Household income percentage of federal poverty line</b>	<b>Initial percentage</b>	<b>Final percentage</b>
Less than 133%	2	2

At least 133% but less than 150%	3	4
At least 150% but less than 200%	4	6.3
At least 200% but less than 250%	6.3	8.05
At least 250% but less than 300%	8.05	9.5
At last 300% but less than 400%	9.5	9.5

26 C.F.R. §1.36B-3(g)(2).

CONCLUSIONS OF LAW

33. This appeal was started within the allowed time limits under 45 C.F.R §155.520(b) and Minnesota Statute § 256.045, subdivision 3(h).

34. The Commissioner of the Minnesota Department of Human Services has authority to review Appellant’s household’s eligibility for Medical Assistance and MinnesotaCare under Minnesota Statute § 256.045, subdivision 3, and the MNsure Board has legal authority to review Appellant’s household’s eligibility for premium assistance under Minnesota Statute § 62V.05, subdivision 6.

35. Here, the preponderant evidence before me shows that Appellant inputted erroneous information into the MNsure computer eligibility system on March 27, 2014 about her household’s correct composition, tax filing status, and income. Regarding household composition, Appellant did not correctly include her sister [REDACTED] on her application, even though she lives with Appellant and Appellant has claimed her as a tax dependent and intends to do so again for tax year 2014. Appellant is not seeking health care coverage for [REDACTED] because she has such coverage as part of her college tuition. Regarding tax filing status, Appellant did not correctly indicate that she intends to claim the three [REDACTED] family members as tax dependents. Appellant has not previously claimed these three household members as tax dependents. Under 42 C.F.R. § 435.603(f)(5), while she indicated her intention to do so, I conclude that Appellant has not reasonably established that any of the [REDACTED] family members are her tax dependents for tax year 2014 for two reasons. Appellant testified that the [REDACTED] are recent immigrants who are living with Appellant for free as they become established, and that they get Supplemental Nutrition Assistance Program (SNAP) and health care benefits. As such, Appellant first did not reasonably establish that the [REDACTED] family has the required citizenship status to be claimed by another as a tax dependent. Secondly, Appellant did not provide any valuation as to the support (e.g. lodging) she provides to reasonably indicate that she provides more than half of each [REDACTED] family member's total support during the calendar year given that the family receives state support for food and health care and two of the [REDACTED] family members have some earnings in addition to the receipt of financial assistance for school. The [REDACTED] family members do not then meet any of the conditions to be included in Appellant’s Medical Assistance household under 42 C.F.R. § 435.603(f)(3), which is the required provision for inclusion in the household when the taxpayer has not reasonably established that any of the [REDACTED] family members are her tax dependents for tax year in which Medicaid is sought, given that none of the [REDACTED] family are her spouse, children, parents or siblings. Therefore, I conclude that the preponderant evidence before me shows that Appellant has a household size of three persons consisting of herself, her son

██████████ and her sister ██████████ Next, I conclude that the preponderant evidence before me shows that Appellant's attested annual projected household income is \$39,312 given that is her projected modified adjusted gross income for 2014 and she is the only person with income in her three person household. With this income and household size, Appellant's son ██████████ is eligible for Medical Assistance as of March 1, 2014, the month of application,<sup>9</sup> because ██████████ household income of \$39,312 is less than the applicable Medical Assistance standard for a child with a household size of three persons, or 275% of the federal poverty level, which is \$53,707.50.<sup>10</sup> This is even before the subtraction of 5% of the federal poverty level standard from the income. With this income and household size, Appellant is not eligible for Medical Assistance because her household income is more than the applicable Medical Assistance standard for a parent with a household size of three persons, or 133% of the federal poverty level, which is \$25,974.50.<sup>11</sup> Appellant is not seeking health care coverage for ██████████ Next, Appellant is also not eligible for MinnesotaCare because her household income is not between 133% and 200% of the federal poverty level for a three person household size, or \$25,974.50 and \$39,060 respectively, which is the applicable income eligibility criteria for MinnesotaCare for Appellant.<sup>12</sup>

36. Lastly, Appellant and her son were originally determined eligible for tax credits in the amount of zero based on incorrect income and household composition information. Based on Appellant's correct projected household income of \$39,312, I conclude that Appellant is eligible for an advance premium tax credit of \$85.06 per month. Appellant's income is 201% of the federal poverty level for a household of three persons [ $\$39,312 \div \$19,530 = 2.0129 \times 100 = 201.29$  (201% rounded)]. Appellant's applicable percentage is 6.3 as provided in 26 C.F.R. §1.36B-3(g)(1). This determination is made as follows. The initial percentage for a taxpayer with household income at least 200% but less than 250% of the federal poverty line is 6.3 and the final percentage is 8.05. The excess of Appellant's federal poverty line percentage (201) over the initial household income percentage in Appellant's range (200) is 1.<sup>13</sup> The difference between the initial household income percentage in the taxpayer's range and the final percentage in the taxpayer's household income range is 50.<sup>14</sup> The result of dividing the first calculation by the second calculation is .02.<sup>15</sup> The difference between the initial premium percentage and the final percentage in the taxpayer's household income range is 1.75.<sup>16</sup> The product of multiplying this difference (1.75) by the result of dividing the first and second calculation (.02) is .035.<sup>17</sup> Adding this product (.035) to the initial premium percentage in the taxpayer's range (6.3) results in

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<sup>9</sup> Appellant may request that the agency provide her son three months of retroactive coverage under Minnesota Statute § 256B.056, subdivision 7, if she wishes. Eligibility is available for the month of application and for three months prior to the application if the person was eligible in those prior months. *Minn. Stat. § 256B.056, subd. 7.*

<sup>10</sup> The 2013 FPG for Minnesota for a three person household is \$19,530. *Federal Register, Vol. 78, No. 16, January 24, 2013, p. 3183.* Of this amount, 275% is \$53,707.50.

<sup>11</sup> The 2013 FPG for Minnesota for a three person household is \$19,530. *Federal Register, Vol. 78, No. 16, January 24, 2013, p. 3183.* Of this amount, 133% is \$25,974.90.

<sup>12</sup> The 2013 FPG for Minnesota for a three person household is \$19,530. *Federal Register, Vol. 78, No. 16, January 24, 2013, p. 3183.* Of this amount, 133% is \$25,974.90 and 200% is \$39,060.

<sup>13</sup>  $(201 - 200 = 1)$

<sup>14</sup>  $(250 - 200 = 50)$

<sup>15</sup>  $(1 \div 50 = .02)$

<sup>16</sup>  $(8.05 - 6.3 = 1.75)$

<sup>17</sup>  $(1.75 \times .02 = .035)$

Appellant's applicable percentage of 6.3.<sup>18</sup> As such, Appellant's required contribution toward premiums for the benchmark plan, which is the second lowest-cost silver plan available through MNsure, is \$2,476.65 annually or \$206.38 monthly as provided in 26 C.F.R. 1.36B-3(g)(1).<sup>19</sup> Then, the lesser amount between the premium for the month for the qualified health plan in which Appellant is enrolled through MNsure (Minnesota's Exchange) and the excess of the adjusted monthly premium for the applicable benchmark plan (\$121.32) over 1/12 of the product of Appellant's household income and the applicable percentage for the taxable year ( $\$39,312 \times 6.3\% = \$2,476.65/12 = \$206.38$ ) is \$85.06.<sup>20</sup> Appellant is also eligible for cost sharing reductions because her income is less than 250% of the federal poverty level if she enrolls in a silver level plan through MNsure. Appellant's son is not eligible for a premium tax credit because of the availability of minimum essential coverage through Medical Assistance.

### RECOMMENDED ORDER

#### THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant was not eligible for Medical Assistance as of March 1, 2014; and REVERSE the determination that Appellant's son [REDACTED] [REDACTED] was not eligible for Medical Assistance as of March 1, 2014 and ORDER the agency to provide Medical Assistance benefits to [REDACTED] [REDACTED] effective March 1, 2014 AND to make a retroactive eligibility determination for the three months prior to the application if Appellant so wishes.
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant's household was not eligible for MinnesotaCare benefits as of March 1, 2014.
- The MNsure Board REVERSE the MNsure agency's initial determination that Appellant and her son [REDACTED] were eligible for an advance payment of a premium tax credit in the amount of zero as provided in the Affordable Care Act as of March 1, 2014; and ORDER the MNsure Board to allow Appellant an advance premium tax credit of \$85.06 beginning July 1, 2014 AND to allow Appellant retroactive coverage going back to March 1, 2014 if Appellant elects retroactive coverage in those months by contacting Jessica Kennedy, MNsure Appeals Manager & Legal Counsel at [Jessica.M.Kennedy@state.mn.us](mailto:Jessica.M.Kennedy@state.mn.us).

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AmyLynne Hermanek  
Appeals Examiner

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Date

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<sup>18</sup>  $(6.3 + .035 = 6.335$  (6.3 rounded))

<sup>19</sup>  $(\$39,312 \times 6\% = \$2,476.65; \$2,476.65 \div 12 = \$206.38)$

<sup>20</sup>  $\$206.38 - \$121.32 = \$85.06$

## 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 household's eligibility for Medical Assistance and/or MinnesotaCare benefits.

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

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Date

cc: [REDACTED], Appellant  
Michael Turpin, MNsure  
Kim Carolan, Minnesota Department of Human Services - 0989

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