



Minnesota Department of **Human Services**

**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED] also known as [REDACTED]
For: MinnesotaCare
Agency: Minnesota Department of Human Services
Docket: 152063

On May 6, 2014, Human Services Judge David Gassoway held an evidentiary hearing under Minn. Stat. § 256.045, subd. 3. The following person appeared at the hearing:

[REDACTED] Appellant

The 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 ISSUE

The issues raised in this appeal are:

Whether the appellant filed a timely appeal so as to give the Commissioner of Department of Human Services jurisdiction to hear the matter; and if so,

Whether the agency correctly denied the appellant's request for MinnesotaCare benefits.

FINDINGS OF FACT

1. On or about September 20, 2013, the agency sent the appellant¹ a *MinnesotaCare Denial Notice* by U.S. Postal mail to the appellant's address of record located at [REDACTED] [REDACTED]. Appeal rights accompanied the notices.

2. The appellant received the September 20, 2013 denial notice within a couple of weeks after the date of the notice.⁴

3. The appellant applied for Medical Assistance on an unspecified date in March 2014.⁵ The appellant was approved for Medical Assistance benefits and is currently receiving medical coverage through the Medical Assistance program.⁶

4. The appellant incurred medical expenses⁷ from an emergency room visit in September 2013.⁸ The appellant received the notice of denial from MinnesotaCare at the time she incurred the expenses.⁹ The appellant seeks MinnesotaCare benefits for at least the month of September 2013 to assist the appellant in the cost of the medical care she received in September 2013.¹⁰

5. On April 9, 2014, the appellant submitted an appeal request challenging the agency's September 20, 2013 denial of MinnesotaCare benefits.¹¹

6. Human Services Judge David Gassoway held an evidentiary hearing via telephone conference on May 6, 2014. The record closed on that date consisting of three exhibits.¹²

¹ Appellant is [REDACTED] who is also known as [REDACTED]

² Exh. 1, p. 2.

³ Exh. 1, p. 3.

⁴ Test. of Appellant.

⁵ Test. of Appellant.

⁶ Test. of Appellant.

⁷ Approximately \$1,567.00.

⁸ Test. of Appellant.

⁹ Test. of Appellant.

¹⁰ Test. of Appellant.

¹¹ Exh. 3.

CONCLUSIONS OF LAW

1. State agency hearings are available for any person applying for medical care whose application for assistance is not acted upon with reasonable promptness¹³. A person aggrieved by an adverse action regarding the receipt of public assistance, medical care or social services from a state or county agency, may appeal the adverse action 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.¹⁴ In this case, the appellant admits she received notice that she was denied MinnesotaCare in September 2013. The appellant submitted an appeal request on April 4, 2014, more than 90 days after the date she received notice of the denial of MinnesotaCare benefits.

2. 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 apply¹⁵. Because Minnesota Statute, Section 256.045 contains no such language, the Commissioner of the Minnesota Department of Human Services is barred from considering any appeal filed more than ninety days after a notice of action is received, no matter the reason for the delay in filing the appeal.

3. The appellant acknowledged receiving the notice on an unspecified date in September 2013. The appellant did not file an appeal within ninety days of receiving the county agency's notice of action regarding retroactive MinnesotaCare. Appeal rights accompanied the agency's notice of denial. Therefore, the Commissioner of Human Services is without jurisdiction to review the correctness of the county agency's determination. I have no choice but to recommend that the appeal be dismissed, as the law provides no exceptions to the 90 day limit for filing an appeal.

RECOMMENDED ORDER

THE HUMAN SERVICES JUDGE RECOMMENDS THAT the Commissioner of Human Services, according to the findings of fact and conclusions of law, DISMISS the appellant's appeal as untimely.

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

May 6, 2014
Date

¹² Exh. 1 – Agency's supplemental appeal documents, which includes the September 20, 2013 notice of action; Exhibit 2 - Agency Appeal Summary; Exhibit 3 – Appellant's Appeal to State Agency.

¹³ Minn. Stat. §256.045, Subd. 3(a).

¹⁴ Minn. Stat. 256.045, subd. 3.

¹⁵ See *Whitener ex rel Miller v. Dahl*, 625 N.W.2d 827, 829 (Minn. 2001).

ORDER OF THE COMMISSIONER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the Commissioner of Human Services adopts the judge's recommended findings of fact, conclusions of law, and order as the Commissioner's final decision.

FOR THE COMMISSIONER OF HUMAN SERVICES:

_____ Date

Right of Appeal to District Court and/or Reconsideration

An appellant or county agency who disagrees with this decision 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 the appeal decision by serving a notice of appeal upon the other party and the Commissioner. The law that describes this process is Minn. Stat. § 256.045, subd. 7.

or

Ask the appeals office to reconsider this decision. You must put this request in writing, and state the reason(s) you believe the decision is incorrect. Send the request within 30 days of the date of the decision to:

Appeals Office
Department of Human Services
P.O. Box 64941
St. Paul, MN 55164-0941

The appeals office will deny or consider this request, at which point you can still appeal to the district court.

cc: [REDACTED] Appellant
[REDACTED] DHS – Andersen Building – 0989
[REDACTED] Human Services

