



Minnesota Department of **Human Services**

**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Medical Assistance
Agency: Minnesota Department of Human Services
Docket: 152373

On May 12, 2014, and May 27, 2014, Appeals Examiner Douglass C. Alvarado held an evidentiary hearing under Minnesota Statute § 256.045, subdivision 3.

The following people appeared at the hearing:

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

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 Minnesota Department of Human Services correctly determined that the Appellant was ineligible for Medical Assistance benefits.

FINDINGS OF FACT

1. In December 2013, the MNsure Board (herein MNsure) advised the Appellant that she was eligible for advance payment of the premium tax credit in the amount of zero dollars effective January 1, 2014 and eligible for cost sharing reductions of one-half of the applicable out-of-pocket limit and 73 percent under the Affordable Care Act. *Agency Exhibit # 1, Attachment 2*. The Appellant was determined ineligible for MinnesotaCare coverage and Medical Assistance benefits based upon a December 1, 2013, application. *Agency Exhibit # 1 and testimony of [REDACTED]* On January 30, 2014, and February 4, 2014, the Appellant reported changes to her initial health care application. *Appellant's testimony*. The Appellant filed a request challenging the failure of the Minnesota Department of Human Services to redetermine her eligibility for Medical Assistance benefits, which MNsure received on April 24, 2014. *Appellant's Exhibit A*. On May 12, 2014, Appeals Examiner Alvarado held an evidentiary hearing via telephone conference. The matter was continued to May 27, 2014. The judge accepted into evidence one exhibit from the Agency¹ and one exhibit from the Appellant². The record was held open for the Minnesota Department of Human Services (herein DHS) to provide additional documentation. Later in the day on May 27, 2014, DHS provided a cover memorandum and the attestation of income provided with the Appellant's December 1, 2013, application for health care assistance (marked as Agency Exhibit # 2). The record was closed on May 27, 2014.

2. The Appellant and her husband, [REDACTED] applied for health care assistance through the MNsure Eligibility System on December 1, 2013. *Agency Exhibits # 1 & 2*. At the time of that application the Appellant's household consisted of herself, her husband and their son, [REDACTED] (age 20). *Agency Exhibit # 1, Attachment 2 and Appellant's testimony*.

3. The Appellant and her husband reported that they intended to file taxes jointly in 2014 and that [REDACTED] would be claimed as a dependent. *Agency Exhibit # 1 and testimony of [REDACTED]*

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

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

4. The Appellant and her husband attested to projected annual household income of \$47,320.³ *Agency Exhibit # 2*. The Appellant's anticipated modified adjusted gross income (MAGI) consisted of adjusted gross income of \$47,320, foreign income and housing costs excluded under 26 U.S.C. § 911 of \$0, tax exempt interest of \$0, and Social Security benefits that are not included in gross income of \$0. *Id.*

5. The Appellant's household was determined to be ineligible for Medical Assistance and MinnesotaCare coverage. *Agency Exhibit # 1*. The household was determined to be eligible for advance payment of a premium tax credit in the amount of zero dollars and cost-sharing reductions of equal to one-half of the applicable out-of-pocket limit and an increase in the plan's share of total allowed costs of benefits to 73 percent based upon her household income. *Agency Exhibit # 1, Attachment 2*.

6. In or about January 2014, the Appellant moved out of her husband's household. *Appellant's testimony*. The Appellant currently lives with her daughter, age 24 and her daughter's boyfriend. *Id.*

7. On January 30, 2014, the Appellant reported a change in her household and income to the MNsure Eligibility System and sought redetermination of her eligibility for health care programs as she requires daily medication. *Appellant's testimony*. On February 4, 2014, the Appellant completed a new application for health care assistance through the MNsure Eligibility System. *Id.*

8. Neither the Appellant nor her husband has filed for divorce. *Appellant's testimony*. The Appellant no longer expects to file taxes jointly with her husband for 2014. *Id.* The Appellant does not expect to claim either of her children as tax dependents. *Id.*

9. The Appellant attested to zero dollars in income. *Appellant's testimony*.

10. DHS has not determined the Appellant's eligibility for Medical Assistance or MinnesotaCare based upon the Appellant's change in circumstances before the date of this hearing because [REDACTED] has not, as yet, been advised of the possible change to his eligibility for advanced payment of tax credits

³ The household's projected annual income was as follows: [REDACTED] - \$35,880; the Appellant - \$0; and [REDACTED] - \$11,440. *Agency Exhibit # 2*.

and cost-sharing reductions. *Testimony of* [REDACTED]

CONCLUSIONS OF LAW

1. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minn. R. 7700.0105, subp. 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination. 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 in that it was filed within 90 days of the Appellant's unsuccessful attempts to report a change of her household composition and income and obtain a new determination of her eligibility for health care assistance.

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 adults without children and parent(s)/caretaker relatives may have an income up to 133 percent of the federal poverty level (FPL) for the household size.⁴ *Minn. Stat. § 256B.056, subd. 4(b) & (c)*. 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).

4. "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)*.

⁴ 133 percent of FPL for a household of one person is \$15,282 annually.

5. 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)*.

6. 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 consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent.⁵ *42 C.F.R. 435.603(f)(1)*. If, consistent with the procedures adopted by the State in accordance with the verification procedures set forth in §435.956(f) of this part, 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 paragraph (f)(3) of this section. *Id.* At (f)(5). *42 C.F.R. 435.603(f)(3)* provides that in the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent for the taxable year in which an initial determination or renewal of eligibility is being made 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 section⁶; and (iii) in the case of individuals under the age specified in paragraph

⁵ For tax purposes, the term “dependent” means (1) a qualifying child, or (2) a qualifying relative. *26 U.S.C. §152(a)*. The term “qualifying relative” means, with respect to any taxpayer for any taxable year, an individual (A) who bears a relationship to the taxpayer described in paragraph (2), (B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount, (C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and (D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins. *Id.* at (d)(1). An individual bears a relationship to the taxpayer described in this paragraph if the individual (other than an individual who at any time during the taxable year was the spouse of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household. *Id.* at (d)(2)(H).

⁶ *42 C.F.R. 435.603(f)(3)(iv)* provides that 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.

(f)(3)(iv) of this section⁷, 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 section⁸.

7. Individuals who file a joint return with their spouse are not be treated as a dependent of a taxpayer for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins. *26 U.S.C. 152(b)(2)*. An individual who is legally separated from his spouse under a decree of divorce or of separate maintenance is not be considered as married. *26 U.S.C. 6013(d)(2)*. In the case of a married couple living together, each spouse will be included in the household of the other spouse for Medical Assistance purposes, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse. *42 C.F.R. 435.603(f)(4)*.

8. 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

⁷ See Footnote 4.

⁸ See Footnote 4.

provide the individual a reasonable period to furnish any required additional information. *Id.*

9. Pursuant to 42 C.F.R. 435.916(c) state agencies must have procedures designed to ensure that Medical Assistance beneficiaries make timely and accurate reports of any change in circumstances that may affect their eligibility and that such changes may be reported through any of the modes for submission of applications. Consistent with the requirements of §435.952 of this part, the agency must promptly redetermine eligibility between regular renewals of eligibility whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility. *Id.* at (d).

10. In this case, the Appellant was determined ineligible for Medical Assistance and MinnesotaCare coverage and eligible for advanced payment of tax credits of zero dollars and cost-sharing reductions based upon the December 1, 2013 application for a household which included the Appellant, her husband and their son, [REDACTED]. The Appellant moved out of her husband's household in January 2014. She promptly reported this change on January 30, 2014, and February 4, 2014, and sought redetermination of her eligibility for health care assistance. The Appellant attested to a separation from her husband, a change in her tax filing status and a change in her household income. DHS has not processed these changes or made a new determination of the Appellant's eligibility for Medical Assistance benefits before the date of this hearing.

11. At the hearing the Appellant testified that she no longer intends to file taxes jointly with her husband in 2014. No formal divorce proceedings have begun. There is no separation agreement in place. The Appellant has no income. She is temporarily residing with her adult daughter who is not a tax dependent of the Appellant or the Appellant's husband.

12. While DHS contended at the hearing that no application could be processed for the Appellant until her husband is notified of the change to his health care assistance household, the Appellant has immediate health care needs. It has been several months since the Appellant sought assistance based upon her change in circumstances. The Agency has not acted in a reasonable period of time on the changes reported by the Appellant.

13. The issue here is whether the Appellant remains part of her husband's tax household even though they no longer live together. The Appellant previously filed taxes jointly with her husband. This information was attested to on the December 2013 MNsure application. At the hearing, the Appellant attested that

she no longer intends to file taxes with her husband for the 2014 tax year. Whether or not the Appellant and her husband will be divorced by the end of 2014 is unknown. Nevertheless, the Agency can determine the Appellant's eligibility for Medical Assistance as an individual who is not a tax filer or as an individual who will not be claimed as a dependent by someone else because [REDACTED] can no longer establish that taxes will be filed jointly with the Appellant since taxes cannot be filed jointly without the permission of the Appellant. Even if they filed 2014 taxes as married, but separately, [REDACTED] cannot establish that he will claim the Appellant as a dependent. Thus, according to 42 C.F.R. 435.603(f)(3), cited above, the Appellant's Medical Assistance household currently consists of herself only because she no longer lives with her spouse and the child with whom she resides is over the age of 19.

14. The Appellant's attested income is less than 133 percent of the income poverty guidelines which were in effect on January 30, 2014 when she reported the change in her circumstances. Therefore, the Appellant is eligible for Medical Assistance effective January 1, 2014.

RECOMMENDED ORDER

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 Medical Assistance benefits and ORDER the DHS to provide the Appellant with Medical Assistance retroactive to January 1, 2014.

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

May 30, 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.