



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

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

Agency: MNsure Board
Minnesota Department of Human Services

Docket: 154745

On September 29, 2014, Appeals Examiner Kulani R. Moti 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 people appeared at the hearing:

[REDACTED], Appellant;
[REDACTED], Appellant's Advocate

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 ISSUES

Whether MNsure Board and the Minnesota Department of Human Services did not timely process Appellant's life change event that was reported February 2014.

Whether the Minnesota Department of Human Services correctly determined not to provide the Appellant with reimbursement for private health care premiums paid for coverage from January 2014, through August 2014 as a result of MNsure not processing Appellant's reported life change in February 2014.

FINDINGS OF FACT

1. The MNsure Board (herein MNsure) and the Minnesota Department of Human Services (herein DHS) did not timely process Appellant's life change event that was reported in February 2014. *Testimony of the Appellant*. The Appellant filed a request challenging this lack of action, which MNsure received on July 17, 2014. Appeals hearing were scheduled for August 19, 2014 and September 19, 2014 but were continued. On September 29, 2014, Appeals Examiner/Human Services Judge Kulani R. Moti held an evidentiary hearing via telephone conference. Four exhibits from MNsure and DHS¹ and one exhibit from the Appellant² were accepted into the record. The record was closed at the conclusion of the hearing.

2. Appellant and her husband applied for health coverage through MNsure as a family of two on November 8, 2013. On the application, Appellant reported a projected income of \$23,000 and her husband reported a projected income of \$24,096. Based on the projected income, MNsure determined Appellant eligible for advanced payment of premium tax credits (APTC) and a qualified health plan (QHP). *Exhibit 2*. Appellant enrolled in a health plan, Preferred One, beginning January 1, 2014. *Exhibit 2; Testimony of Appellant*.

3. On February 25, 2014, Appellant called and reported to MNsure she was getting divorced and that her unemployment ended on December 27, 2013. *Exhibits 1 & 2*. In April 2014, Appellant reported to DHS she started a job on April 1, 2014, making \$260.00 biweekly with an annual income of \$4,140.00 and her social security income of \$1,180.00 monthly with an annual income of \$8,260.00. *Exhibit 1*.

4. DHS processed Appellant's life change event in September 2014. DHS determined Appellant was eligible for Medical Assistance for February, March, April, May, and June 2014 and for MinnesotaCare January, July 2014 and ongoing. *Exhibit 4*.

5. Appellant withdrew her appeal of not timely processing her life change event as she now has coverage through MinnesotaCare and Appellant no longer challenges her eligibility

¹ Exhibit 1 – DHS Agency Appeal Summary, 08/14/2014; Exhibit 2 – MNsure Agency Appeal Summary, 09/04/2014; Exhibit 3 – MNsure Agency Appeal Summary II; Exhibit 4 – DHS Agency Appeal Summary II, 09/23/2014.

² Exhibit A – Appeal Request.

for healthcare benefits. *Testimony of* [REDACTED]. Appellant requests reimbursement of premiums and deductibles paid to private health plan, Preferred One, from January 2014 through August 2014 because she now has retrocoverage of Medical Assistance and MinnesotaCare. *Testimony of* [REDACTED]. The Appellant's monthly premium through Preferred One is \$444.86, and her deductible is \$2,000.00. *Testimony of* [REDACTED].

6. The appellant contends she should be reimbursed the difference in the premiums she should have paid to PreferredOne had the MNsure system processed her life change event timely, and the premiums she paid to the private insurance carrier – Preferred One, for the period of January 2014 through August 2014. The appellant asserts she would not have had to enroll in private market insurance had the MNsure system functioned to allow her to update her information based on a life change event. *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 regarding advance payment of a premium tax credit, cost-sharing reductions and qualified health plan issues must be received within 90 days from the date of the notice of eligibility determination. With regard to appeals of Medical Assistance and MinnesotaCare determinations, a person may request a state fair hearing by filing an appeal either: 1) within 30 days after receiving written notice of the action, decision, or final disposition which is being contested, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit. *Minn. Stat. 256.045, subd. 3(h)*.

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 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*. This appeal is timely under 45 C.F.R. §155.520(b) and Minn. Stat. 256.045, subd. 3(h).

3. In accordance with Minn. R. 7700.0105 MNsure appeals are available for the following actions:

- (1) initial determinations and redeterminations made by MNsure of individual eligibility to purchase a qualified health plan through MNsure;
- (2) initial determinations and redeterminations made by MNsure of eligibility for and level of advance payment of premium tax credit, and eligibility for and level of cost sharing

reductions;

(3) initial determinations and redeterminations made by MNsure of employer eligibility to purchase coverage for qualified employees through the Small Business Health Options Program;

(4) initial determinations and redeterminations made by MNsure of employee eligibility to purchase coverage through the Small Business Health Options Program;

(5) initial determinations and redeterminations made by MNsure of individual eligibility for an exemption from the individual responsibility requirement;

(6) a failure by MNsure to provide timely notice of an eligibility determination;

(7) a determination by MNsure that an employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer does provide coverage but is not affordable coverage with respect to an employee; and§

(8) a denial of a request to vacate a dismissal.

4. 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.³ 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.

5. Minn. Stat. 256.045, subd. 3(a)(1) provides, in pertinent part, that State agency hearings are available for any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid.

6. In September 2014, DHS corrected its failure to timely act on Appellant's reported life change event and determined Appellant eligible for Medical Assistance for February, March, April, May, and June 2014 and for MinnesotaCare January, July 2014 and ongoing. Appellant has withdrawn her appeal of this issue and therefore this issue is dismissed.

7. Because Appellant now has retroactive coverage through Medical Assistance or MinnesotaCare Appellant now seeks reimbursement for the cost of premium payments paid for private health insurance obtained as a result of the Agency's failure to timely act. There is no authority in federal or state statute, rule or Minnesota Department of Human Services policy to provide such a remedy. Accordingly, the determinations of MNsure and DHS to deny the Appellant's request for reimbursement for insurance premiums paid to a health insurance

³ 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)).

provider in the private market for January through August 2014, is affirmed.

8. This decision is effective December 1, 2014.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services DISMISS the Minnesota Department of Human Services failure to act in processing Appellant's life change event that was reported February 2014 as the issue has been resolved and Appellant withdrew her appeal of the issue.
- The MNsure Board AFFIRM the determination of MNsure to deny the Appellant's request for reimbursement of private health care premiums paid for coverage from January 2014 through August 2014, as a result of the Agency's failure to timely act on Appellant's life change event.
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination Minnesota Department of Human Services to deny the Appellant's request for reimbursement of private health care premiums paid for coverage from January 2014 through August 2014, as a result of the Agency's failure to timely act on Appellant's life change event.

Kulani R. Moti
Appeals Examiner

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

cc: _____, Appellant
_____, Appellant's Advocate
Kim Carolan, Minnesota Department of Human Services - 0989
Michael Turpin, MNsure General Counsel

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.