



**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: 155135

On September 4, 2014, Appeals Examiner Jonathan R. Hall 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.<sup>1</sup>

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 (“DHS Agency”) properly determined Appellant’s eligibility for Medical Assistance and MinnesotaCare benefits.

Whether the MNsure Board (“MNsure Agency”) properly determined Appellant’s eligibility for an advance payment of a premium tax credit and cost sharing reductions as provided in the Affordable Care Act.

## FINDINGS OF FACT

1. On July 28, 2014, the MNsure eligibility system advised Appellant that he was not eligible for Medical Assistance, MinnesotaCare or a Qualified Health Plan, and that he was not eligible for an advance payment of a premium tax credit because he is covered by Medicare Part A and B.<sup>2</sup> *Exhibit 2.*

2. On September 4, 2014, Appeals Examiner Jonathan R. Hall held an evidentiary hearing via telephone conference. The record, consisting of three exhibits,<sup>3</sup> was closed at the end of the hearing.

3. The state of Minnesota created MNsure as its marketplace or exchange for individuals, families and small employers to access health insurance and tax credits or assistance to help pay for coverage through the Affordable Care Act. On or about December 19, 2013, Appellant sought eligibility for assistance to help pay for health insurance coverage through MNsure. The application did not indicate that the appellant received Medicare Part A and Part B benefits. He indicated that he did not intend to file a tax return. The MNsure Agency determined that the appellant was eligible for a qualified health plan (QHP), but was not eligible for financial assistance. *Exhibit 3.*

4. On February 20, 2014, the appellant applied through the MNsure Agency for health coverage. The MNsure agency determined that the appellant was not eligible for medical assistance of MinnesotaCare because he had coverage through Medicare Parts A and B. *Exhibit 2.*

5. On July 29, 2014, the appellant submitted another application for health care through the MNsure website. He reported, and the Department of Human Services verified, that he receives Medicare Parts A and B. For that reason, the MNsure Agency determined that the appellant was not eligible for a QHP because he had minimum essential coverage. Because the appellant does not qualify for a QHP, the issue whether he is eligible for advance payment of premium tax credits is moot. *Exhibit 3.*

6. The appellant has not had coverage under Medicare Part B since 2006. It may have terminated due to excess income. The appellant does have coverage under Medicare Part A

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<sup>2</sup> Medicare Part A covers hospital, skilled nursing and hospice care. Part B covers doctor services, outpatient services, equipment, and home health care.

<sup>3</sup> Exhibit 1 (Appeal); Exhibit 2 (State Agency Appeal Summary-DHS); Exhibit 3 (State Agency Appeal Summary-MNsure).

based on a disability. *Appellant Testimony.*

### CONCLUSIONS OF LAW

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

8. 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 and cost sharing under Minnesota Statute § 62V.05, subdivision 6.

9. Even though Appellant did not specifically contest eligibility for Medical Assistance and MinnesotaCare, federal rules and regulations require that a determination be made as to Appellant's eligibility for these programs if Appellant appeals eligibility for either advance payment of the premium tax credit or cost sharing reduction level. Because Appellant's income is above 200% of the federal poverty level, the DHS Agency correctly determined that Appellant was not eligible for either Medical Assistance or MinnesotaCare. As such, the determination that Appellant was not eligible for either Medical Assistance or MinnesotaCare stands. To be eligible for MinnesotaCare, an individual or family must not have minimum essential health coverage.

10. ***Minimum Essential Coverage.*** Minimum essential coverage is coverage which is: (1) government sponsored; (2) employer sponsored; (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).*

11. An individual who is entitled to Medicare Part A *or* enrolled in Medicare Part B is considered to have essential minimum coverage. *26 C.F.R. § 1.36B-2(C)(2).* In this case, the appellant acknowledged that he is covered under Medicare Part A. Therefore, even if he is not covered under Medicare Part B, I must conclude that the appellant does not qualify for a QHP. The agency's decision should be affirmed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant’s household was not eligible for Medical Assistance as of February 20, 2014;
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant’s household was not eligible for MinnesotaCare benefits as of February 20, 2014;
- The MNSure Board AFFIRM the determination of Appellant’s household’s eligibility for an advance premium tax credit and cost sharing reductions as provided in the Affordable Care Act as of July 29, 2014.

\_\_\_\_\_  
Jonathan R. Hall  
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: [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).
- **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.