



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: Medical Assistance
MinnesotaCare
Advance Payment of Premium Tax Credits
Cost Sharing Reductions
Qualified Health Plan

Agency: Minnesota Department of Human Services
MNsure Board

Docket: 155224

On September 29, 2014, Appeals Examiner Tonja J. Rolfson 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; and
[REDACTED], Appellant's son.

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 the Minnesota Department of Human Services properly determined the household was not eligible for Medical Assistance and MinnesotaCare.

Whether the MNsure Board (“MNsure Agency”) properly determined the 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. The appellant applied on July 11, 2014. *Agency Exhibit 9*. The appellant was receiving MinnesotaCare. *Appellant Exhibit 1*. Her MinnesotaCare terminated July 31, 2014. *Id.* MNsure sent the appellant written notice dated July 28, 2014 stating she was ineligible for Medical Assistance, MinnesotaCare, Advanced Premium Tax Credits and Cost Sharing Reductions. *Appellant Exhibit 4*. It said she was eligible to enroll in a qualified health plan (QHP). *Id.* The appellant filed an appeal on August 7, 2014. *Id.* The Appeals Examiner scheduled a telephone hearing for September 9, 2014, but continued it to September 15, 2014 and again to September 29, 2014 for the benefit of the appellant to allow the appellant’s son to participate in the hearing and to allow the appellant to submit additional eligibility information to the agency. The Appeals Examiner held a telephone hearing on September 29, 2014 and accepted nine exhibits into evidence from the agency¹ and six exhibits into evidence from the appellant.² The Appeals Examiner closed the record on September 29, 2014.

2. The appellant was born on September 21, 1956 and is a household of one. *Appellant Exhibit 3*. She files taxes as a single person. *Appellant Exhibit 2*. The appellant’s projected gross income for 2014 is \$19,350.29. *Agency Exhibit 5*.

3. The appellant is eligible to enroll in individual health insurance coverage with her employer at a premium of \$32.34 per bi-weekly pay period paid over 18 pay periods with a deductible of \$6,350. *Agency Exhibit 2; Appellant Exhibit 5*. The total annual premium cost for this coverage is \$5,322.25. The employer contributes \$4,740 toward the cost of insurance. *Appellant Exhibit 5*. The total cost of the employee’s premiums is \$582.12 (i.e., $\$32.34 \times 18 = \582.12).

4. The plan available to the appellant through her employer meets the “minimum value” standard under the Affordable Care Act. *Agency Exhibit 2*.

¹ The agency’s exhibits are as follows: 1) State Agency Appeals Summary ; 2) Appendix A-- Health Coverage from Jobs Form; 3) September 11, 2014 note from appellant to MinnesotaCare; 4) September 29, 2014 MinnesotaCare Memorandum; 5) September 18, 2014 e-mails between appellant in Lisa Grohs, MinnesotaCare; 6) September 15, 2014 note from appellant to MinnesotaCare; 7) August 22, 2014 [REDACTED] Paycheck; 8) September 12, 2013 [REDACTED] Paycheck; and 9) September 15, 2014 MinnesotaCare Memorandum.

² The appellant's exhibits are as follows: 1) Appeal Request; 2) Appellant's 2013 1040 EZ Form; 3) NuCare Pharmacy List; 4) July 28, 2014 Health Care Notice from MNsure; 5) [REDACTED] Insurance Cost Information; and 6) Some Available Qualified Health Plans Offering Single Coverage.

5. The parties do not dispute the appellant is eligible to enroll in a qualified health plan on the MNsure exchange.

CONCLUSIONS OF LAW

Timeliness and Jurisdiction

1. 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).

2. The Commissioner of the Minnesota Department of Human Services has authority to review the 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.

Modified Adjusted Gross Income (MAGI)

3. “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)*.

4. “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 family³ and are required to file a tax return for the taxable year. *26 C.F.R. §1.36B-1(e)(1)*.

5. 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*. 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 (IAPM), Chapter 300.10.10.10*.

³ 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.*

6. Based on this, the appellant's annual MAGI is \$19,350.29. The appellant's household income is 163% of the 2014 federal poverty level, which is \$11,670 for a household size of one person (i.e., $\$19,050.29 \div \$11,670 = 1.632 \times 100 = 163\%$ rounded).⁴

Medical Assistance

7. 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 Medical Assistance.⁵

8. The state laws about Medical Assistance are in Minnesota Statutes, Chapter 256B. Effective January 1, 2014, to be eligible for Medical Assistance, a parent or caretaker relative, an adult without children, and a child age 19 to 20, may have an income up to 133% of the federal poverty guidelines for the household size. *Minn. Stat. § 256B.056, subd. 4(b), (c), and (d)*. Effective January 1, 2014, to be eligible for Medical Assistance, a child under age 19 may have income up to 275% of the federal poverty guidelines for the household size. *Id. at subd. 4(e)*.

9. The MAGI methodology as defined in the Affordable Care Act is used for determining income in these eligibility categories except that the Commissioner must subtract from the MAGI an amount equivalent to five percent of the federal poverty guidelines. *Minn. Stat. § 256B.056, subd. 1a(b)(1) and (2); See also 42 C.F.R. § 435.603(c)(4)*. The 2014 federal poverty guidelines are used for Medical Assistance programs as of July 1, 2014. Therefore, for the purposes of determining medical assistance eligibility, the appellant's income is 158% of the federal poverty guidelines (i.e., $163\% - 5\% = 158\%$). Because the appellant's income exceeds 133% of the federal poverty guidelines, the household does not qualify for medical assistance.

Minimal Essential Coverage

10. Minimum essential coverage is defined in 26 C.F.R. § 136B-2(c) and 26 U.S.C. § 5000A(f)(1) as 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.

11. An employee or an individual who may enroll in the employer-sponsored plan is considered eligible for minimum essential coverage for a month during the plan year if the employee or related individual could have enrolled in the plan for that month during an open or special enrollment period. *26 C.F.R. § 1.36B-2(c)(3)(iii)*. The employer-sponsored plan year is the plan's regular 12-month coverage period. *Id. at (c)(3)(ii)*.

12. Employer-sponsored minimum essential coverage must be affordable and provide minimum value. *26 C.F.R. § 1.36B-2(c)(3)(i)*.

⁴ *Federal Register*, Vol. 79, No. 14, January 22, 2014, p. 3593.

⁵ 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)).

13. An eligible employer-sponsored plan is affordable for an employee or a related individual if the portion of the annual premium the employee must pay, whether by salary reduction or otherwise (required contribution), for self-only coverage does not exceed the required contribution percentage of the applicable taxpayer's household income for the taxable year. 26 C.F.R. § 1.36B-2(c)(3)(v)(A)(1). The required contribution percentage is currently defined in paragraph (c)(3)(v)(C) of this section as 9.5 percent.

14. An eligible employer-sponsored plan provides minimum value only if the plan's share of the total allowed costs of benefits provided to the employee under the plan is at least 60 percent. 26 C.F.R. § 1.36B-2(c)(3)(vi). Minimum value is determined pursuant to 45 C.F.R. § 156.145.

15. The insurance offered through the appellant's employer offers minimum value. *Agency Exhibit 2*. The appellant's annual projected income is \$19,350.29. Her insurance costs are affordable if she pays no more than 9.5% of her annual projected income (or \$967.51) in premiums for the coverage. The appellant would be required to pay \$582.12 annual in premiums to receive insurance through her employer. Because the coverage available to the appellant through her work offers minimum value and is affordable, the appellant has essential minimum coverage available to her.

MinnesotaCare

16. To be eligible for MinnesotaCare coverage, a family or individual must not have minimum essential health coverage, as defined by section 5000A of the Internal Revenue Code. *Minn. Stat. § 256L.07, subd. 3(a) as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 56*. Because the appellant has essential minimum coverage available to her through her work, the appellant is not eligible for MinnesotaCare.

Premium Assistance

17. 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-(a)(2) and (c). 45 C.F.R. §155.305(f). Because the appellant has minimum essential coverage available to her through her employer, she is not eligible for advance payment of premium tax credits.

Cost-Sharing Reductions

18. Federal regulations concerning eligibility for cost-sharing reductions (CSR) are found at 45 C.F.R. §155.305(g). The MNsure agency must determine an applicant eligible for cost-sharing reductions if the applicant meets the following eligibility requirements:

- (A) The applicant meets the requirements for eligibility for enrollment in a Qualified Health Plan through the Exchange;
- (B) The applicant meets the requirements for advance payments of the premium tax credit; and
- (C) The applicant is expected to have a household income that does not exceed 250 percent of the Federal Poverty Level, for the benefit year for which coverage is requested.

45 C.F.R §155.305(g)(1)(i). Because the appellant is not eligible for advance payment of premium tax credits, the appellant is not eligible for cost-sharing reductions.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that the appellant’s household was not eligible for Medical Assistance as of July 11, 2014;
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that the appellant’s household was not eligible for MinnesotaCare benefits as of July 11, 2014;
- The MNsure Board AFFIRM the determination of the appellant’s household’s ineligibility for an advance payment of premium tax credits and cost sharing reductions as provided in the Affordable Care Act as of July 11, 2014.

Tonja J. Rolfson
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
[REDACTED], Appellant's Son
Michael Turpin, MNSure
Teresa Saybe, Minnesota Department of Human Services - 0838

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.