



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

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

Agency: MNsure Board
Minnesota Department of Human Services

Docket: 155697

On September 23, 2014, Appeals Examiner Ruth Grunke Klein held an evidentiary hearing under 42 United States Code §18081(f) and Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED], Appellant

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 Appellant was properly denied Advance Payment of Premium Tax Credits, Cost Sharing Reductions, and MinnesotaCare because she had access to employer sponsored minimum essential coverage; and

Whether the Appellant was properly denied Medical Assistance because her income exceeded the income limit for the program.

FINDINGS OF FACT

1. On an unknown date, the Appellant was notified that she did not qualify for Advance Payment of Premium Tax Credits, Cost Sharing Reductions, MinnesotaCare and Medical Assistance. On August 27, 2014, the Appellant challenged these decisions by filing an appeal. *Exhibit 1.*

2. Appeals Examiner Ruth Grunke Klein held an evidentiary hearing by telephone conference on September 23, 2014. The record, consisting of three exhibits,¹ was closed at the end of the hearing.

3. The Appellant applied for health care coverage through the MNsure website on July 9, 2014 as a single individual. *Exhibit 2.* She disagrees with the agency's denial of Advance Payment of Premium Tax Credits, Cost Sharing Reductions, and MinnesotaCare.

4. The Appellant is employed part time by [REDACTED], which started sponsoring health coverage for its employees for the first time beginning January 2014. The Appellant did not enroll in the coverage because she could not afford it. Costs related to her home in addition to her other expenses leaves little left for health insurance. Her employer coverage cost \$142 monthly and it had a \$5000 deductible. After the deductible was met, 100 percent of medical costs were covered. *Exhibit 3, testimony of the Appellant.*

5. The Appellant's attested projected adjusted gross income for the 2014 tax year is \$18,981, or \$1,582 monthly.² *Exhibit 3, testimony of the Appellant.*

APPLICABLE LAW

6. An appeal must be received within 90 days from the date of the notice of eligibility determination. *45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).*

7. The MNsure Board has the legal authority to review and decide the issues in this appeal about eligibility through MNsure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program.

¹ Exhibit 1 is the appeal request; Exhibit 2 is a State Agency Appeals Summary from MNsure; and Exhibit 3 is a State Agency Appeals Summary from the Department of Human Services.

² 18,981 divided by 12 is 1581.75.

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 about eligibility for MinnesotaCare and Medical Assistance. *Minn. Stat. § 256.045, subd. 3.*

8. Federal regulations governing Medical Assistance and Exchange appeals require that if an individual appeals a determination of eligibility for the Advance Payment of Premium Tax Credits 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 automatic pairing of Medicaid appeals with appeals concerning Advance Payment of 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. Determinations of eligibility for Medical Assistance and MinnesotaCare are made by the Minnesota Department of Human Services.

9. Federal regulations concerning eligibility for Advance Payment of 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-2(a)(2) and (c). *45 C.F.R. §155.305(f).*

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. The term “eligible employer-sponsored plan” means, with respect to any employee, a group health plan or group health insurance coverage offered by an employer to the employee which is either a governmental plan (within the meaning of section 2791(d)(8) of the Public Health Service Act), or any other plan or coverage offered in the small or large group market within a State and includes a grandfathered health plan described in paragraph (1)(D) offered in a group market. *26 U.S.C. § 5000A(f)(2).*

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

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)).

month during an open or special enrollment period. *Id.* at (c)(3)(iii). The employer-sponsored plan year is the plan's regular 12-month coverage period. *Id.* at (c)(3)(ii). Minnesota has adopted the same affordability and minimum value criteria with regard to MinnesotaCare coverage effective January 1, 2014. *Minn. Stat. § 256L.07, subd. 2 as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 55.*⁴

12. 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.

13. 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-2I(3)(vi)*.

14. To be eligible for Cost Sharing Reductions, a person must meet the eligibility requirements for Advance Payment of Premium Tax Credits. *45 C.F.R. §155.305(g)(1)*

15. To be eligible for MinnesotaCare, a family or individual must not have access to employer sponsored health coverage that is affordable and provides minimum value as defined in *26 C.F.R. §1.36B-2. Minn. Stat. § 256L.07, subd. 2 as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 55.*⁵

16. Adults are not eligible for Medical Assistance unless household income, which is determined using the modified adjusted gross income (MAGI) methodology, is less than 133 percent of the Federal Poverty Level (FPL). An amount equivalent to five percent of the FPL is subtracted from the individual's MAGI. *Minn. Stat. §256B.056, subd. 1a and subd. 4 (as amended in Minnesota Session Laws Chapter 10S, Article I, Section 55)*. One hundred thirty-three percent of the FPL for a family of one is \$1,293 monthly. *See the Minnesota Department of Human Services' Insurance Affordability Programs' Income and Asset Guidelines*. For the calendar year 2014, the FPL for a family of one is \$972.50 monthly and five percent of this amount is \$49.⁶ *See the 2014 Poverty Guidelines at Medicaid.gov.*

17. "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 The Minnesota Department of Human services received a letter from the Center for Medicare and Medicaid Services (CMS) approving the amendment to Minn. Stat. § 256L.07, subd. 2 on December 20, 2013.

⁵ The Minnesota Department of Human services received a letter from the Center for Medicare and Medicaid Services (CMS) approving the amendment to Minn. Stat. § 256L.07, subd. 2 on December 20, 2013.

⁶ 972.50 times .05 equals 48.62.

CONCLUSIONS OF LAW

18. This appeal is timely in that it was filed within 90 days of receipt of the Agency’s determination regarding the Appellant’s eligibility for Minnesota health care programs.

19. The Appellant could have enrolled in employer-sponsored coverage for the 2014 calendar year. She seeks review of the Agency’s determination that the employer-sponsored coverage provides minimum essential coverage. The employee contribution for the coverage is \$142 monthly or \$1,704 annually. Nine and one half percent of \$18,981 is 1803. Therefore, the employer-sponsored coverage is affordable because the amount of \$1,704 is less than 9.5 percent of Appellant’s household income, or \$1,803.

20. The Appellant has not shown that the employer plan did not provide minimum value. Because the Appellant, as the applicant, has the burden to do this, the two agencies properly concluded that Appellant has minimum essential coverage.

21. The determination of MNsure that the Appellant is ineligible for Advance Payment of Premium Tax Credits and Cost Sharing Reductions because she has minimum essential coverage is upheld. The determination of the Department of Human Services that the Appellant is ineligible for MinnesotaCare because Appellant has minimum essential coverage is upheld.

22. The determination of the Department of Human Services that the Appellant is not eligible for Medical Assistance is upheld. Her monthly income is \$1,582 and this amount minus five percent of the FPL, \$49, is \$1,533 and this is more than \$1,293, which is the Medical Assistance income limit for a household of one.

23. The determinations that the Appellant is ineligible for Advance Payment of Premium Tax Credits and Cost Sharing Reductions is effective September 12, 2014.

24. The determinations that the Appellant is ineligible for MinnesotaCare and Medical Assistance is September 15, 2014.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board affirm the Agency’s denial of eligibility for Advanced Payment of a Premium Tax Credit and Cost Sharing Reductions.
- The Commissioner of the Minnesota Department of Human Services affirm the denial of MinnesotaCare and Medical Assistance benefits.

Ruth Grunke Klein
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 MinnesotaCare and Medical Assistance 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
Teresa Saybe, 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.

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.

Seek judicial review to the extent it is available by law.