



**DECISION OF  
STATE AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: Qualified Health Plan  
Agency: MNSure Board  
Docket: 155897

On September 26, 2014, Appeals Examiner Douglass C. Alvarado 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 MNsure Board correctly determined on August 15, 2014, that the Appellant was ineligible for enrollment in a Qualified Health Plan outside the open enrollment period for the 2014 benefit year.

## FINDINGS OF FACT

1. The MNsure Board (herein Agency) determined that the Appellant was eligible for enrollment in a Qualified Health Plan (QHP) on April 23, 2014. *Agency Exhibit # 2*. The Appellant was denied enrollment in a QHP on August 15, 2014. *Id.* The Appellant filed a request challenging the August 15, 2014 action, which MNsure received on September 2, 2014. *Appellant's Exhibit A*. On September 26, 2014, Appeals Examiner Alvarado held an evidentiary hearing via telephone conference. The judge accepted into evidence two exhibits from the Agency<sup>1</sup> and one exhibit from the Appellant<sup>2</sup>. The record was closed at the conclusion of the hearing.
2. The Appellant completed an online application for insurance affordability programs through the MNsure Eligibility System on February 26, 2014. *Agency Exhibit # 1, Attachment 1 and Agency Exhibit # 2*.
3. The Appellant (D.O.B. [REDACTED]) lives with his wife, [REDACTED] (D.O.B. [REDACTED]), and their two children, [REDACTED] (D.O.B. [REDACTED]) and [REDACTED] (D.O.B. [REDACTED]). *Appellant's testimony*. The Appellant and [REDACTED] file taxes jointly and expect to claim [REDACTED] as a tax dependent for the tax year of 2014. *Agency Exhibit # 1, Attachment 2 and Appellant's testimony*.
4. [REDACTED] was determined eligible for Medical Assistance benefits effective February 1, 2014. *Appellant's testimony*.
5. [REDACTED] is in receipt of employer-sponsored health insurance. *Appellant's testimony*. The cost of self-only coverage for Ms. [REDACTED] is affordable and provides minimum value. *Id.* The Appellant and [REDACTED] did not enroll in Ms. [REDACTED] employer-sponsored health insurance during the 2014 open enrollment period for this plan (during the end of 2013) because the cost of family coverage is approximately \$1,500 monthly. *Id.*
6. The Appellant attested to projected modified adjusted gross income (MAGI)

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<sup>1</sup> The Agency submitted two exhibits which was marked as follows: 1) DHS State Agency Appeal Summary dated September 19, 2014; and 2) MNsure State Agency Appeal Summary dated September 22, 2014.

<sup>2</sup> The Appellant submitted one exhibit which was marked as follows: A) Appeal Request by letter dated August 25, 2014.

for 2014 of \$59,969.77 on his MNsure application. *Agency Exhibit # 1, Attachment 4.* The Appellant has experienced a change in employment and now anticipates MAGI of \$77,079.78. *Appellant's testimony.*

7. MNsure requested additional verification of the Appellant's attested income information provided on his February 26, 2014, MNsure application. *Agency Exhibit # 2.*

8. On April 23, 2014, MNsure determined that the Appellant and [REDACTED] were eligible for advance payment of a tax credit (APTC) in the amount of zero dollars and ineligible for cost-sharing reductions, effective April 1, 2014. *Agency Exhibit # 1, Attachment 5 and Agency Exhibit # 2.* The Appellant and [REDACTED] were determined ineligible for Medical Assistance and MinnesotaCare coverage. *Agency Exhibit # 1.* Affordable health insurance coverage was not sought for [REDACTED] because she has employer-sponsored coverage. *Appellant's testimony.*

9. Ms. [REDACTED] was verbally advised by MNsure of the results of the household's eligibility determinations on April 23, 2014. *Agency Exhibit # 2.* Ms. [REDACTED] advised MNsure that she would contact MNsure when a health plan selection had been made. *Id.*

10. The Appellant did not immediately attempt to enroll in a QHP because he was aware that the open enrollment period had expired. *Appellant's testimony.*

11. On August 15, 2014, and August 18, 2014, the Appellant received written notification of his eligibility for enrollment in a QHP effective April 1, 2014. *Appellant's testimony.* The Appellant attempted to enroll in a QHP on August 15, 2014, but was unable to do so because the 2014 open enrollment period had expired. *Id. and Agency Exhibit # 2.*

12. The Appellant seeks review of the failure to enroll the Appellant and [REDACTED] in a QHP only. *Appellant's testimony.* He is not challenging the denial of Medical Assistance, MinnesotaCare coverage or cost-sharing reductions. *Id.* Nor is he challenging the determination of the amount of his APTC eligibility. *Id.*

#### APPLICABLE LAW

13. 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.

14. 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.

15. Federal regulations concerning eligibility for enrollment in a QHP are found at 45 C.F.R. § 155.305(a)(1)(3). Eligibility for enrollment in a QHP, under the regulations in § 155.305(a)(1), is limited to citizens or nationals of the United States and non-citizens who are lawfully present in the United States. In addition, applicants may not be incarcerated, other than incarceration pending the disposition of charges and must meet the applicable residency standard. *Id.* at (a)(2) & (3).

16. The Exchange must require the applicant to attest regarding a tax filer's projected annual household income. *45 C.F.R. § 155.320(c)(3)(ii)(B)*. To the extent that the applicant's attestation indicates that the projected annual household income for the family represents an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must determine the tax filer's eligibility for advance payments of the premium tax credit and cost-sharing reductions based on the household income data. *Id.* at (c)(3)(ii)(C). To the extent that the data is unavailable, or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and so it does not represent an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must require the applicant to attest to the tax filer's projected household income for the benefit year for which coverage is requested. *Id.* at (c)(3)(ii)(D). If a tax filer qualifies for an alternate verification process and the applicant's attestation to projected annual household income is no more than ten percent below the annual household income the Exchange must accept the applicant's attestation without further verification. *Id.* at (c)(3)(v). If electronic data are unavailable or an applicant's attestation to projected annual household income is more than ten percent below the annual household income the Exchange must follow the procedures specified in §155.315(f)(1) through (4) which include providing the tax filer with a notice of the inconsistency, providing the tax filer with 90 days from date of the notice for to present verification of information attested to, and providing advance payments of the premium tax credit and cost-sharing reductions on behalf of an applicant within this period who is otherwise qualified for such payments and reduction if the tax filer attests to the Exchange that he or she understands that any advance payments of the premium tax credit paid on his or her behalf are subject to reconciliation. *Id.* at (c)(3)(vi)(D) & 45 § 155.315(f).

17. Pursuant to 45 C.F.R. 155.410(a)(2) the Exchange may only permit a qualified individual to enroll in a QHP or an enrollee to change QHPs during the initial open enrollment period, the annual open enrollment period, or a special enrollment period for which the qualified individual has been determined eligible.

The initial open enrollment period begins October 1, 2013 and extends through March 31, 2014. *Id.* at (b). For the benefit year beginning on January 1, 2015, the annual open enrollment period begins on November 15, 2014, and extends through February 15, 2015. *Id.* at (e). 45 C.F.R. 155.420(d) sets forth the special enrollment period criteria. The Exchange must allow a qualified individual or enrollee to enroll in or change from one QHP to another if:

- 1) the qualified individual or his or her dependent loses minimum essential coverage;
- 2) the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care;
- 3) the qualified individual, or his or her dependent, which was not previously a citizen, national, or lawfully present individual gains such status;
- 4) the qualified individual's enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange;
- 5) the enrollee or, his or her dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- 6) the enrollee is determined newly eligible or newly ineligible for advance payments of the premium tax credit or has a change in eligibility for cost-sharing reductions;
- 7) the qualified individual or enrollee, or his or her dependent, gains access to new QHPs as a result of a permanent move;
- 8) the qualified individual is an Indian;
- 9) the qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide; or
- 10) it has been determined by the Exchange that a qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage; was not enrolled in the QHP selected by the qualified individual or enrollee; or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

18. A qualified individual or enrollee has 60 days from the date of an event which triggers the special enrollment period to select a QHP unless specifically stated otherwise in 45 C.F.R. § 155.420. *45 C.F.R. § 155.420(c).*

## CONCLUSIONS OF LAW

19. In this case, the Appellant applied, most recently, for affordable insurance programs on February 26, 2014. In processing the Appellant's application, additional income verifications were sought. [REDACTED] was determined eligible for Medical Assistance benefits effective February 1, 2014. The Appellant and [REDACTED] were determined eligible for APTC in the amount of zero dollars and ineligible for cost-sharing reductions within the 90 day processing period when additional verifications are needed. Ms. [REDACTED] was verbally advised of the household's eligibility results on April 23, 2014. Written notification of the eligibility results was not provided to the Appellant until August 15, 2014. No attempt to enroll in a QHP was made by the Appellant until August 15, 2014, because the Appellant believed that the enrollment period had expired and was unaware of any extension of the open enrollment deadline of March 31, 2014.

20. Inasmuch as MNsure had not made an eligibility determination with regard to the Appellant's February 26, 2014 application before the March 31, 2014 deadline to enroll in a QHP, the Appellant was eligible for special enrollment. The Appellant's household was verbally notified of their eligibility for affordable health care programs on April 23, 2014. This event triggered the special enrollment eligibility. Pursuant to federal law, the Appellant then had 60 days to enroll in a QHP. The Appellant did not attempt to enroll in a QHP within 60 days of April 23, 2014. Therefore, while the Appellant met the criteria for enrollment in a QHP outside the open enrollment period, he failed to take advantage of that eligibility within 60 days of the triggering event. Accordingly, MNsure correctly denied the Appellant's enrollment in a QHP on August 15, 2014.

## RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency's determination that the Appellant was ineligible on August 15, 2014, for enrollment in a Qualified Health Plan for the 2014 benefit year.

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Douglass C. Alvarado  
Appeals Examiner

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Date

## ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopt the Appeals Examiner's findings of fact, conclusions of law and order as the agency's final decision.

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.

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Date

cc: [REDACTED], Appellant  
Michael Turpin, MNsure

### **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).