



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
Agency: MNsure Board
Docket: 155996

On October 8, 2014, Appeals Examiner Ellen Longfellow held an evidentiary hearing by telephone conference under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a), and Minnesota Statute §256.045, subdivision 3.

The following persons appeared at the hearing:¹

- [REDACTED] Appellant.
- [REDACTED] Appellant’s representative.

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.

¹ 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 ISSUE

Whether the MNsure Board properly determined the effective date of the Appellant's Qualified Health Plan as provided in the Affordable Care Act and its policies.

FINDINGS OF FACT

1. On October 8, 2014, Appeals Examiner Ellen Longfellow held an evidentiary hearing by telephone conference. The record, consisting of three exhibits², was closed at the end of the hearing.

2. On April 25, 2014, appellant applied for insurance coverage through MNsure for a household of three which included herself, her husband and her son. On that same date, MNsure determined that appellant and her family were eligible for a qualified health plan but not for any tax credits. *Exhibit 3.*

3. Since appellant said that she and her family were losing minimum essential health insurance coverage as of April 30, 2014, they were eligible for a sixty-day special enrollment period. MNsure manually enrolled the family in a qualified health plan on June 4, 2014 for coverage effective May 1, 2014. *Exhibit 3.*

4. Appellant's representative, [REDACTED] contacted MNsure on April 25, 2014 about applying for insurance coverage for appellant and her family. The MNsure representative, [REDACTED] (last name unknown) told her that the appellant would be unable to obtain a May 1, 2014 effective date because she would be applying after April 15th. If she applied on April 25th, 2014, the effective date of any MNsure coverage would be June 1, 2014. The appellant sent in a check for \$353.39 to Health Partners to begin coverage on June 1, 2014. *Exhibit 2; Testimony of [REDACTED]*

5. Appellant's representative, in reliance on the statement by the MNsure representative, enrolled the appellant in a short term health insurance policy with Blue Cross / Blue Shield for the month of May, 2014. The premium for this coverage was \$77.90 which the appellant paid. *Exhibit 2; Testimony of [REDACTED]*

6. After the appellant received notice of the instacare policy from MNsure that showed an effective date of May 1, 2014 and received notice from HealthPartners that she was behind in her payments because she had not paid for May, 2014, the appellant's representative had numerous contacts with HealthPartners and MNsure representatives about the effective date. *Exhibit 2 and Testimony of [REDACTED]*

² MNsure State Agency Appeals Summary with attachments, Exhibit 1; Materials submitted by [REDACTED] on behalf of appellant, Exhibit 2; Minnesota Department of Human Services memorandum, Exhibit 3.

7. On June 4, 2014, ██████████ again talked to ██████████ the MNsure representative. ██████████ again told her that appellant's effective date for her MNsure coverage would be June 1, 2014. On August 21, 2014, ██████████ talked to ██████████ of MNsure. ██████████ said that he could see that it was MNsure's error and understood why the appellant wanted a June 1, 2014 effective date because she had coverage for May, 2014. *Exhibit 2 and Testimony of ██████████*

8. The appellant applied for MNsure health coverage under the Special Enrollment Period because there was a triggering event of the appellant and her family losing essential minimum essential health insurance coverage on April 30, 2014.

9. The appellant reasonably relied on the statements of the MNsure representatives that the earliest coverage that she would be able to obtain would be effective June 1, 2014. Based on that reliance, the appellant purchased additional coverage so that she and her family had double coverage for the month of May, 2014.

APPLICABLE LAW

10. For MNsure appeals, 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)*.

11. The MNsure Board has the legal authority to review and decide issues about a household'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.

Enrollment Periods

12. Federal regulations concerning enrollment in qualified health plans (QHPs) are found at 45 C.F.R. §§155.400 – 155.430. 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 described in §155.420 of this subpart for which the qualified individual has been determined eligible. *45 C.F.R. §155.400(a)(2)*. The initial open enrollment period began October 1, 2013 and extended through March 31, 2014. *45 C.F.R. §155.400(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. *45 C.F.R. §155.400(e)*.

13. The Exchange must allow a qualified individual or enrollee, and, when specified, his or her dependent, to enroll in or change from one QHP to another via a special enrollment period if a triggering event occurs, including among other things, the qualified individual or his or her dependent loses minimum essential coverage. *45 C.F.R. §155.420(d)*.

14. Except as specified in paragraphs (b)(2) and (3) of this section, for a QHP selection received by the Exchange from a qualified individual—

- (i) Between the first and the fifteenth day of any month, the Exchange must ensure a coverage effective date of the first day of the following month; and
- (ii) Between the sixteenth and the last day of any month, the Exchange must ensure a coverage effective date of the first day of the second following month.

45 C.F.R. §155.420(b)(1).

15. The effective date for coverage under a special enrollment period due to loss of essential minimum coverage is different in Minnesota from the fifteen/sixteen rule above. Under a MNsure policy, the effective date is the first day of the month after the person selects his or her plan. *MNsure policy, pg. 3 (May 2, 2014).*

CONCLUSIONS OF LAW

16. This appeal was started within the allowed time limits under 45 C.F.R §155.520(b).

17. The MNsure Board has legal authority to review appellant's household's eligibility for enrollment in a qualified health plan and premium assistance under Minnesota Statute § 62V.05, subdivision 6.

18. There is no dispute that appellant qualifies to enroll in a qualified health plan due to being eligible for special enrollment. There is also no dispute that Appellant submitted her application for health care coverage to MNsure on April 25, 2014. The MNsure policy for people applying in a special enrollment period is different than other applications. It requires coverage the first of the month after the applicant selects a plan. In this case, under that rule, the appellant's coverage would begin on May 1, 2014. This policy is clearly designed to benefit people in the appellant's position that need coverage quickly due to the loss of minimal health insurance coverage.

19. MNsure determined the effective date of the appellant's coverage under MNsure policy to be May 1, 2014.

20. The appellant reasonably relied on MNsure's representatives who gave her the wrong information in regard to MNsure's policy in regard to the effective date. The appellant by relying on the MNsure's representatives and obtaining alternative coverage for May, 2014, waived her right to have the earlier effective date for MNsure coverage.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNSure Board REVERSE the MNSure agency's determination that Appellant was eligible to enroll in a qualified health plan effective May 1, 2014; and ORDER the MNSure agency to set the appellant's qualified health plan effective date as June 1, 2014.

/s/ Ellen Longfellow
Ellen Longfellow
Appeals Examiner

October 30, 2014
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.

Date

cc: [REDACTED] Appellant
[REDACTED] Appellant's representative
[REDACTED] 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.
- **Seek judicial review** to the extent it is available by law.