



**DECISION  
OF AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]

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

Agency: MNsure Board  
Minnesota Department of Human Services

Docket: 157344

On November 26, 2014, Appeals Examiner Kulani R. Moti 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  
[REDACTED] Appeals Representative, MNsure

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 that the Appellant and her household were ineligible for an advance payment of a premium tax credit.

Whether the MNsure Board correctly determined that the Appellant and her household were ineligible for cost sharing reductions as provided in the Affordable Care Act.

Whether the Minnesota Department of Human Services correctly determined that the Appellant and her household were ineligible for Medical Assistance and MinnesotaCare benefits.

## FINDINGS OF FACT

1. On October 17, 2014, the Minnesota Department of Human Services (DHS), through a written notice sent by MNsure, advised ██████████ (Appellant) that her and her husband, ██████████ and her son were ineligible for Medical Assistance, MinnesotaCare, advance payment of premium tax credits and cost-sharing reductions. *Exhibit 1.* DHS determined that Appellant and her household were ineligible for Medical Assistance and MinnesotaCare coverage. *Exhibit 1.* MNsure determined that Appellant and her household were ineligible for advance payment of premium tax credits and cost-sharing reductions. *Testimony of ██████████* The Appellant filed a request challenging these determinations, which MNsure received on October 28, 2014. *Exhibit A.* On November 26, 2014, Appeals Examiner Kulani R. Moti held an evidentiary hearing via telephone conference. On November 26, 2014, three exhibits<sup>1</sup> were accepted into the record and the record was closed on that date.

2. The Appellant's husband applied for a health care coverage on the MNsure Eligibility System on November 23, 2013. *Exhibit 1.* The Appellant's household consists of herself, age ██████ her husband, and her son, age ██████ *Exhibit 1.* The Appellant and her husband file joint taxes and claim their son as a tax dependent. *Exhibit 1.* Appellant listed \$1,000 in yearly other tax deductions. *Exhibit 1.* In the application, Appellant and her husband attested to annual income of \$7,500.00 for ██████████ and an annual income of \$24,000 for ██████████ *Exhibit 1; Testimony of Appellant.* Based on the attested total income of \$31,500.00 Appellant and the household were found eligible for MinnesotaCare effective January 1, 2014. *Exhibit 1.*

3. On August 5, 2014, Appellant reported to DHS that her husband had taken a distribution of \$65,000.00 from a 401k or Individual Retirement Account (IRA) in January 2014. *Exhibit 1.* Appellant acknowledge that she had not reported this in January 2014 at the time of the disbursement. *Exhibit 1; Testimony of Appellant.* On October 17, 2014, DHS updated Appellant's projected household annual income to reflect the disbursement from the IRA. *Exhibit 1.* DHS determined the household's projected annual income as \$96,500.00. *Exhibit 1.*

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<sup>1</sup> Exhibit 1 – DHS Appeal Summary; Exhibit 2 – MNsure Appeal Summary; Exhibit A – Appeal Request.

4. DHS determined that Appellant's household projected income of \$96,500.00 exceeded 133% and 200% of the federal poverty guideline (FPG) for household of three. *Exhibit 1*. MNsure determined that Appellant's projected income of \$96,500.00 exceeded 400% of the FPG for household size of 3. *Exhibit 2*. MNsure determined Appellant's household projected income of \$96,500.00 was 487.62% of the FPG. *Exhibit 2*.

5. Appellant did not know that she and husband would be taking a 401k distribution at the time they submitted their application to MNsure in November 2013. *Testimony of Appellant*. Appellant argues that the distribution was a one-time situation and should not be counted as income. *Testimony of Appellant*. Appellant argues that the distribution is used only for their business. *Testimony of Appellant*. The distribution was deposited into Appellant's personal savings account and when needed funds are transferred to the business account. *Testimony of Appellant*. When Appellant applied for Supplemental Nutrition Assistance Program (SNAP) and emergency assistance with a county agency she was informed that the one-time disbursement would not be counted as income. *Testimony of Appellant*. Appellant and her husband anticipate the business will have losses in 2014 of \$40,000 to \$42,000. *Testimony of Appellant*. Appellant reported a business loss of \$37,000 on their taxes for 2013. *Testimony of Appellant*. Appellant made several phone calls to MNsure and DHS trying to find out if the 401k distribution would be considered income, she argues that it should not. *Testimony of Appellant*. Appellant filed an appeal of the decision to terminate her family's MinnesotaCare and she believes the family eligible for the program. *Testimony of Appellant*.

### CONCLUSIONS OF LAW

1. Under 45 C.F.R. § 155.520(b)(1) and Minn. R. 770.0105, subp. 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination. This appeal is timely in that it was filed within 90 days of receipt of the Agency's determination.

2. 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. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues in this appeal regarding Appellant's eligibility for Medical Assistance and MinnesotaCare. *Minn. Stat. § 256.045, subd. 3*.

3. 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. Households must not have a household income which exceeds 400 % of FPG, which

was \$78,120.00 for 2013 for a household of three<sup>2</sup>

4. The Appellant’s taxpayer family consists of herself, her husband, and her son.

5. The percent of the federal poverty level (FPL) or FPG represented by Appellant’s household income is calculated as follows:

Projected 2014 Household MAGI	\$ 96,500
Household Size	3
2013 FPL for Household Size	\$ 19,530
MAGI % of FPL	494.11%

6. Effective January 1, 2014, to be eligible for Medical Assistance a parent or caretaker relative may have an income up to 133 percent of the federal poverty level (FPL) for the household size. *Minn. Stat. § 256B.056, subd. 4(b)*. Children between the ages of 2-19 may have income up to 275 percent the federal poverty guidelines for the household size or an equivalent standard when converted using modified adjusted gross income methodology as required under the Affordable Care Act. *Minn. Stat. § 256B.056, subd. 4(b)*.

7. Effective January 1, 2014, families with children with family income above 133 percent of the federal poverty guidelines and equal to or less than 200 percent of FPL for the applicable family size are eligible for MinnesotaCare. *Minn. Stat. § 256L.04, subd. 1*.

8. “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 family and are required to file a tax return for the taxable year. *26 C.F.R. §1.36B-1(e)(1)*. “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)*<sup>3</sup>.

9. Appellant reported to DHS in August 2014 that her and husband had received a 401k distribution of \$65,000 in January 2014. This distribution was deposited in Appellant’s personal savings account and then funds were transferred to the business account as needed during the year. 401k distributions are considered income for tax purposes and are included in a taxpayer’s adjusted gross income. The distribution that Appellant and her husband received in January 2014 is considered income. DHS and MNsure properly determined that Appellant’s household’s new projected income was \$96,500. Based on the new projected income Appellant’s household is over 400% of the FPG for a household of three. Therefore, Appellant’s household is not eligible for Medical Assistance, MinnesotaCare, advanced premium tax credit,

<sup>2</sup> <http://ccf.georgetown.edu/wp-content/uploads/2012/03/2013-Federal-Poverty-Guidelines1.pdf>

<sup>3</sup> See also [http://laborcenter.berkeley.edu/pdf/2013/MAGI\\_summary13.pdf](http://laborcenter.berkeley.edu/pdf/2013/MAGI_summary13.pdf)

or cost-sharing reductions. I find that DHS correctly terminated Appellant's household's MinnesotaCare coverage.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM determination that the Appellant's household is ineligible for an advance payment of a Premium Tax Credit and cost sharing reductions as provided in the Affordable Care Act effective October 17, 2014.
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant's household is ineligible for MinnesotaCare coverage and Medical Assistance coverage effective October 17, 2014.

/s/ Kulani R. Moti  
Kulani R. Moti  
Appeals Examiner

January 26, 2015  
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] MNsure  
[redacted] 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).

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.