



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: ██████████
For: Qualified Health Plan
Agency: MNSure Board
Docket: 157585

On December 3, 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:

██████████ Appellant.
MNSure submitted written materials but did not participate in the hearing.

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 ISSUE

Whether the MNsure Board properly determined the effective date of the Appellant's Qualified Health Plan as October 1, 2014 based upon the law and its policies.

FINDINGS OF FACT

1. On December 3, 2014, Appeals Examiner Ellen Longfellow held an evidentiary hearing by telephone conference. After the hearing, MNsure representative, ██████████ contacted the Appeals Examiner and requested an additional short hearing so MNsure could present its materials. The record was kept open and a hearing was scheduled for December 18, 2014. ██████████ submitted additional materials that were sent to the appellant and the appeals examiner on December 3, 2014. ██████████ failed to appear at the December 18, 2014 hearing. The record, consisting of four exhibits¹, was closed on December 18, 2014.

2. Initially, there was some confusion as to which state agency was the subject of the appeal, the Minnesota Department of Human Services or MNsure. The Minnesota Department of Human Services submitted an appeal summary and memorandum but then said that it was not the agency for the appeal. The Appeal's Examiner agreed and requested an appeal summary from MNsure.

3. On July 30, 2014, appellant applied for insurance coverage through MNsure. On that same date, MNsure determined that appellant was eligible for a qualified health plan. *Exhibit 4.*

4. Since appellant was losing minimum essential health insurance coverage as of July 31, 2014, she was eligible for a sixty-day special enrollment period. Appellant enrolled on-line with MNsure in a qualified health plan of HealthPartners on September 29, 2014. MNsure sent appellant's enrollment to HealthPartners on October 19, 2014. The MNsure policy on Special Enrollment Periods says that if the life event that triggers the application is loss of health coverage, the coverage start date is "the first day of the month following date of plan selection". *Exhibit 4.* MNsure determined that the appellant's health plan coverage began October 1, 2014. *Id.*

5. Appellant received her health insurance cards from HealthPartners on or about October 28, 2014. *Exhibit 4; Testimony of appellant.*

6. Appellant did not use any health services October and November, 2014 because she wasn't sure if she had coverage. She cancelled her HealthPartners coverage for December, 2014. *Testimony of appellant.*

¹ Exhibit 1 – DHS summary; Exhibit 2 –DHS memo; Exhibit 3 – Note from appellant; Exhibit 4 – MNsure appeal summary.

7. Appellant contacted HealthPartners on October 13 and 17, 2014 to ask if she had coverage. Both times, HealthPartners said that it had no record for her. She never received notice from MNsure that she had coverage. She tried to contact MNsure but the computer system was down the two times that she tried and when she tried by telephone, she was on hold for over a half hour. On October 29, 2014, appellant received a bill for \$148.83 from HealthPartners for an insurance premium due for October, 2014 coverage. She did not receive a bill for November but HealthPartners said that she had coverage for November, 2014. Appellant argues that her coverage should not have started until December 1, 2014 because she had no notice of the October 1, 2014 coverage date. *Testimony of appellant.*

APPLICABLE LAW

8. 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).*

9. 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

10. 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).*

11. 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).*

12. 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).

13. 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

14. Since the appellant did not receive a notice of eligibility and was not aware of her coverage until late October, 2014, this appeal was started within the allowed time limits under 45 C.F.R §155.520(b).

15. 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.

16. 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 July 30, 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 selected a health plan on September 30, 2014 so appellant's coverage began on October 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.

17. I conclude that MNsure properly determined the effective date of the appellant's health care coverage with HealthPartners as October 1, 2014 based upon the law and its policies. It is unfortunate that MNsure did not confirm the appellant's coverage date promptly and that appellant may need to pay the premiums. If the appellant had had a medical emergency after October 1, 2014, she would have had insurance coverage.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board AFFIRM the Agency's determination of the appellant's effective date as October 1, 2014 for the appellant's qualified health plan.

/s/ Ellen Longfellow
Ellen Longfellow
Appeals Examiner

December 19, 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] 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.