DECISION
OF AGENCY
ON APPEAL

In the Appeal of: [redacted]

For: Advance Payment of Premium Tax Credit
MinnesotaCare
Medical Assistance

Agency: MNsure Board
Minnesota Department of Human Services

Docket: 158493

On January 29, 2015, Appeals Examiner Renee Ladd 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 person 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 not to provide appellant with reimbursement for private health care premiums paid for coverage from January 2014 through December 2014 as a result of its denial of the Appellant's eligibility for advance payment of a premium tax credit and cost-sharing reductions.

Whether the Minnesota Department of Human Services correctly determined not to provide appellant with reimbursement for private health care premiums paid for coverage from January 2014 through December 2014 as a result of its denial of appellant's eligibility for MinnesotaCare coverage and Medical Assistance benefits.

FINDINGS OF FACT

1. On an unknown date, MNsure Operations advised appellant that he was not eligible for advance payment of premium tax credits and his wife was eligible for an advance premium tax credit in the amount of $0 as provided in the Affordable Care Act. *Exhibit 3*. The Minnesota Department of Human Services (herein DHS) determined that appellant and his wife were ineligible for MinnesotaCare coverage and ineligible for Medical Assistance benefits. *Exhibit 2; Appellant Testimony*. Appellant's three children were each determined to be eligible for Medical Assistance benefits effective January 1, 2014. *Exhibit 2*. On an unknown date, appellant was notified that his and his wife's eligibility was determined based on a household of three because only one of their three children were included in their household. *Appellant Testimony*. Appellant submitted an appeal request challenging the agency's determination that he and his wife are not eligible for MinnesotaCare coverage, which the Appeals Office received on December 15, 2014. *Exhibit 1*.

2. On January 29, 2015, Appeals Examiner Renee Ladd held an evidentiary hearing by telephone conference. The judge accepted into evidence three exhibits.[1] The record was closed at the conclusion of the hearing.

3. Appellant applied for a health care insurance affordability programs for himself, his wife and his three children on the MNsure Eligibility System on October 9, 2013. *Exhibit 3*. Appellant submitted three more applications on October 31, 2013, November 19, 2013 and December 19, 2013. *Id.* The October 9, 2013, October 31, 2013 and November 19, 2013 applications were closed out by MNsure operations. *Id.* It is unclear to the MNsure agency if system errors occurred because of multiple applications or if information from a previous application was transferred to the December 19, 2013 application. *Id.* However, MNsure records show that on appellant's December 19, 2013 application, appellant's taxable household included only himself, his wife and one child. *Id.*

[1] Exhibit 1 – Appeal Request; Exhibit 2 – DHS State Agency Appeals Summary with attachments; Exhibit 3 –MNsure agency appeals memorandum.

4. Appellant attested to anticipated modified adjusted gross income (MAGI) for 2014 of $53,032.00. *Exhibit 6.*

5. The Department of Human Services determined that appellant and his wife were not eligible for MinnesotaCare because parents and children over the age of 18 years must have a household projected annual income that is no greater than 200% of the Federal Poverty Level, which was $39,060 for a household of three in 2014. *Exhibit 2*.

6. Appellant and his wife enrolled in a Qualified Health Plan (QHP) offered on the MNsure Exchange. *Exhibit 3.* They paid $7,461.96 in monthly premiums to Preferred One for health coverage. *Appellant Testimony.*

7. On January 14, 2014, appellant submitted a paper application for healthcare assistance. *Exhibit 2*. On the application, he reported that he planned to file taxes jointly with his wife and claim his three children as dependents. *Id.*

8. On December 29, 2104, the Department of Human Services determined that appellant and his wife were eligible for MinnesotaCare coverage backdated to January 1, 2014. *Exhibit 2*. The agency mailed appellant a fee-for-service letter. *Id.*

9. After appellant's application was changed to update the appellant's tax household to include all five family members, the MNsure agency determined that appellant and his wife are not eligible for premium tax credits because tax credits are not available to an individual who has access to minimum essential coverage, which includes government-sponsored coverage like MinnesotaCare. *Exhibit 3*.

10. Appellant does not dispute the agency's determination that he and his wife are eligible for MinnesotaCare effective January 1, 2014. *Appellant Testimony.* He now seeks reimbursement for his private health insurance premiums for January through December 2014 or tax credits to offset the cost of these premiums. *Id.* Appellant called MNsure repeatedly asking why he and his wife were not eligible for MinnesotaCare or premium tax credits and the error regarding the determination of his household size was not discovered until December 2014 when appellant was renewing his eligibility for 2015. *Id.*

APPLICABLE LAW

11. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minn. R. 7700.0105, subp. 2(D) an appeal regarding advance payment of a premium tax credit, cost-sharing reductions and qualified health plan issues must be received within 90 days from the date of the notice of eligibility determination. With regard to appeals of Medical Assistance and MinnesotaCare determinations, a person may request a state fair hearing by filing an appeal either: 1) within 30 days after receiving written notice of the action, decision, or final disposition which is being contested, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

12. MNsure 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.* MNsure 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.* State agency hearings are available for any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid. *Id. at subd. 3(a)(1).*

13. Effective January 1, 2014 or upon federal approval, 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.[2] *Minn. Stat. § 256L.04, subd. 1 as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 42.* "Income" has the meaning given for modified adjusted gross income, as defined in 26 C.F.R. § 1.36B-1. *Minn. Stat. § 256L.01, subd. 5 (2013) as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 30.*

14. "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(c)(2).

15. 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 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).*

16. 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

[2] 200 percent of 2013FPL for a household of five people is $55,140 annually.

health plan offered in the individual market within a State; 4) a grandfathered health plan; or 5) other health benefits coverage.

17. Federal regulations provide that an individual is eligible for government-sponsored minimum essential coverage if the individual meets the criteria for coverage under a government-sponsored program as of the first day of the first full month the individual may receive benefits under the program. *26 C.F.R. § 1.36B-2(c)(2)(i).* Individuals who meet the eligibility criteria for government-sponsored minimum essential coverage must complete the requirements necessary to receive benefits. *Id.* at (c)(2)(ii).

CONCLUSIONS OF LAW

18. This appeal is timely because the agency failed to provide any evidence of a notice of its determination of appellant's eligibility for MinnesotaCare coverage. The time to appeal begins running with appellant's receipt of written notice of the agency's determination. As such, in this case the clock for tolling the appellant's time to appeal did not begin to run.

19. Appellant has a right to seek review of incorrect eligibility determinations regarding advance payment of premium tax credits and cost-sharing reductions pursuant to Minn. R. 7700.0105, subp. (2) and regarding MinnesotaCare and Medical Assistance pursuant to Minn. Stat. § 256.045, subd. 3(a)(1). Therefore, the Commissioner has jurisdiction over this appeal.

20. In this case, the evidence shows the MNsure computer system erroneously determined that appellant had a household of three rather than a household of five people. As a result, the Department of Human Services determined that appellant and his wife's household income exceeded the income limit for MinnesotaCare coverage. The available legal remedy for an improper determination of eligibility for benefits is to make a correct eligibility determination. The agency did this and found appellant and his wife eligible for MinnesotaCare coverage effective January 1, 2014. Appellant seeks reimbursement for the cost of premium payments made to Preferred One paid as a result of the agency's error. There is no authority in federal or state statute, rule or Minnesota Department of Human Services policy to provide such a remedy. According, the determination of the Department of Human Services to deny appellant's request for reimbursement for insurance premiums paid to a private health insurance provider for January through December 2014 should be affirmed.

21. Appellant and his wife are considered to have minimum essential government-sponsored coverage because they are eligible for MinnesotaCare coverage. As a result, appellant and his wife do not meet the eligibility criteria for premium tax credits or cost-sharing reductions on the basis of their MinnesotaCare eligibility. Accordingly, the MNsure agency's determination that appellant and his wife were not eligible for premium tax credits is correct.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the determination of appellant's ineligibility for an advance payment of a Premium Tax Credit as provided in the Affordable Care Act effective January 1, 2014.

- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination to deny appellant's request for reimbursement for health care premiums paid for coverage from January 2014 through December 2014.

/s/ Renee Ladd
Renee Ladd
Appeals Examiner

February 23, 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 - 0838

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.

If you disagree with the 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.