



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: Medical Assistance
MinnesotaCare
Advance Payment of Premium Tax Credit

Agency: Minnesota Department of Human Services
MNsure Board

Docket: 158677

On January 21, 2015, Appeals Examiner Jonathan R. Hall 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.¹

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 ISSUES

Whether the Minnesota Department of Human Services (“DHS”) properly determined Appellant’s eligibility for Medical Assistance and MinnesotaCare benefits.

Whether the MNsure Board (“MNsure”) properly determined Appellant’s eligibility for an advance payment of a premium tax credit (APTC) as provided in the Affordable Care Act.

Whether the MNsure Board properly determined that the appellant has access to minimum essential health care coverage.

FINDINGS OF FACT

1. On August 14, 2014, the appellant applied for health care coverage through MNsure for her household of herself and her four children. The appellant’s husband has health care through an employer-sponsored health plan. The MNsure eligibility system advised the appellant that she was not eligible for Medical Assistance or MinnesotaCare, but that she was eligible to purchase an unsubsidized Qualified Health Plan (QHP) because she had access to minimum essential health care coverage. The appellant challenged this action by filing an appeal with the MNsure Agency on December 17, 2014. *Exhibit 1.*

2. On January 21, 2015, Appeals Examiner Jonathan R. Hall held an evidentiary hearing via telephone conference. The record, consisting of four exhibits,² was held open until January 28, 2015 to receive additional evidence from the appellant. The record was closed on that date. The appellant did not submit an appeal regarding the agencies’ decisions because she has been working with MNsure since its decision to resolve the issues which she eventually appealed.

3. On August 14, 2014, the appellant applied for health care coverage through MNsure (agency) as a family of six with a projected income of \$50,280.00. On August 28, 2014, the agency sent the appellant a written health care notice informing the appellant that her four children were approved for medical assistance effective August 1, 2014. It also stated that the appellant was eligible to purchase a qualified health plan. The Minnesota Department of Human Services (DHS) determined that because appellant’s household income exceeded 133 percent of the federal poverty guideline for a household of six persons, she was not eligible for medical assistance, but that the appellant’s four children were eligible for medical assistance because the household’s income was under 275 percent of the federal poverty guidelines. *Exhibit 2.* The agency determined that the appellant’s husband was enrolled in an employer-based health plan which met minimum essential coverage requirements under the Affordable Care Act. *Exhibit 3.* The agency determined that the appellant was eligible to purchase a qualified health plan (QHP) without financial assistance, but was not eligible for advanced payment of premium tax credits (tax credits) or cost-sharing reductions because she was enrolled in minimum essential coverage

² Exhibit 1 (Appeal); Exhibit 2 (State Agency Appeals Summary-DHS); Exhibit 3 (MNsure Summary); Exhibit 4 (8/26/14 Employer Memorandum).

through her husband's employer. *Exhibit 3.*

4. The agency determined that the appellant was already enrolled in employer-sponsored insurance. *Exhibit 3.* On August 21, 2014, the appellant contacted the agency to inform it that she was not enrolled in an insurance plan through her husband's employer. *Appellant Testimony; Exhibit 2.*

5. The appellant cannot enroll in her husband's employer health plan because it is unaffordable. Her husband pays \$98.16 every two weeks for employee-only coverage, or about 5.07 percent of the annual household income.³ If the appellant were to enroll in her husband's employer-based plan, the cost would increase to \$364.58 every two weeks, nearly 19 percent of the household's annual income.⁴ *Appellant Testimony.*

CONCLUSIONS OF LAW

6. This appeal was received on December 17, 2014; over 90 days after the appellant would have received the health care notice. Although the appellant testified credibly that she tried to resolve the issues with the agencies prior to submitting an appeal, I must conclude that the appeal was not submitted within the allowed time limits under Minnesota Statute § 256.045, subdivision 3(h) and 45 C.F.R §155.520(b). Since neither the commissioner nor the MNsure Board has jurisdiction over this appeal, it should be dismissed. I have attached a memorandum for the appellant's information regarding how I would have decided this appeal had it been timely.

³ \$98.16 times 26 payments per year = \$2,552.16. This amount divided by \$50,280.00 annual income equals 5.07 percent of annual household income.

⁴ \$364.58 time 26 payments = \$9,479.08. This amount divided by \$50,280.00 equals 18.8 percent of annual household income.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services DISMISS the appeal challenging its determination that the appellant was not eligible for medical assistance or MinnesotaCare benefits as of August 28, 2014; and
- The MNsire Board DISMISS the appeal challenging its determination that the appellant has access to affordable coverage through her husband's employer-based health care plan; and its determination that the appellant is not eligible for an advance premium tax credit and cost sharing reductions as provided in the Affordable Care Act as of August 28, 2014.

/s/Jonathan R. Hall
Jonathan R. Hall
Appeals Examiner

February 4, 2015
Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsire 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 MNsire 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] MNsire General Counsel
DHS 0838, [REDACTED]

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 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.

MEMORANDUM

Medical Assistance. Medical assistance may be paid for a person who is between the ages of 21 and 65 who is not pregnant, not entitled to Medicare and who is not blind or disabled, whose household income does not exceed 133 percent of federal poverty guidelines for the household size. *Minn.Stat. § 256.055, subd. 15; Minn.Stat. § 256.056; subd. 4.* The appellant is not eligible for medical assistance because her household income exceeds 133 percent of the federal poverty guideline.

MinnesotaCare. Families with children with family income above 133 percent of the federal poverty guidelines and equal to or less than 200 percent of the federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare according to this section. All other provisions of sections 256L.01 to 256L.18 shall apply unless otherwise specified. *Minn.Stat. § 256L.04, subd. 1.*

Eligibility for MinnesotaCare. To be eligible for MinnesotaCare, a family or individual must not have access to employer-subsidized health care that is affordable and provides minimum value. *Minn.Stat. § 256L.07, subd. 2.*

Eligibility for Premium Tax Credit. A taxpayer is allowed a premium assistance amount for any month that one or more members of the household is enrolled in a qualified health plan through an Exchange and is not otherwise eligible for minimum essential coverage. *26 C.F.R. § 1.36B-2(a).* In this case, no one in the appellant's household is enrolled in a qualified health plan through the MNsure Exchange; but the appellant is eligible for minimum essential coverage through her husband's employer-based health care plan.

Employer-Sponsored Minimum Essential Coverage; Minimum Value. An individual who may enroll in an employer-sponsored plan because of a relationship to the employee (a related individual) are eligible for minimum essential coverage under the plan for any month only if the plan is affordable and provides minimum value. *26 C.F.R. § 1.36B-2(c)(3)(i).* An eligible employer-sponsored plan provides minimum value only if the plan's share of the total allowed costs of benefits provided to the employee under the plan is at least 60 percent. *26 C.F.R. § 1.36B-2(c)(3)(vi).*

Affordability. An eligible employer-sponsored plan is affordable for a person related to the employee if the portion of the annual premium the employee must pay for self-only coverage does not exceed 9.5 percent of the employee's household income for the taxable year. *26 C.F.R. § 1.36B-2(c)(3)(v)(C).*

Conclusion. Although the appellant's household income is below 200 percent of the federal poverty guideline, the preponderant evidence shows that she is not eligible for MinnesotaCare because she has access to minimum essential health care coverage through husband's employer-based health care. With respect to affordability, the appellant's household pays approximately 5.07 percent of its annual income toward her husband's employer-sponsored health care insurance for single coverage. This percentage is well below the 9.5 percent which the law has deemed to be affordable. Although the appellant's household would be required to pay nearly 19

percent of its annual income if the appellant enrolled in her husband's employer-based coverage, the law only considers the affordability of such a plan on the basis of what an employee pays for *single* coverage. Therefore, his employer-based health care coverage is considered "affordable" under the Affordable Care Act for the appellant. With respect to minimum value, the appellant presented no evidence that her husband's employer-based plan does not provide minimum value and so I cannot conclude that his plan does not provide minimum value. Therefore, I conclude that the agency correctly determined that, because the appellant is eligible to purchase a health plan through the MNsure Exchange and because she has access to minimum essential coverage, she is not eligible for tax credits or cost-sharing reductions.

JRH