DECISION
OF AGENCY
ON APPEAL

In the Appeal of: [redacted]

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

Agency: Minnesota Department of Human Services
MNsure Board

Docket: 158791

On January 28, 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 the appellant's eligibility for Medical Assistance and MinnesotaCare benefits.

Whether the MNsure Board ("MNsure") properly determined the appellant's eligibility for an advance payment of a premium tax credit and cost sharing reductions (APTC/CSR) as provided in the Affordable Care Act.

FINDINGS OF FACT

1. On November 15, 2014, the appellant applied for health coverage through MNsure as a family of two adults. The appellant sought coverage for himself only. The appellant reported a projected household income of $51,128.00. The MNsure eligibility system advised the appellant that he was ineligible for medical assistance because his projected income was above 133 percent of the federal poverty guidelines; ineligible for MinnesotaCare because his projected household gross income exceeded 200 percent of the federal poverty guidelines; and eligible for an advance payment of a premium tax credit of $68.00. *Exhibit 2.* Appellant challenged this action by filing an appeal with MNsure on December 23, 2014. *Exhibit 1.*

2. On January 28, 2015, Appeals Examiner Jonathan R. Hall held an evidentiary hearing via telephone conference. The record, consisting of three exhibits,[2] was closed at the end of the hearing.

3. The appellant was given a $347.00 tax credit in 2014, but was only approved for a $68.00 tax credit for his 2015 coverage. It is not affordable for him to enroll in his wife's health care plan. Although he is the only one in the household who applied for coverage through MNsure, his tax credit is based on both his and his wife's gross income. This fact creates a hardship for him and his wife because he is retired and works part-time at a job with a minimal wage. He gets paid every two weeks but it takes one full paycheck to cover the cost of his health care premium. His social security check covers his house payment. He and his wife use her income to pay for other household bills, which leaves them with very little income with which to pay other bills after he pays the premium for his chosen health plan. He does not agree with the amount of his tax credit decreased so much for 2015. *Exhibit 1; Appellant Testimony.*

APPLICABLE LAW

4. For Medical Assistance and MinnesotaCare appeals, a person may request a state fair hearing by filing an appeal either: 1) within 30 days of receiving written notice of the action; or 2) within 90 days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the 30 day time limit. *Minn. Stat. § 256.045, subd. 3(h); Minn.*

[2] Exhibit 1 (Appeal); Exhibit 2 (MNsure Summary); Exhibit 3 (DHS Summary).

Stat. § 256L.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).*

5. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues about a household's eligibility for Medical Assistance and MinnesotaCare. *Minn. Stat. § 256.045, subd. 3*. 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.

Premium Assistance

6. 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 (QHP) 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-(a)(2) and (c). *45 C.F.R. §155.305(f).*

7. A "taxpayer's family" means the individuals for whom a taxpayer properly claims a deduction under 26 U.S.C. §151 for the taxable year. *26 C.F.R. §1.36B-1(d).* Family size means the number of individuals in the family. *Id.* Family and family size may include individuals who are not subject to or are exempt from the penalty under 26 U.S.C. § 5000A for failing to maintain minimum essential coverage. *Id.*

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).*

9. "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).*

10. A taxpayer's premium assistance credit amount for a taxable year is the sum of the

premium assistance amounts determined under 26 C.F.R. §1.36B-3(d) for all coverage months for individuals in the taxpayer's family. *26 C.F.R. §1.36B-3(a).*

11. The premium assistance amount for a coverage month is the lesser of: (1) the premiums for the month for one or more qualified health plans in which a taxpayer or a member of the taxpayer's family enrolls through the Exchange; or (2) the excess of the adjusted monthly premium for the applicable benchmark plan (second lowest-cost silver plan) over 1/12 of the product of a taxpayer's household income and the applicable percentage for the taxable year. *26 C.F.R. §1.36B-3(d).*

12. The adjusted monthly premium is the premium an insurer would charge for the applicable benchmark plan to cover all members of the taxpayer's coverage family, adjusted only for the age of each member of the coverage family as allowed under section 2701 of the Public Health Service Act (42 U.S.C. 300GG). *26 C.F.R. §1.36B-3(e).* The adjusted monthly premium is determined without regard to any premium discount or rebate under the wellness discount demonstration project under 2705(d) of the Public Health Service Act, and may not include any adjustments for tobacco use. *Id.*

13. The applicable benchmark plan for each coverage month is the second lowest-cost silver plan as described in section 1302(d)(1)(B) of the Affordable Care Act offered through the Exchange for the rating area where the taxpayer resides. *26 C.F.R. §1.36B-3(f).* The applicable benchmark plan provides self-only or family coverage. *Id.* Self-only coverage is for a taxpayer: (1) who computes tax under 26 U.S.C. §1(c) (meaning unmarried individuals other than surviving spouses and heads of household) and is not allowed a deduction under section 151 for a dependent for the taxable year; (2) who purchases only self-only coverage for one individual; or (3) whose coverage family includes only one individual. *26 C.F.R. §1.36B-3(f)(1)(i).* Family coverage is for all other taxpayers. *26 C.F.R. §1.36B-3(f)(1)(ii).* The applicable benchmark plan for family coverage is the second lowest cost silver plan that applies to the members of the taxpayer's coverage family (such as a plan covering two adults if the members of a taxpayer's coverage family are two adults). *26 C.F.R. §1.36B-3(f)(2).*

14. The applicable percentage multiplied by taxpayer's household income determines the taxpayer's required share of premiums for the benchmark plan. *26 C.F.R. §1.36B-3(g)(1).*This required share is subtracted from the adjusted monthly premium for the applicable benchmark plan when computing the premium assistance amount. *Id.* There are several steps to calculate the applicable percentage. First, the percentage that the taxpayer's household income bears to the federal poverty line for the taxpayer's family size needs to be determined. *Id.* Second, the resulting federal poverty line percentage is compared to the income categories described in the table in 26 C.F.R. §1.36B-3(g)(2). *Id.* Third, an applicable percentage within an income category increases on a sliding scale in a linear manner, and is rounded to the nearest one-hundredth of one percent. *Id.*

15. The applicable percentage table for taxable years and plans beginning after December 31, 2014 is:

Household income percentage of federal poverty line	Initial percentage	Final percentage
Less than 133%	2.01	2.01
At least 133% but less than 150%	3.02	4.02
At least 150% but less than 200%	4.02	6.34
At least 200% but less than 250%	6.34	8.10
At least 250% but less than 300%	8.10	9.56
At last 300% but less than 400%	9.56	9.56

26 C.F.R. §1.36B-3(g)(2).

CONCLUSIONS OF LAW

16. This appeal was started within the allowed time limits under Minnesota Statute § 256.045, subdivision 3(h) and 45 C.F.R §155.520(b).

17. The Commissioner of the Minnesota Department of Human Services has authority to review Appellant's household's eligibility for Medical Assistance and MinnesotaCare under Minnesota Statute § 256.045, subdivision 3, and the MNsure Board has legal authority to review Appellant's household's eligibility for premium assistance and cost sharing under Minnesota Statute § 62V.05, subdivision 6.

18. Even though the appellant did not specifically contest eligibility for Medical Assistance and MinnesotaCare, federal rules and regulations require that a determination be made as to the appellant's eligibility for these programs if she appeals eligibility for either advance payment of the premium tax credit or cost sharing reduction level. Because the appellant's income is above/below 200% of the federal poverty level, DHS in/correctly determined that his household was not eligible for either medical assistance or MinnesotaCare. As such, the determination that the appellant was not eligible for either medical assistance or MinnesotaCare stands.

19. The appellant meets the general requirements to be eligible for premium assistance or advance payment of the premium tax credit as provided in 45 C.F.R. §155.305(f) because:

(a) The appellant is expected to have a household income, as defined in 26 C.F.R. §1.36B-1(e), of greater than or equal to 100% but not more than 400% of the federal poverty level of benefit year for which coverage is requested;

(b) The appellant is eligible to enroll in a Qualified Health Plan through MNsure as specified in 45 C.F.R. §155.305(a); and

(c) The appellant is not already eligible for minimum essential coverage, with the exception of coverage in the individual market, in accordance with 26 C.F.R. §1.36B-(a)(2) and (c).

20. The appellant's household income is 325.03 percent of the 2014 federal poverty level, which is $15,730.00 for a household size of two adults [$51,128 ÷ 15,730.00 = 3.2503 percent × 100 = 325.03.][3]

21. To determine the amount of tax credits for which the appellant is eligible, the law requires MNsure to calculate the maximum percentage of income the appellant may pay in premiums. The appellant's applicable percentage is 9.56 as provided in 26 C.F.R. §1.36B-3(g)(1). This determination is made as follows. The initial percentage for a taxpayer with household income at least 300 percent but less than 400 percent of the federal poverty line is 9.56 and the final percentage is 9.56. The excess of the appellant's federal poverty line percentage (325.03) over the initial household income percentage in the appellant's range (300) is 25.03.[4] The difference between the initial household income percentage in the taxpayer's range and the final household income percentage in the taxpayer's range is 100.[5] The result of dividing the first calculation by the second calculation is .2503.[6] The difference between the initial premium percentage and the final household income percentage in the taxpayer's range is zero.[7] The product of multiplying this difference (0.00) by the result of dividing the first and second calculation is 0.00.[8] Adding this product (0.00) to the initial premium percentage in the taxpayer's range (9.56) results in the appellant's applicable percentage of 9.56.[9] Therefore, the maximum premium the appellant would be required to pay is $407.31 per month, calculated as income ($51,128.00) multiplied by 9.56 percent and divided by 12 months.

22. The maximum amount of tax credits is the difference between the premium for the second-lowest cost silver plan in the appellant's zip code and the appellant's affordability amount. *26 C.F.R. § 1.36B-3(e).* Therefore, $477.04 – 407.31 = $69.73.

23. As such, the appellant's required contribution toward premiums for the benchmark plan, which is the second lowest-cost silver plan available through MNsure, is $4,887.83 annually or $407.31 monthly as provided in 26 C.F.R. 1.36B-3(g)(1).[10]

24. In this case, MNsure correctly calculated the size of the appellant's household as two persons for purposes of calculation of the advance premium tax credit. MNsure also properly calculated the amount of the appellant's attested, verified household income and the applicable percentage for the benchmark plan. Lastly, the preponderant evidence shows that MNsure also correctly determined that the appellant is entitled to a tax credit of $69.00 per month.[11] *26 C.F.R. §1.36B-3(d).*

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[3] *Federal Register, Vol. 78, No. 16, January 24, 2013, p. 5183.*
[4] (325.03 – 300 = 25.03)
[5] (400 – 300 = 100)
[6] (25.03 ÷ 100 = .2503)
[7] (9.56 – 9.56 = 0)
[8] (.2503 x 0 = 0.00)
[9] (9.56 + 0 = 9.56)
[10] ($51,128.00 x 9.56% =$4,887.83; $4,887.83 ÷ 12 = $407.32)
[11] $477.04 - $407.31 = ($69.00 rounded).

25. The appellant is not eligible for cost reduction of the plan's share of the total allowed costs of benefits due to having household income less greater than 250 percent of the federal poverty line.

26. The advance payment of the premium tax credit and cost sharing reductions eligibility determinations being appealed stand.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT: The MNsure Board AFFIRM the determination of the appellant's household's eligibility for an advance premium tax credit and cost sharing reductions as provided in the Affordable Care Act.

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

March 9, 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.

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_____
Date

cc: [redacted] Appellant
[redacted] MNsure
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.