



**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: 159019

On February 5, 2015, Appeals Examiner Tonja J. Rolfson 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.

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 (“MNsure” Board) properly determined the appellant was not eligible for an advance payment of a premium tax credit of \$0 and no cost sharing reductions as provided in the Affordable Care Act.

Whether the Minnesota Department of Human Services (DHS) correctly determined the household was not eligible for Medical Assistance and MinnesotaCare.

## FINDINGS OF FACT

1. The appellant applied for health care on December 20, 2014. *Exhibit 2, Attachment A.* The MNsure website stated the appellant and his three children were eligible for \$0 in advance premium tax credits and were not eligible for cost-sharing reductions. The website said he and his children did not qualify for medical assistance or MinnesotaCare. The appellant filed an appeal on December 31, 2014. *Exhibit 1.* The Appeals Examiner held a telephone hearing on February 5, 2015, accepted three exhibits<sup>1</sup> into evidence and closed the record on that date.

2. The appellant (age ■■■) applied for health insurance for him and his three children (all under age 19). The appellant’s wife receives health care coverage through her work. *Exhibit 3; Testimony of the appellant.* The appellant and his spouse file taxes jointly and claim their children as tax dependents. *Testimony of the appellant.* The appellant’s annual projected income is \$52,940 and his wife’s annual projected income is \$25,640. *Id. at Attachment B.* The MNSure Board does not dispute that the appellant and his children do not have access to minimal essential coverage with the exception of coverage in the individual market. *Exhibit 3.*

3. The appellant is a lawfully present non-citizen and is eligible for medical assistance so long as he meets that program’s income limits. *Exhibit 2, Attachment A.*

4. At the time of the application, the adjusted monthly premium of the second lowest cost silver plan (benchmark plan) was \$568.62 per month. *Exhibit 7.*

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<sup>1</sup>The exhibits are as follows: 1) Appeal Request; 2) State Agency Appeals Summary from DHS; and 3) Appeals Memorandum from MNsure Board.

## CONCLUSIONS OF LAW

### Timeliness and Jurisdiction

1. 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).
2. The Commissioner of DHS has authority to review the 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 the appellant's household's eligibility for premium assistance and cost sharing under Minnesota Statute § 62V.05, subdivision 6.

### Modified Adjusted Gross Income (MAGI)

3. "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)*.
4. "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<sup>2</sup> and are required to file a tax return for the taxable year. *26 C.F.R. §1.36B-1(e)(1)*.
5. Generally, household income is the sum of the MAGI-based income of every individual included in the individual's household. *42 C.F.R. § 435.603(d); Minnesota Department of Human Services Insurance Affordability Programs Manual, Chapter 300.10.10.10*. The MAGI-based income of an individual who is included in the household of his or her natural, adopted or stepparent and is not expected to be required to file a tax return under section 6012(a)(1) of the Internal Revenue Code for the taxable year in which eligibility for Medical Assistance is being determined, is not included in household income whether or not the individual files a tax return. *42 C.F.R. § 435.603(d)(2); Minnesota Department of Human Services Insurance Affordability Programs Manual (IAPM), Chapter 300.10.10.10*.

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<sup>2</sup> 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.*

6. The household's MAGI is \$78,5803 (i.e., \$52,940 + \$25,640 = \$78,580). Therefore, household income is 281.54% or 281% of the 2014 federal poverty level, which is \$27,910 for a household of five.<sup>4</sup>

### Medical Assistance

7. If a person appeals a determination of eligibility for the advance payment of the premium tax credit or cost sharing reductions, federal regulations governing Medical Assistance and Exchange appeals require that the appeal be treated automatically as a request for a fair hearing of the denial of eligibility of Medical Assistance.<sup>5</sup>

8. The state laws about Medical Assistance are in Minnesota Statutes, Chapter 256B. Effective January 1, 2014, to be eligible for Medical Assistance, a parent or caretaker relative, an adult without children, and a child age 19 to 20, may have an income up to 133% of the federal poverty guidelines for the household size. *Minn. Stat. § 256B.056, subd. 4(b), (c), and (d)*. Effective January 1, 2014, to be eligible for Medical Assistance, a child under age 19 may have income up to 275% of the federal poverty guidelines for the household size. *Id. at subd. 4(e)*.

9. The MAGI methodology as defined in the Affordable Care Act is used for determining income in these eligibility categories except that the Commissioner must subtract from the MAGI an amount equivalent to five percent of the federal poverty guidelines. *Minn. Stat. § 256B.056, subd. 1a(b)(1) and (2); See also 42 C.F.R. § 435.603(c)(4)*. Therefore, for the purposes of determining medical assistance eligibility, the household's income is 278% of the federal poverty guidelines (i.e., 281% - 5% = 276%). Because household income exceeds the medical assistance program's income limits for eligible adults and children under 19, DHS was correct to deny medical assistance coverage.

### MinnesotaCare

10. The state laws about MinnesotaCare are in Minnesota Statutes, Chapter 256L. Effective January 1, 2014,<sup>6</sup> single adults, families with no children and families with children with family income above 133 percent and equal to or less than 200 percent of the federal poverty guidelines for the applicable family size are eligible for MinnesotaCare. *Minn. Stat. § 256L.04, subd. 1 and subd. 7*. Children under age 19 with family income at or below 200 percent of the federal poverty guidelines and who are ineligible for medical assistance by sole reason of the application of federal household composition rules for medical assistance are eligible for MinnesotaCare. *Minn. Stat. § 256L.04, subd. 1*.

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<sup>3</sup> That is, \$52,940 + \$25,640 = \$78,580.

<sup>4</sup> 79 FR 3593, 3593-3594 (January 22, 2014). See also <https://www.federalregister.gov/articles/2014/01/22/2014-01303/annual-update-of-the-hhs-poverty-guidelines#t-1>.

<sup>5</sup> 45 C.F.R. § 155.510(b)(3); 78 Fed. Reg. 4598 (proposed Jan. 22, 2013) (comments regarding proposed 42 C.F.R. § 431.221(e)); and 78 Fed. Reg. 54096 (Aug. 30, 2013)(comments regarding 45 C.F.R. § 155.510(b)(3)).

<sup>6</sup> *Laws 2013, chapter 108, article 1, section 42*. The Department of Human Services received federal approval of the changes made to the MinnesotaCare program on December 20, 2013. See [http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs16\\_177299](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs16_177299).

11. Effective January 1, 2014, for MinnesotaCare eligibility, “income” has the meaning given for modified adjusted gross income (MAGI) as defined in Code of Federal Regulations, title 26, section 1.36B-1.7 *Minn. Stat. § 256L.01, subd. 5*.

12. Effective January 1, 2014, for MinnesotaCare eligibility, “family” has the meaning given for family and family size as defined in Code of Federal Regulations, title 26, section 1.36B-1.8 *Minn. Stat. § 256L.01, subd. 3a(a)*.

13. Because the appellant’s family income is above 200% of the federal poverty level, DHS correctly determined the appellant and his three children were not eligible for MinnesotaCare.

### Premium Assistance

14. 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. The MNsure Board 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 who is ineligible for Medicaid (medical assistance) due to immigration status), 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-(a)(2) and (c). *45 C.F.R. §155.305(f)*.

15. The appellant and his children 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 and his children are 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).

16. 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)*.

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<sup>7</sup> *Laws 2013, chapter 108, article 1, section 30.*

<sup>8</sup> *Laws 2013, chapter 108, article 1, section 29.*

17. 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).

18. 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.*

19. 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).

20. 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-3T(g)(1). This required share is divided by 12 and this monthly amount 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) (or successor tables). *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.*

The applicable percentage table is:

<b>Household income percentage of federal poverty line</b>	<b>Initial percentage</b>	<b>Final percentage</b>
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-3T(g)(1); Rev. Proc. 2014-37.

21. The appellant's applicable percentage is 9% as provided in 26 C.F.R. §1.36B-3(g)(1). This determination was made as follows. The initial percentage for a taxpayer with household income at least 250% but less than 300% of the federal poverty line is 8.10 and the final percentage is 9.56. The excess of the appellant's federal poverty line percentage (281) over the initial household income percentage in the appellant's range (250) is 31. 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 50 (i.e.,  $300 - 250 = 50$ ). The result of dividing the first calculation by the second calculation is .62 (i.e.,  $31/50 = .62$ ). The difference between the initial premium percentage and the final household income percentage in the taxpayer's range is 1.46 (i.e.,  $9.56 - 8.10 = 1.46$ ). The product of multiplying this difference (1.46) by the result of dividing the first and second calculation (.62) is .9052. Adding this product (.9052) to the initial premium percentage in the taxpayer's range (8.10) results in the appellant's applicable percentage of 9.00.

22. The appellant's required contribution toward premiums is \$589.35 per month as provided in 26 C.F.R. 1.36B-3(g)(1). This is calculated by multiplying 9% by the household's MAGI of \$78,580 and dividing that number by 12 months. Because the appellant's required premium contribution (\$589.35) exceeds the benchmark plan (\$568.62 per month), the household is eligible for \$0 in premium tax credits.

Cost-Sharing Reductions

23. Federal regulations concerning eligibility for cost-sharing reductions (CSR) are found at 45 C.F.R. §155.305(g). The MNsure agency must determine an applicant eligible for cost-sharing reductions if the applicant meets the following eligibility requirements:

- (A) The applicant meets the requirements for eligibility for enrollment in a Qualified Health Plan through the Exchange;
- (B) The applicant meets the requirements for advance payments of the premium tax credit; and
- (C) The applicant is expected to have a household income that does not exceed 250 percent of the Federal Poverty Level, for the benefit year for which coverage is requested.

*45 C.F.R §155.305(g)(1)(i)*. MNsure may only provide cost-sharing reductions to an enrollee who is not an Indian if he or she is enrolled through the Exchange in a silver-level Qualified Health Plan, as defined by section 1302(d)(1)(B) of the Affordable Care Act. *45 C.F.R. §155.305(g)(1)(ii)*. Because household income exceeds 250% of the federal poverty level, the MNsure Board was correct to determine the appellant was not eligible for cost sharing reductions.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of DHS AFFIRM the determination that the appellant’s household was not eligible for Medical Assistance as of January 1, 2015;
- The Commissioner of DHS AFFIRM the determination that the appellant’s household was not eligible for MinnesotaCare benefits as of January 1, 2015;
- The MNsure Board AFFIRM the determination that the appellant’s household was eligible for \$0 in advance premium tax credits and was not eligible for cost sharing reductions as provided in the Affordable Care Act as of January 1, 2015.

/s/ Tonja J. Rolfson  
Tonja J. Rolfson  
Appeals Examiner

March 25, 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  
[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](http://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.