



**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: 159434

On February 23, 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.<sup>1</sup>

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.

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<sup>1</sup> 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 either the MNsure Board or the Department of Human Services has jurisdiction over the appeal.

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 enrollment in a qualified health plan (QHP).

Whether, due to agency errors, the appellant is eligible for an exemption from any tax penalties which accrued as a result of her not having health insurance coverage in 2014.

## FINDINGS OF FACT

1. On January 19, 2014, the appellant applied for health care coverage through MNsure as a single adult. The appellant reported an annual income of \$34,608 and a projected annual income of \$2,884.00. The MNsure eligibility system advised the appellant that based on her projected annual income she was eligible for MinnesotaCare but was not eligible for advanced payment of premium tax credits. *Exhibit 2*. Applicants whose projected annual income is at or below 133 percent of the federal poverty guidelines (FPG) are eligible for medical assistance. Applicants whose annual income is above 133 percent but no greater than 200 percent of the FPG for the household size are eligible for MinnesotaCare. *Exhibit 3*.

2. On March 17, 2014, the appellant reported to MNsure that it had incorrectly determined her projected income. The appellant reported that the correct amount of her projected annual income was \$34,608.00 and not \$2,884.00. *Exhibit 2*. MNsure incorrectly determined the appellant’s projected annual income and incorrectly determined that she was eligible for MinnesotaCare. *Exhibit 3*.

3. Appellant challenged this action by filing an appeal with MNsure on January 17, 2015. *Exhibit 1*.

4. On February 23, 2015, Appeals Examiner Jonathan R. Hall held an evidentiary hearing via telephone conference. The record, consisting of three exhibits,<sup>2</sup> was closed at the end of the hearing.

5. The state of Minnesota created MNsure as its marketplace or exchange for individuals, families and small employers to access health insurance and tax credits or assistance to help pay for coverage through the Affordable Care Act. MNsure and the DHS share the MNsure application system, but only DHS can determine whether a person is eligible for medical

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<sup>2</sup> Exhibit 1(Appeal); Exhibit 2 (MNsure Summary); Exhibit 3 (DHS Summary).

assistance or MinnesotaCare. *Exhibit 2.*

6. On a date after January 23, 2015 but before February 23, 2015, the DHS updated the appellant's projected income and determined that the appellant was ineligible for medical assistance because her projected annual income exceeded 133 percent of the FPG, and that she was ineligible for MinnesotaCare because her projected annual income was over 200 percent of the FPG. *Exhibit 3.*

7. The appellant knew when she applied for health care that she would not qualify for medical assistance or for MinnesotaCare because her actual and projected income exceeded program limits. She contacted MNSure in March, 2014 to report that it had incorrectly recorded her projected annual income. She called MNSure several times throughout 2014 to request that the error be corrected, but it was not actually corrected until January, 2015. Since the correction was made, the appellant has selected a QHP and is enrolled for 2015. Throughout 2014, she remained eligible for MinnesotaCare but did not pay any premiums and paid out of pocket for all medical services she received because she thought it would be wrong for her to have MinnesotaCare billed for services when knew she was ineligible for MinnesotaCare. *Appellant Testimony.*

8. The appellant tried to request from MNSure an exemption from potential tax liability for months in which she did not have health insurance coverage, but she was told that she must document that she did not have access to health insurance, and that she should file an appeal. *Appellant Testimony.*

### CONCLUSIONS OF LAW

9. 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. 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).* This appeal was submitted well over 90 days after MNSure erroneously determined that the appellant was eligible for MinnesotaCare. For that reason, neither the MNSure Board nor the Department of Human Services has jurisdiction and the appeal must be dismissed because it is untimely. It should be noted that had the appeal been filed within the 90 – day timeline, neither MNSure nor DHS would have jurisdiction over the question whether the appellant is entitled to an exemption from potential tax penalties for not having health care coverage because tax penalties are under the jurisdiction of the Internal Revenue Service. In this case, both the agency and the appellant indicated that the appellant was covered by MinnesotaCare throughout 2014 until the agency later determined that she was ineligible in January 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the appeal is dismissed for lack of jurisdiction.

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

March 4, 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](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.