



**DECISION OF  
STATE AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: Qualified Health Plan  
Agency: MNSure Board  
Docket: 160069

On March 10, 2015, Appeals Examiner Douglass C. Alvarado held an evidentiary hearing under 42 United States Code §18081(f) and Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED] Appellant  
[REDACTED] MNSure

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 transmitted the Appellant's enrollment in Medicare effective November 2014, to his selected Qualified Health Plan for disenrollment purposes.

Whether the MNsure Board correctly failed to refund the Appellant's QHP premiums for November 2014, through February 2015.

## FINDINGS OF FACT

1. The MNsure Board failed to act upon the Appellant's report of minimum essential coverage effective November 2014. *Agency Exhibit # 1, Appellant's Exhibit A and testimony of [REDACTED]* The Appellant filed a request challenging this failure to act, which was received by MNsure on February 5, 2015. *Appellant's Exhibit A.* On March 10, 2015, Appeals Examiner Alvarado held an evidentiary hearing via telephone conference. The judge accepted into evidence one exhibit from the Agency<sup>1</sup> and one exhibit from the Appellant<sup>2</sup>. The record was closed at the conclusion of the hearing.

2. The Appellant and his wife, [REDACTED] had been enrolled in a QHP through the MNsure Eligibility System in 2014. *Testimony of [REDACTED]*

3. On November 7, 2014, the Appellant obtained Medicare coverage for himself. *Agency Exhibit # 1.* This change was reported to the Agency on November 7, 2014. *Id. and testimony of [REDACTED]*

4. On November 26, 2014, the Appellant's household completed a renewal application through the MNsure Eligibility System for a household of two people with only [REDACTED] seeking coverage for 2015. *Agency Exhibit # 1.* [REDACTED] was determined eligible for enrollment in a QHP for 2015. *Id. and testimony of [REDACTED]* MNsure records do not show that the Appellant is enrolled in a QHP for 2015. *Id.*

5. This change in enrollment eligibility for 2014 was not reported to the Appellant's QHP. *Agency Exhibit # 1 and testimony of [REDACTED]*

6. The Appellant's QHP, Blue Cross and Blue Shield continued to take automatic deductions from his bank account for coverage for the Appellant and his wife from November 2014, through February 2015. *Appellant's testimony.*

---

<sup>1</sup> MNsure submitted one exhibit which was marked as follows: 1) MNsure Appeals Memorandum.

<sup>2</sup> The Appellant submitted one exhibit which was marked as follows: A) Appeal Request Form. And his

## APPLICABLE LAW

7. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minn. R. 7700.0105, subp. 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination.
8. The MNsure Board 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*. The MNsure Board has an agreement with the Department of Human Services to hear and decide appeals involving premium assistance.
9. 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)*.
10. 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 health plan offered in the individual market within a State; 4) a grandfathered health plan; or 5) other health benefits coverage.
11. 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).
12. 45 C.F.R. § 155.330(f)(1)(iii) requires the Exchange to implement changes affecting enrollment and premiums on the first day of the month following the date on which the Exchange is notified of the change.

13. The Exchange must: (1) send eligibility and enrollment information to QHP issuers and HHS promptly and without undue delay; (2) establish a process by which a QHP issuer acknowledges the receipt of such information; and (3) send updated eligibility and enrollment information to HHS promptly and without undue delay, in a manner and timeframe as specified by HHS. *45 C.F.R. 155.400 (b)*. The Exchange must also maintain records of all enrollments in QHP issuers through the Exchange and reconcile enrollment information with QHP issuers and HHS no less than on a monthly basis. *Id.* at (c) & (d).

14. Minn. R. 7700.0105, subp. 1(A) provides that MNsure appeals are available for the following actions:

- (1) initial determinations and redeterminations made by MNsure of individual eligibility to purchase a qualified health plan through MNsure;
- (2) initial determinations and redeterminations made by MNsure of eligibility for and level of advance payment of premium tax credit, and eligibility for and level of cost sharing reductions;
- (3) initial determinations and redeterminations made by MNsure of employer eligibility to purchase coverage for qualified employees through the Small Business Health Options Program;
- (4) initial determinations and redeterminations made by MNsure of employee eligibility to purchase coverage through the Small Business Health Options Program;
- (5) initial determinations and redeterminations made by MNsure of individual eligibility for an exemption from the individual responsibility requirement;
- (6) a failure by MNsure to provide timely notice of an eligibility determination;
- (7) in response to a notice from MNsure under Code of Federal Regulations, title 45, section 155.310 (h), a determination by MNsure that an employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer does provide coverage but is not affordable coverage with respect to an employee; and
- (8) in response to a denial of a request to vacate a dismissal.

### CONCLUSIONS OF LAW

15. The Appellant was previously enrolled in QHP coverage with his wife through the MNsure Eligibility System for 2014. On November 7, 2014, the Appellant reported to the Agency that he had obtained minimum essential coverage through Medicare. The Agency did not act upon this reported change and remove him from the MNsure eligible household for December 2014. At the hearing the Agency stipulated to take this action with regard to the coverage household for December 2014, and to communicate this information to the Appellant's QHP to facilitate a disenrollment of the Appellant from his QHP effective December 1, 2014. MNsure did not include the

Appellant in the QHP eligible household for 2015 since he was not seeking coverage on his renewal application for 2015 and reported that he has minimum essential coverage.

16. With regard to the Appellant's enrollment in the QHP for November 2014, the Agency has correctly stipulated to report the change in the Appellant's eligibility effective December 1, 2014 based upon the requirements of 45 C.F.R. 155.330(f)(1)(iii), cited above. Since the change in eligibility was reported to MNsure on November 7, 2014, it must be implemented December 1, 2014.

17. MNsure is not responsible for billing QHP premiums. Nor is it able to refund previously billed premiums. Furthermore, there is no right to a hearing to review premiums erroneously billed by a QHP. Therefore, there is no relief to be granted through the fair hearing process with regard to the reimbursement of premiums billed by the Appellant's QHP.

18. Based upon the Agency's stipulation made at the hearing to report the change in the Appellant's QHP eligibility to his QHP effective December 1, 2014, there are no further issues to be decided.

### RECOMMENDED ORDER

#### THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency's determination not to terminate the Appellant's eligibility for assisted enrollment in a QHP from November 1, 2014, through November 30, 2014.
- The MNsure Board DISMISS the Appellant's appeal to review the Agency's failure to report his change in QHP eligibility to his QHP in a timely manner.
- The MNsure Board DISMISS the Appellant's appeal regarding the Agency's failure to reimburse premiums paid by the Appellant to his QHP for the period from November 2014, through February 2015.

/s/Douglass C. Alvarado  
Douglass C. Alvarado  
Appeals Examiner

March 20, 2015  
Date

## ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopt the Appeals Examiner's findings of fact, conclusions of law and order as the agency's final decision.

FOR THE MNSURE BOARD as to any effect the decision has on Appellant's eligibility through MNsure for Qualified Health Plan.

---

Date

cc: [REDACTED] Appellant  
[REDACTED] MNsure

### **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.