



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
Agency: MNSure Board
Docket: 160578

On March 19, 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

Based on the evidence in the record and considering the arguments of the parties, the Appeals Examiner recommends the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUES

Whether the MNsure Board correctly determined that the Appellant was eligible for enrollment in a Qualified Health Plan effective January 1, 2015.

FINDINGS OF FACT

1. MNsure (herein Agency) determined that the Appellant was eligible for enrollment in a Qualified Health Plan (QHP) effective January 1, 2015. *Agency Exhibit # 1*. The Appellant was advised of her enrollment by her selected QHP on February 10, 2015. *Appellant's Exhibit A and Appellant's testimony*. The Appellant filed a request challenging the start date of her QHP enrollment, which was received by MNsure on February 17, 2015. *Appellant's Exhibit A*. On March 19, 2015, Appeals Examiner Alvarado held an evidentiary hearing via telephone conference. The judge accepted into evidence one exhibit from the Agency¹ and one exhibit from the Appellant². The record was closed at the conclusion of the hearing.

2. On November 16, 2014, the Appellant applied for affordable health insurance coverage for herself only through the MNsure Eligibility System. *Agency Exhibit # 1 and Appellant's testimony*.

3. The Appellant attested to anticipated modified adjusted gross income (MAGI) for 2015 which consists of adjusted gross income of \$27,248, foreign income and housing costs excluded under 26 U.S.C. § 911 of \$0, tax exempt interest of \$0, and Social Security benefits that are not included in gross income of \$0. *Agency Exhibit # 1*.

4. On December 17, 2014, the Appellant was determined eligible for enrollment in a QHP with a premium tax credit in the amount of \$109.11. *Agency Exhibit # 1*.

5. On December 19, 2014, MNsure extended the enrollment deadline for January 1, 2015, QHP coverage to December 31, 2014. *See:* <http://content.govdelivery.com/accounts/MNSURE/bulletins/e44939>

6. The Appellant enrolled in a QHP through the MNsure Eligibility System on December 30, 2014. *Agency Exhibit # 1 and Appellant's testimony*.

7. On January 21, 2015, the Appellant contacted the Agency because she had

¹ MNsure submitted one exhibit which were marked as follows: 1) MNsure Appeals memorandum.

² The Appellant submitted one which was marked as follows: A) Appeal Request Form.

not received an insurance identification card or other information from her selected QHP. *Agency Exhibit # 1 and Appellant's testimony.*

8. The Appellant received her medical insurance card from her QHP on February 3, 2015. *Appellant's Exhibit A.* She was advised that she could not use the QHP coverage until after January 27, 2015. *Id.*

9. On February 17, 2015, the Appellant received an invoice from her QHP for health insurance coverage retroactive to January 1, 2015. *Agency's Exhibit # 1 and Appellant's testimony.*

10. The Appellant seeks review only of the effective date of her QHP enrollment from January 1, 2015, through January 31, 2015. *Appellant's testimony.* She does not dispute the computations of her's premium tax credits or ineligibility for MinnesotaCare or Medical Assistance coverage. *Id.*

APPLICABLE LAW

11. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minn. R. 770.0105, subp. 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination. Minn. Stat. 256.045, subd. 3. and Minn. Stat. 256L.10 provide that a person may request a state fair hearing by filing an appeal either: 1) within thirty days of receiving written notice of the action; or 2) within ninety days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the thirty day time limit.

12. 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. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues in this appeal regarding Appellant's eligibility for Medical Assistance and MinnesotaCare. *Minn. Stat. § 256.045, subd. 3.*

13. Federal regulations governing Medical Assistance and Exchange appeals require that, if an individual appeals a determination of eligibility for the advance payment of the premium tax credit or cost sharing reductions, the appeal will automatically be treated as a request for a fair hearing of the denial of eligibility of

Medicaid.³ The reason for this automatically pairing of Medicaid appeals with appeals concerning advance payment of the premium tax credits is to further the goal of providing a streamlined, coordinated appeals process for Appellants which avoids the need for the Appellant to file multiple appeals with different agencies. *Id.* In Minnesota, Medicaid programs include Medical Assistance and MinnesotaCare.

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

15. Federal regulations for health insurance exchanges created under the Affordable Care Act state that during the open enrollment period for the benefit year beginning on January 1, 2015, the Exchange must ensure coverage is effective: (1) January 1, 2015, for QHP selections received by the Exchange on or before December 15, 2014; (2) February 1, 2015, for QHP selections received by the Exchange from December 16, 2014 through January 15, 2015; and (3) March 1, 2015, for QHP selections received by the Exchange from January 16, 2015 through February 15, 2015. 45 C.F.R. § 155.410(f).

CONCLUSIONS OF LAW

16. This appeal of MNsure's determination regarding the Appellant's enrollment start date in a QHP is timely in that it was filed within 90 days of the date the Appellant was notified of her enrollment coverage date. The Appellant is not contesting her ineligibility for Medical Assistance or MinnesotaCare coverage or the amount of her premium tax credit and cost-sharing reductions.

17. The Appellant was determined eligible for enrollment in a QHP on December 17, 2014. She selected a QHP on December 30, 2014. Her coverage was not confirmed by the QHP until February 3, 2015, at which time she received her medical insurance card and information. She was subsequently billed for QHP coverage for

³ 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)).

January 2015, based upon MNSure's determination that the Appellant's enrollment effective date was January 1, 2015. The Appellant seeks review of the effective date of her QHP enrollment.

18. Inasmuch as the Appellant enrolled in a QHP through the MNSure Eligibility System on December 30, 2014, MNSure was obligated by federal law to ensure QHP coverage effective February 1, 2015. While MNSure extended the enrollment deadline for January 1, 2015, coverage for those who enrolled in a QHP by December 31, 2014, there is no provision in federal law which authorizes MNSure to impose a January 1, 2015, enrollment for individuals who enrolled in a QHP after December 15, 2014. The Appellant does not elect to receive the benefit of the discretionary enrollment extension. Therefore, it cannot be determined that MNSure acted correctly with regard to the effective date of the Appellant's QHP coverage.

19. This decision is effective January 1, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNSure Board REVERSE the Agency's determination to ensure enrollment of the Appellant in a Qualified Health Plan effective January 1, 2015, and ORDER the Agency to notify the Appellant's Qualified Health Plan that the Appellant's enrollment is effective February 1, 2015.

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

April 8, 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 each agency's final decision.

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.
- **Seek judicial review** to the extent it is available by law.