



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: ██████████
For: Qualified Health Plan
Agency: MNSure Board
Docket: 161573

On April 22, 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:

██████████ 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 March 1, 2015.

FINDINGS OF FACT

1. MNsure (herein Agency) determined that the Appellant was eligible for enrollment in a Qualified Health Plan (QHP) effective March 1, 2015. *Agency Exhibit # 1*. The Appellant filed a request challenging the start date of her QHP enrollment, which was received by MNsure on March 17, 2015. *Appellant's Exhibit A*. On April 22, 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 February 15, 2015, 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 was determined eligible for enrollment in a QHP. *Agency Exhibit # 1*.

4. On February 15, 2015, the Appellant selected enrollment in Blue Access HSA Silver Plan with an effective date of March 1, 2015. *Agency Exhibit #1*.

5. The Agency transmitted the Appellant's enrollment selection and date to her QHP. *Agency Exhibit # 1*.

6. The Appellant seeks a change in her QHP enrollment date to April 1, 2015, because she was enrolled in employment-sponsored insurance through March 31, 2015. *Appellant's testimony*.

APPLICABLE LAW

7. 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.

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.

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. 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*.

9. 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

10. MNsure must determine an applicant eligible for enrollment in a QHP through the Exchange if he or she: 1) is a citizen or national of the United States, or is a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought; 2) is not incarcerated, other than incarceration pending the disposition of charges; and 3) meets the applicable residency standard. *45 C.F.R. § 155.305(a)*.

11. 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

12. 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 the household's ineligibility for Medical Assistance or MinnesotaCare coverage or the amounts of premium tax credits and cost-sharing reductions.

13. The Appellant was determined eligible for enrollment in a QHP on February 15, 2015. Although the Appellant was covered by employer-sponsored health insurance through March 31, 2015, she selected a QHP on February 15, 2015, for coverage effective March 1, 2015. As such, MNsure was obligated by federal law to ensure QHP coverage effective March 1, 2015. Although enrollment in employer-sponsored health insurance would prevent the

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)).

Appellant from obtaining tax credits, cost sharing reductions or MinnesotaCare coverage, such coverage does not render the Appellant ineligible for enrollment in a QHP through the Exchange. Therefore, MNsure acted correctly with regard to the effective date of the Appellant's QHP coverage.

18. This decision is effective March 1, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency's determination to ensure enrollment of the Appellant in a Qualified Health Plan effective March 1, 2015.

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

May 6, 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:  Appellant
 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.