DECISION
OF AGENCY
ON APPEAL

In the Appeal of: [redacted]

For: Qualified Health Program

Agency: MNsure Board

Docket: 162765

On May 27, 2015, Appeals Examiner Mariam Mokri 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 person 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 ISSUE

Whether the MNsure Board accurately determined Appellant is not able to enroll in a qualified health plan (QHP).

FINDINGS OF FACT

1. Appellant applied for unassisted health coverage through MNsure as a family of three on February 15, 2015. *Exhibti 1*. MNsure determined Appellant meets the eligibility requirements for a QHP. *Id*. On April 1, 2015, MNsure told Appellant that there is no record of his enrollment in a QHP. *Id*. On April 20, 2015, Appellant filed an appeal with the state agency. *Exhibit 2*. On May 27, 2015, Appeals Examiner Mariam Mokri held an evidentiary hearing via telephone conference. The record closed at the conclusion of the hearing with two exhibits[1].

2. On February 15, 2015, Appellant applied for unassisted health coverage through MNsure as a family of three. *Exhibit 1*. All three members were applying for coverage. *Id*. MNsure determined Appellant's household met the eligibility requirements for a QHP. *Id*.

3. MNsure does not have any record of Appellant enrolling in a QHP during open enrollment or anytime thereafter. *Exhibit 1*.

4. On February 18, 2015, Appellant called MNsure inquiring about the billing process. *Exhibit 1*.

5. On April 1, 2015, Appellant called MNsure about his enrollment and was told that MNsure had no record of an enrollment. *Exhibit 1*.

6. Appellant testified that on February 18, 2015, he called MNsure and spoke to "Nicole" who verified that he was enrolled in UCare Gold and Delta Dental. *Testimony of Appellant*. Appellant stated he was told processing would take a few weeks and he would get an invoice from his health carriers. *Id*.

7. On April 1, 2015, Appellant called MNsure and spoke to "Courtney" and was transferred to "Kathy", a specialist. *Testimony of Appellant*. Appellant testified he was told he was not enrolled. *Id*. He was also told that MNsure would look into the situation and get back to him. *Id*.

8. On April 2, 2015, Appellant called to MNsure and spoke to "Sarah" who stated that his case would be examined "as a team". *Testimony of Appellant*.

9. On April 14, 2015, Appellant called MNsure and was told there was no problem and that he had insurance that was taking time to process. *Testimony of Appellant*.

1 Exhibit 1: State Agency Appeals Summary; Exhibit 2: Appeal to State Agency.

10. On April 20, 2015, Appellant spoke to MNsure again and was informed that he did not have insurance and was instructed to appeal. *Testimony of Appellant*.

APPLICABLE LAW

11. 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).*

12. The MNsure Board has the legal authority to review and decide issues about a household'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.

Enrollment Periods

13. Federal regulations concerning enrollment in qualified health plans (QHPs) are found at 45 C.F.R. §§155.400 – 155.430.The Exchange may only permit a qualified individual to enroll in a QHP or an enrollee to change QHPs during the initial open enrollment period, the annual open enrollment period, or a special enrollment period described in §155.420 of this subpart for which the qualified individual has been determined eligible. *45 C.F.R. §155.400(a)(2)*. The initial open enrollment period began October 1, 2013 and extended through March 31, 2014. *45 C.F.R. §155.400(b)*. For the benefit year beginning on January 1, 2015, the annual open enrollment period begins on November 15, 2014, and extends through February 15, 2015. *45 C.F.R. §155.400(e)*.

14. The Exchange must allow a qualified individual or enrollee, and, when specified below, his or her dependent, to enroll in or change from one QHP to another via a special enrollment period if one of the following triggering events occur:

a. Loss of minimum essential coverage;

b. Loss of pregnancy-related coverage;

c. Loss of medically needy coverage;

d. Household gains a dependent or becomes a dependent through marriage, birth, adoption, adoption placement, or foster care placement;

e. Individual becomes a citizen;

f. Individual's enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of error, misrepresentation, or inaction of a MNsure employee;

g. Enrollee or dependent adequately demonstrates to MNsure that the QHP they are enrolled in substantially violated a material contract provision;

h. Change in eligibility for tax credits or cost-sharing reductions;

i. Qualified individual or dependent obtains a new QHP as the result of a permanent move;

j. Enrollee is an Indian as defined by the Indian Health Care Improvement Act; or

k. Enrollee is not enrolled or misenrolled due to misconduct by a non-Exchange entity.

45 C.F.R. § 155.420(d).

15. A triggering event for a special enrollment period is also available to a qualified individual if the non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of the exchange. *45 C.F.R. § 155.420(d)(4).*

CONCLUSIONS OF LAW

16. This appeal was started within the allowed time limits under 45 C.F.R §155.520(b).

17. The MNsure Board has legal authority to review Appellant's household's eligibility for enrollment in a qualified health plan and premium assistance under Minnesota Statute § 62V.05, subdivision 6.

18. In this case, Appellant would have to demonstrate a triggering event occurred that would allow for a special enrollment period. Appellant's reasons for requesting the special enrollment is that he tried to inquire, after open enrollment was closed, into enrolling in a QHP. Appellant was found eligible for a QHP, but failed to enroll during open enrollment. While Appellant was repeatedly misinformed by MNsure that he was enrolled, he only inquired after open enrollment was over. Appellant has failed to provide a qualifying triggering event for a special enrollment period. MNsure correctly determined that Appellant is currently ineligible to enroll in a QHP.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency's denial of eligibility for a special enrollment period.

_____ _____

Mariam Mokri
Appeals Examiner

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 household's eligibility through MNsure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plans, and/or the Small Business Health Insurance Options Program.

_____ _____

Date

cc: [redacted], Appellant
Michael Turpin, 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.

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.

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