



Minnesota Department of **Human Services**

**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: MinnesotaCare
Agency: Minnesota Department of Human Services
Docket: 163069

On May 22, 2015, Human Services Judge Christopher Cimafranca held an evidentiary hearing under Minnesota Statutes, § 256.045, subdivision 3.

The following people appeared at the hearing:

[REDACTED], Appellant; and
Michelle Dehn, MinnesotaCare Program Specialist, Agency Representative.

The Human Services Judge, based on the evidence in the record and considering the arguments of the parties, recommends the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUE

The issue raised in this appeal is:

Whether the Minnesota Department of Human Services correctly determined that the Appellant received an overpayment of MinnesotaCare benefits for \$33,894.19 from May 1, 2009 to April 30, 2013.

FINDINGS OF FACT

1. By Notice of Overpayment dated April 13, 2015, the Minnesota Department of Human Services (herein Agency) advised the Appellant in writing of its determination that the Appellant received an overpayment of MinnesotaCare benefits for \$33,894.19 from May 1, 2009 to April 30, 2013. *Exhibit 1*. On April 29, 2015, the Appellant filed a state fair hearing request with the Appeals Office. *Exhibit 1*.

2. Human Services Judge Cimafranca held an evidentiary hearing by telephone conference on May 22, 2015. The record was closed at the conclusion of the hearing, consisting of two exhibits.¹

3. Effective February 6, 2011, the Appellant, her spouse (Mr. [REDACTED]) and her children ([REDACTED] and [REDACTED]) became eligible for health insurance coverage through the Appellant's second employment at [REDACTED]. *Exhibit 1*. At least 50% of the cost of the insurance was paid by the employer. *Exhibit 1*. Effective February 6, 2011, the Appellant and [REDACTED] enrolled in the employer-sponsored insurance, and effective October 31, 2012, [REDACTED] was also enrolled. *Exhibit 1*.

4. The Appellant was employed at [REDACTED] from 2007 to May 16, 2013, and Mr. [REDACTED] was employed from November, 2009 to June 7, 2013 at [REDACTED]. *Exhibit 1*.

5. On March 19, 2009, February 17, 2010, and April 7, 2011, the Agency received a completed Minnesota Health Care Programs Renewal Application from the Appellant. *Exhibit 1*. The Appellant did not report on these applications that she was also employed at [REDACTED], in addition to the [REDACTED] employment. *Exhibit 1*.

6. The Agency informed the Appellant that it was her responsibility to report any changes to the Agency and to report the changes within 10 days of the change in the Notice of Privacy Practices section of the Minnesota Health Care Program applications. *Exhibit 1; Testimony of Dehn*. The Appellant acknowledged in the applications that she had read and understood that she must report changes (such as employment changes and

¹ State Agency Appeal Summary with attachments, Exhibit 1; and Appeal to State Agency, Exhibit 2.

getting health insurance or Medicare) within 10 days of the change happening. *Exhibit 1; Testimony of Dehn.*

Certification Period from April 1, 2009 to March 31, 2010

7. For this certification period, the Appellant received MinnesotaCare coverage based on the Appellant's report that she had gross earnings of \$387.35 every two weeks or \$10,071.10 per year from [REDACTED]. *Exhibit 1.* The Appellant remained eligible for coverage with a monthly premium of \$19.00. *Exhibit 1.*

8. However, the Appellant's unreported gross earnings from April 1, 2009 to March 31, 2010 totaled \$29,334.73, which amounted to \$2,444.56 per month. *Exhibit 1.* Adding the unreported monthly income to the reported bi-weekly gross income of \$387.35, which was equal to \$10,071.00 per year or \$839.25 per month, the Agency determined that the household total gross monthly income was \$3,283.81 and was over 200% Federal Poverty Guidelines (FPG) for a household of one adult per MinnesotaCare Income Guidelines from July 1, 2008 to June 30, 2009 and over 250% FPG from July 1, 2009 to June 30, 2010. *Exhibit 1.*

Certification Period from April 1, 2010 to April 30, 2011

9. For this period, the Appellant received MinnesotaCare coverage based on the Appellant's report of bi-weekly gross earnings of \$496.88, equaling to \$12,918.88 annually ($\$496.88 \times 26$). *Exhibit 1.*

10. However, the Appellant's unreported gross earnings from April 1, 2010 to April 30, 2011 totaled \$40,015.67, which amounted to \$3,078.13 per month. *Exhibit 1.* Adding the unreported monthly income to the reported bi-weekly gross earnings of \$496.88 or \$12,918.88 annually, the Agency determined that the total household monthly income was \$4,154.63. *Exhibit 1.*

11. Effective June 1, 2010, the household size increased to two because on February 6, 2011 the Appellant provide proof of pregnancy, and the Appellant received pregnancy benefits dating back to June 1, 2010. *Exhibit 1.* Effective February 1, 2011, the monthly premium decreased to \$16.00 and coverage for [REDACTED] the Appellant's son, began on February 1, 2011. *Exhibit 1.* [REDACTED] qualified for the Minnesota Comprehensive Health Association (MCHA) Exemption, a plan that provided health insurance to people who were otherwise uninsurable due to health conditions or other circumstances specified in statute. *Exhibit 1.*

12. The Agency determined that from April 1, 2010 to May 31, 2010, the Appellant was over 250% FPG for a household of one adult per MinnesotaCare Income Guidelines from April 1, 2010 to June 30, 2011. *Exhibit 1.*

13. The Agency also determined that from June 1, 2010 to April 30, 2011, the household monthly income of \$4,154.63 was over 275% FPG for a household of two per MinnesotaCare Income Guidelines from April 1, 2010 to June 30, 2011. *Exhibit 1.*

Overpayment from May 1, 2009 to May 31, 2010

14. In reviewing the Appellant's case for an overpayment, the Agency determined that the Appellant incorrectly received MinnesotaCare coverage from May 1, 2009 to May 31, 2010 due to being over the income limit for a household size of one (before [REDACTED] was added effective June 1, 2010). *Exhibit 1.*

Overpayment from June 1, 2010 to February 28, 2011

15. In reviewing the Appellant's case for an overpayment, the Agency determined that the Appellant remained eligible at a higher monthly premium from June 1, 2010 to February 28, 2011 due to the income increase. *Exhibit 1.* As noted above, the household size increased to two beginning June 1, 2010 due to the pregnancy. *Exhibit 1.*

Certification Period from May 1, 2011 to April 30, 2012

16. For this period, the Appellant reported that her bi-weekly gross income was \$350.00. *Exhibit 1.* The Agency incorrectly determined at the time of the application that the household annual income was \$4,200.00 by multiplying \$350.00 by 12. *Exhibit 1.*

17. However, the Appellant's unreported gross earnings from May 1, 2011 to April 30, 2012 totaled \$39,629.53 which averaged to \$3,302.46 per month. *Exhibit 1.*

18. For the period from May 1, 2011 to May 31, 2011, the Agency determined that the total household monthly income was \$3,652.46 (\$3,302.46 + \$350.00), which was over 275% FPG for a household of two per MinnesotaCare Income Guidelines from April 1, 2010 to June 30, 2011. *Exhibit 1.* During this period, [REDACTED] qualified for the MCHA Exemption. *Exhibit 1.*

19. Effective June 1, 2011, the Agency added Mr. [REDACTED] the Appellant's spouse, to the MinnesotaCare case because renewal application was received for Mr. [REDACTED] previous MinnesotaCare case. *Exhibit 1.*

20. Effective June 1, 2011, the MinnesotaCare household changed to a household size of three and the monthly premium increased to \$36.00 effective August 2011. *Exhibit 1.*

21. From June 1, 2011 to December 31, 2011, the Agency determined that the total household monthly income was \$4,277.46 (\$3,302.46 unreported income + \$975.00 reported monthly income of Mr. [REDACTED] which was over 275% FPG for a

household of three per MinnesotaCare Income Guidelines from April 1, 2010 to June 30, 2011, and from July 1, 2011 to June 30, 2012. *Exhibit 1.* However, [REDACTED] qualified for the MCHA Exemption until June 30, 2011. *Exhibit 1.*

22. On March 26, 2012, the Appellant reported on the renewal application that she was employed at [REDACTED] and that she was pregnant. *Exhibit 1.*

23. On April 6, 2012, the Agency processed the renewal application and backdated the pregnancy benefits to January 1, 2012. *Exhibit 1.* The Agency updated the household size to four beginning January 1, 2012. *Exhibit 1.*

24. From January 1, 2012 to April 30, 2012, the total household monthly income was \$4,277.46, which was 215-275% FPG for a household of four per MinnesotaCare Income Guidelines from July 1, 2011 to June 30, 2012. *Exhibit 1.*

Overpayment from June 1, 2011 to December 31, 2011

25. In reviewing the Appellant's case for an overpayment, the Agency determined that Mr. [REDACTED] incorrectly received MinnesotaCare coverage from June 1, 2011 to December 31, 2011 due to being over the income limit. *Exhibit 1.*

Overpayment from January 1, 2012 to April 2012

26. In reviewing the Appellant's case for an overpayment, the Agency determined that Mr. [REDACTED] remained eligible at a higher monthly premium from January 1, 2012 to April 2012 due to an income increase. *Exhibit 1.*

Certification Period from May 1, 2012 to April 30, 2013

27. On May 2, 2012, the Agency approved the Appellant and [REDACTED] for continued coverage with a monthly premium of \$1,018.00 (decreasing to \$249.00 effective July 2012). *Exhibit 1.* Program coverage for Mr. [REDACTED] closed effective April 30, 2012 for being over the income limit but the Appellant remained eligible because she was pregnant. *Exhibit 1.* The annual household income based on the Department of Employment and Economic Development's information and paystubs was determined to be \$62,283.00 (\$42,580.80 for the Appellant's [REDACTED] earnings plus \$19,702.80 for Mr. [REDACTED] *Exhibit 1.*

28. On December 21, 2012, the Appellant informed the Agency that her child, [REDACTED] was born on October 31, 2012. *Exhibit 1.* [REDACTED] coverage became effective October 1, 2012 with no changes to the monthly premium. *Exhibit 1.*

29. Program coverage for the Appellant closed effective February 28, 2013 for being over the income limit (pregnancy benefits ended). *Exhibit 1.* Program coverage for

█████ also closed on the same date for being over the income limit. *Exhibit 1.*

Overpayment from March 1, 2012 to February 28, 2013

30. In reviewing the Appellant's case for an overpayment, the Agency determined that ██████ incorrectly received MinnesotaCare coverage from March 1, 2012 to February 28, 2013 for having employer-sponsored insurance. *Exhibit 1.*

31. However, ██████ remained eligible at a higher monthly premium from April 1, 2011 to February 29, 2012 due to an income increase and being an auto-new born. *Exhibit 1.*

Overpayment from March 1, 2011 to February 28, 2013

32. In reviewing the Appellant's case for an overpayment, the Agency determined that the Appellant incorrectly received MinnesotaCare coverage from March 1, 2011 to February 28, 2013 for having employer-sponsored insurance. *Exhibit 1.*

Overpayment from October 1, 2012 to April 30, 2013

33. In reviewing the Appellant's case for an overpayment, the Agency determined that ██████ incorrectly received MinnesotaCare coverage from October 1, 2012 to April 30, 2013 for having access to employer-sponsored insurance. *Exhibit 1.* The Agency determined that ██████ would not have been an auto-newborn because the Appellant would not have received coverage when he was born. *Exhibit 1.*

34. An overpayment was not assessed in February 2012 and May 2012 because the Appellant was on fee-for-service during these months and no claims were paid to UCare. *Exhibit 1.* In addition, an overpayment was not assessed for ██████ in May 2012 as he was also on fee-for-service and no claims were paid to UCare. *Exhibit 1.*

Capitation Payments and Premium Payments

35. From May 1, 2009 to May 31, 2010, March 1, 2011 to January 31, 2012, March 1, 2012, to April 30, 2012, and June 1, 2012 to April 30, 2012, the Agency paid a total of \$25,446.98 in capitation payments for the Appellant, Mr. ██████ ██████ and ██████ *Exhibit 1.*

36. The Agency determined that from January 1, 2012 to April 30, 2012, the capitation rate difference was \$51.21 as Mr. ██████ would have been in a lesser benefit set during this time. *Exhibit 1.*

37. The Agency determined that the correct premium from June 1, 2010 to April 30, 2012 would have been \$9,301.00. *Exhibit 1.*

38. From May 1, 2009 to April 30, 2013, the Appellant paid a total of \$905.00 in monthly premiums. *Exhibit 1.*

39. The Agency determined that the net result was an overpayment amount of \$33,894.19. *Exhibit 1.*

Appellant's Contention

40. The Appellant cannot afford to pay the overpayment. *Testimony of Appellant.* The Appellant made a simple mistake and did not intend to provide incorrect information. *Testimony of Appellant.* The Appellant claims that she asked to be removed from MinnesotaCare in 2012 but she was told that she could not be removed because of her pregnancy. *Testimony of Appellant.* The Appellant claims that she did not know she had to report her second employment. *Testimony of Appellant.*

CONCLUSIONS OF LAW

1. This appeal is timely, and the Commissioner of Human Services has jurisdiction over this appeal, under Minnesota Statutes, § 256.045, subdivision 3.
2. According to the Minnesota Department of Human Services Health Care Programs Manual, Chapter 29.15, to determine an overpayment amount, agency employees are directed to redetermine eligibility as if correct complete information had been reported timely. For MinnesotaCare, the overpayment is the full amount of claims paid (capitation payments and any fee-for-service payments made) on the household's behalf, less premiums paid for the months of total ineligibility. If a change results in continued eligibility for the same benefit set but a higher premium, the overpayment amount is the correct premium less the actual premium paid. *Minnesota Department of Human Services Health Care Programs Manual, Chapter 29.15.*
3. MinnesotaCare can recover benefits if payment of those benefits was the result of fraud, theft, or abuse, or error on the part of the recipient, absent a showing that the recovery would, in that particular case, be unreasonable or unfair. *Minn. R. 9505.2215, subp. 1; See Minn. R. 9506.0100 (parts 9505.2160 to 9505.2245 apply to MinnesotaCare).*
4. MinnesotaCare recipients must provide accurate and complete information as requested, complete applications and necessary forms truthfully, and report changes timely. *Minn. R. 9506.0030, subp. 2(A); Minnesota Department of Human Services Health Care Programs Manual, Chapter 6.*
5. An applicant or recipient must report a change in an eligibility factor to the local agency within ten days of learning about the change. *Minn. R. 9505.0115, subp.1.* Changes that need to be reported include access to health insurance and employment

changes (including stopping, starting or changing employment; starting or stopping a business; and changes in hours or earnings). *Minnesota Department of Human Services Health Care Programs Manual, Chapter 6.10.*

6. Families with children with family income equal to or less than 275 percent of the federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare. *Minn. Stat. 256L.04, subd. 1(a)*. "Gross individual or gross family income" means the total income for all family members, calculated for the 12-month period of eligibility. *Minn. Stat. § 256L.01, subd. 4a(c)*. Effective July 1, 2009, the definition of eligible persons includes all individuals and households with no children who have gross family incomes that are equal to or less than 250 percent of the federal poverty guidelines. *Minn. Stat. § 256L.01, subd. 7(b)*.

7. However, beginning with new applications received on or after July 1, 2012, renewals with a redetermination date of July 31, 2012, or later, and changes reported on or after July 1, 2012, children who apply for or are enrolled in MinnesotaCare are eligible even if their household income is greater than 275% FPG for their household size. An enrolled child whose household income is greater than 275% FPG is no longer required to meet the Minnesota Comprehensive Health Association (MCHA) exemption to remain eligible for MinnesotaCare. Children eligible for MinnesotaCare with household income greater than 275% FPG must pay the maximum premium. *Minnesota Department of Human Services Bulletin #12-21-07.*

8. For a household size of one, 200% of the Federal Poverty Guidelines (FPG) was \$1,734.00 per month or \$20,808.00 per year from July 1, 2008 to June 30, 2009. *Exhibit 1.*

9. For a household size of one, 200% of the FPG was \$27,084.00 per year or \$2,257.00 per month from July 1, 2009 to June 30, 2010. *Exhibit 1.*

10. For a household size of two, 275% of the FPG was \$3,340 per month or \$40,080.00 per year and, for a household size of three, it was \$4,198.00 per month or \$50,376.00 per year from April 1, 2010 through June 30, 2011. *Exhibit 1.*

11. For a household size of four, 215% of the FPG was \$48,084.00 per year or \$4,007.00 per month from July 1, 2011 to June 30, 2012 and 275% of the FPG was \$61,488.00 or \$5,124.00. *Exhibit 1.* For a household size of three, 275% of the FPG was \$50,976.00 per year or \$4,248.00 per month. *Exhibit 1.*

12. For a household size of three, 275% of the FPG from July 1, 2011 to June 30, 2012 was \$39,865 per year or \$3,322.00 per month. *Exhibit 1.*

13. Minnesota Statutes 256L.07, subdivision 2(a) provides that to be eligible for MinnesotaCare coverage, a family or individual must not have access to subsidized health

insurance coverage through an employer and must not have had access to employer subsidized coverage through a current employer for 18 months prior to application or reapplication. Employer subsidized health coverage means health coverage for which the employer pays at least 50 percent of the cost of coverage for the employee or dependent, or a higher percentage as specified by the Commissioner. *Minn. Stat. § 256L.07, subd. 2(c)*.

14. However, beginning with new applications received on or after July 1, 2012, renewals with a redetermination date of July 31, 2012, or later, and changes reported on or after July 1, 2012, the exception from the other health care coverage barriers that previously applied to children with household income equal to or less than 150% FPG is extended to children with household income equal to or less than 200% FPG. *Minnesota Department of Human Services Bulletin #12-21-07*. Children with household income greater than 200% FPG are subject to the other healthcare coverage barriers. *Minnesota Department of Human Services Bulletin #12-21-07*.

15. Health Care Programs Manual Chapter 3.20.10 states that children born to mothers enrolled in MinnesotaCare (or Medical Assistance) during the month of birth are given automatic newborn (also referred to as "auto newborn") eligibility.

16. The Agency's assessment of the overpayment should be affirmed. I conclude that the household received MinnesotaCare coverage for which it was not eligible to receive due to underreported income or access to employer-subsidized insurance. I also conclude that the Agency's calculation of the overpayment is correct. The Agency in this case correctly deducted the premium payments from the total capitation payments to get the overpayment amount. Additionally, it is not unreasonable or unfair under the law to recover the overpayment, as there is insufficient evidence in the record that shows the overpayment was caused by an Agency error or by circumstances beyond the control of the Appellant. The Appellant knew or should have known to timely report the changes to the Agency. The record establishes that the Agency informed the Appellant of her responsibility to report changes within 10 days of the change. Unfortunately, the Appellant's inability to pay the overpayment is not a factor under the law in the determination of the overpayment. Therefore, I recommend affirming the Agency's determination that the Appellant was overpaid MinnesotaCare benefits for \$33,894.19 from May 1, 2009 to April 30, 2013.

RECOMMENDED ORDER

THE HUMAN SERVICES JUDGE RECOMMENDS THAT the Commissioner of Human Services AFFIRM the Agency's determination that the Appellant received an overpayment of MinnesotaCare benefits for \$33,894.19 from May 1, 2009 to April 30, 2013.

Christopher Cimafranca
Human Services Judge

Date

ORDER OF THE COMMISSIONER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the Commissioner of Human Services adopts the Human Services Judge's recommendation as her final decision.

FOR THE COMMISSIONER OF HUMAN SERVICES:

Date

FURTHER APPEAL RIGHTS

This decision is final, unless you take further action.

If you disagree with this decision, you may:

- Request the decision be reconsidered; or
- Appeal to District Court.

Right to Reconsideration

You may make a written request to the Appeals Office to 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

Appeal to District Court

You may 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 Minn. Stat. § 256.045, subd. 7.

cc: [REDACTED], Appellant
Teresa Saybe, Minnesota Department of Human Services