



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: Qualified Health Program

Agency: MNSure Board

Docket: 163356

On June 9, 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's Representative
Amy Joe Hanson, 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 ISSUE

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

FINDINGS OF FACT

1. On April 26, 2015, Appellant applied for health coverage as a family of two. *Exhibit 1*. MNsure determined Appellant met the eligibility requirements for a QHP and tax credits. *Id.* On May 5, 2015, Appellant was informed she was no longer eligible to enroll in a QHP. *Id.* On May 6, 2015, Appellant filed an appeal with the state agency. *Exhibit 3*. On June 9, 2015, Appeals Examiner Mariam Mokri held an evidentiary hearing via telephone conference. The record was held open until June 26, 2015 to allow the Appellant to submit additional documentation. The record closed at the conclusion of the hearing with four exhibits¹.

2. Appellant lost her employment in February 2015. *Testimony of* [REDACTED] Appellant is a native Spanish speaker and has limited English speaking capabilities. *Id.* Appellant is often assisted by her husband, [REDACTED], who is a native English speaker. *Id.*

3. Appellant's last paycheck from her employer was received in February and she believed included a payment for her March premium for health insurance. *Testimony of* [REDACTED] Appellant attempted to get COBRA through her employer to continue her health insurance. *Id.* Appellant received written notice that her health and dental insurance ended effective February 28, 2015. *Id.*

4. On April 26, 2015, Appellant went onto the MNsure system and applied for coverage as a family of two. *Exhibit 1*. Appellant applied for coverage only for herself. *Id.* MNsure determined Appellant was eligible for a QHP and for tax credits in the amount of \$54.69. *Id.*

5. On May 5, 2015, a broker contacted MNsure stating Appellant had lost her employer-sponsored insurance effective February 28, 2015. *Exhibit 1*. MNsure determined Appellant eligible for a 60-day special enrollment period from March 1, 2015 through April 30, 2015. *Id.* MNsure stated Appellant was no longer eligible to enroll in a QHP because it was outside of the designated special enrollment period. *Id.*

6. Mr. [REDACTED] testified that he attempted to assist his wife with the MNsure process using a translator, but it did not work very well. *Testimony of* [REDACTED]. They were under the impression she was covered by insurance through the end of May 2015. *Id.* Mr. [REDACTED] stated Appellant called her employer and they told her she was covered. *Id.* Appellant signed up for a health plan outside of the MNsure system. *Id.*

¹ Exhibit 1: State Agency Appeals Summary - MNsure; Exhibit 2: State Agency Appeals Summary – DHS; Exhibit 3: Appeal to State Agency; Exhibit 4: Letter from [REDACTED] on behalf of the Appellant.

APPLICABLE LAW

7. 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)*.

8. 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

9. 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)*.

10. 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).

11. A triggering event for a special enrollment period is also available to a qualified individual if the enrollment or 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).*

12. Special enrollment periods generally allow a qualified individual 60 days to enroll in a QHP. *45 C.F.R. § 155.420(c).*

CONCLUSIONS OF LAW

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

14. 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.

15. In this case, Appellant's employer-sponsored coverage ended February 28, 2015. This triggered a 60-day special enrollment period. Appellant applied under the MNsure system before the end of the 60-day enrollment period on April 26, 2015. However, she failed to enroll in a QHP before the end of the special enrollment period on April 30, 2015. Appellant's confusion with the end of her coverage appears to be with her employer. Appellant has failed to state a triggering event for another special enrollment period. MNsure's determination that Appellant cannot apply for coverage outside of a special enrollment period should be affirmed.

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: , Appellant

Michael Turpin, MNSure
Teresa Saybe, DHS - 0838

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.