



**DECISION  
OF AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]

For: Qualified Health Program

Agency: MNSure Board

Docket: 163539

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.

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 switch to a different qualified health plan (QHP).

## FINDINGS OF FACT

1. Appellant applied for health coverage through MNsure as a family of four on December 6, 2014. *Exhibit 1*. MNsure determined Appellant meets the eligibility requirements for a QHP. *Id.*
2. On December 31, 2014, Appellant called MNsure to report errors on his application, namely that several of his family members were not listed as applicants on his application. *Exhibit 1*. MNsure was unable to correct the errors on his application until March 26, 2015. *Id.*
3. On March 26, 2015, MNsure determined Appellant was eligible for a special enrollment period due to their failure to correct his application in a timely manner. *Exhibit 1*. Appellant was notified via telephone on March 26, 2015 of the special enrollment period. *Id.*
4. On March 27, 2015, Appellant called MNsure and enrolled in a Blue Cross Blue Shield plan for coverage effective April 1, 2015. *Exhibit 1*. Appellant had contacted his medical provider and was told that they were in the Blue Cross network. *Id.*
5. On May 4, 2015, Appellant contacted MNsure to request a change to his QHP. *Exhibit 1*. Appellant had discovered that his family provider was actually not in-network with his selected plan. *Id.* Appellant was informed by two different MNsure representatives that he would be able to change plans. *Id.* Later, Appellant was told he was misinformed and that he could not change plans outside of a new special enrollment period. *Id.*
6. On May 12, 2015, Appellant filed an appeal with the state agency. *Exhibit 2*. On June 9, 2015, Appeals Examiner Mariam Mokri held an evidentiary hearing via telephone conference. The record closed at the conclusion of the hearing with two exhibits<sup>1</sup>.
7. Appellant testified that when he spoke to a MNsure representative, he believed he had to sign up right away. *Testimony of Appellant*. In a rush, he tried to find a policy that would cover his family's medical provider in-network. *Id.* Appellant was told he had until April 15, 2015 to enroll in a QHP. It was not until a couple of weeks after he enrolled that he realized that the QHP he selected would not cover his family's doctors. *Id.* Appellant's wife had been scheduled for surgery with her family provider, which was not in-network under the QHP Appellant selected. *Id.*

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<sup>1</sup> Exhibit 1: State Agency Appeals Summary; Exhibit 2: Appeal to State Agency.

## APPLICABLE LAW

8. 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)*.

9. 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

10. 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)*.

11. 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).*

12. 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).*

13. Special enrollment periods generally allow a qualified individual 60 days to enroll in a QHP. *45 C.F.R. § 155.420(c).* However, in the case where a qualified individual's non-enrollment is due to error by MNsure, MNsure may determine the length of the special enrollment period, as long as it does not exceed 60 days. *45 C.F.R. § 155.420(c)(3) & (d)(4).*

#### CONCLUSIONS OF LAW

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

15. 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.

16. In this case, MNsure error led to Appellant's non-enrollment in a QHP. MNsure recognized the error and on March 26, 2015 gave Appellant until April 15, 2015 to enroll in a QHP. Appellant enrolled in a QHP on March 27, 2015. Appellant inquired on May 4, 2015 as to whether he could change his QHP. Since Appellant's request fell outside of the special enrollment period, a new triggering event would be required to change QHPs. Appellant has not asserted a triggering event as described under 45 C.F.R. § 155.420(d). Furthermore, the error in enrolling in the QHP lies with the Appellant, not MNsure. Therefore, there is no qualified triggering event for a special enrollment in Appellant's case. MNsure's decision 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: [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](http://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.