



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
Agency: MNsure Board
Docket: 163756

On June 16, 2015, Appeals Examiner Renee Ladd 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 properly determined the effective date of Appellant's Qualified Health Plan as provided in the Affordable Care Act.

FINDINGS OF FACT

1. On May 12, 2015, Appellant was notified that he was enrolled in a Qualified Health Plan (QHP) effective April 1, 2015. *Appellant Testimony*. No notices regarding the effective date of his enrollment were provided as part of the appeal and it is unknown if any written notice was sent to Appellant when he enrolled in a QHP. Appellant challenged the effective date of his health insurance coverage, which was received by the MNsure agency on May 20, 2015. *Exhibit 1*.
2. On June 16, 2015, Appeals Examiner Renee Ladd held an evidentiary hearing by telephone conference. The record, consisting of two exhibits,¹ was closed at the end of the hearing.
3. On February 15, 2015, Appellant submitted an application for health care coverage for a household of one through the MNsure computer eligibility system. *Exhibit 2*. MNsure determined that Appellant was eligible to enroll in a QHP with a tax credit of \$220.00 per month. *Id.*
4. Appellant's employer-sponsored insurance coverage was terminated effective January 28, 2015. *Exhibit 2*. Appellant reported the loss of employer-sponsored insurance to the agency on March 17, 2015. *Id.* The agency determined that Appellant was eligible for a special enrollment period beginning January 29, 2015. *Id.*
5. On March 17, 2015, Appellant enrolled in a QHP with HealthPartners. *Exhibit 2*. On April 10, 2015, MNsure sent Appellant's enrollment to HealthPartners for May 1, 2015 coverage. *Id.*
6. On April 14, 2015, Appellant called the agency to report that he had previously been told his QHP would be effective April 1, 2015, not May 1, 2015. *Exhibit 2*. The agency reviewed Appellant's special enrollment plan and determined that it erred in notifying HealthPartners that his QHP was effective May 1, 2015. *Id.* On May 12, 2015, the agency sent a correction to HealthPartners to change Appellant's effective date to April 1, 2015. *Id.*
7. MNsure has established a policy that when an individual qualifies for a special enrollment period due to loss of minimum essential coverage, his QHP enrollment is effective the

¹ Appeal Request Form, Exhibit 1; MNsure Appeals Memorandum with attachments, Exhibit 2.

first day of the month following the date he selected a QHP. *Exhibit 2*.

8. Appellant requests that his enrollment in the QHP begin on May 1, 2015 instead of April 1, 2015. *Appellant Testimony*. Because he did not receive confirmation that his coverage would begin April 1, 2015 until May 12, 2015, he did not get prescriptions filled or seek medical services in April 2015. *Id.*

APPLICABLE LAW

9. 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)*.

10. 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.

11. 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. §155.410(a)(2)*. The initial open enrollment period began October 1, 2013 and extended through March 31, 2014. *45 C.F.R. §155.410(b)*. For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014, and extended through February 15, 2015. *45 C.F.R. §155.410(e)*.

12. *45 C.F.R. § 155.420(d)* sets forth the special enrollment period criteria. The Exchange must allow a qualified individual or enrollee to enroll in or change from one QHP to another if:

- 1) the qualified individual or his or her dependent loses minimum essential coverage;
- 2) the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care;
- 3) An individual, who was not previously a citizen, national, or lawfully present individual gains such status;
- 4) A qualified enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer,

employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange;

- 5) An enrollee adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- 6) An individual is determined newly eligible or newly ineligible for advance payments of the premium tax credit or has a change in eligibility for cost-sharing reductions, regardless of whether such individual is already enrolled in a QHP;
- 7) A qualified individual or enrollee gains access to new QHPs as a result of a permanent move;
- 8) An Indian, as defined by section 4 of the Indian Health Care Improvement Act, may enroll in a QHP or change from one QHP to another one time per month; and
- 9) A qualified individual or enrollee demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide.

13. The date of the loss of coverage is the last day the consumer would have coverage under his or her previous plan or coverage. *45 C.F.R. § 155.420(d)(1)*. Minimum essential coverage is defined in 26 C.F.R. § 136B-2(c) and 26 U.S.C. § 5000A(f)(1) as coverage which is: 1) government sponsored; 2) employer- sponsored; 3) a health plan offered in the individual market within a State; 4) a grandfathered health plan; or 5) other health benefits coverage.

14. Except as specified in paragraphs (b)(2) and (3) of this section, for a QHP selection received by the Exchange from a qualified individual—

- (i) Between the first and the fifteenth day of any month, the Exchange must ensure a coverage effective date of the first day of the following month; and
- (ii) Between the sixteenth and the last day of any month, the Exchange must ensure a coverage effective date of the first day of the second following month.

45 C.F.R. §155.420(b)(1).

15. Subject to the Exchange demonstrating to HHS that all of its participating QHP issuers agree to effectuate coverage in a timeframe shorter than discussed in paragraph (b)(1) or (b)(2)(ii) of this section, the Exchange may do one or both of the following for all applicable individuals:

- (i) For a QHP selection received by the Exchange from a qualified individual in accordance with the dates specified in paragraph (b)(1) or (b)(2)(ii) of this section, the Exchange may provide a coverage effective date for a qualified individual earlier than specified in such paragraphs.
- (ii) For a QHP selection received by the Exchange from a qualified individual on a date set by the Exchange after the fifteenth of the month, the Exchange may provide a coverage effective date of the first of the following month.

45 C.F.R. §155.420(b)(3).

16. If a consumer loses coverage as described in paragraph (d)(1) or (d)(6)(iii) of this section, if the plan selection is made on or before the day of the triggering event, the Exchange must ensure that the coverage effective date is on the first day of the month following the loss of coverage. *45 C.F.R. § 155.420(b)(2)(iv)*. If the plan selection is made after the loss of coverage, the Exchange must ensure that coverage is effective in accordance with paragraph (b)(1) of this section or on the first day of the month following plan selection, at the option of the Exchange. *Id.*

CONCLUSIONS OF LAW

17. This appeal was started within the allowed time limits under 45 C.F.R §155.520(b) in that it was filed within 90 days of Appellant's enrollment in a QHP and the agency's determination of the effective date of her coverage.

18. There is no dispute that Appellant qualifies to enroll in a qualified health plan due to being eligible for a special enrollment period. There is also no dispute that Appellant submitted his QHP selection to MNsure on March 17, 2015. Because Appellant submitted his selection of a health plan between the 16th and last day of the month, the MNsure agency is required to ensure a coverage effective date of the first day of the second following month, which would be May 1, 2015 in this case. However, Appellant qualified for a special enrollment period due to his loss of minimum essential coverage. The evidence shows that he lost minimum essential coverage on January 29, 2015. Therefore, he selected a plan after the loss of coverage. The federal regulations allow the MNsure agency to provide a coverage effective date of the first of the month following the selection of a plan, which would be April 1, 2015 in this case. MNsure has a uniform policy that an enrollment during a special enrollment period because of loss of minimum essential coverage is effective the first day of the month after the date of enrollment. Therefore, the agency did not err in providing an April 1, 2015 effective date based on Appellant's enrollment on March 17, 2015. As a result, I recommend the agency be affirmed in its determination that Appellant was enrolled in a QHP effective April 1, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the MNsure agency's determination that Appellant was eligible to enroll in a qualified health plan effective April 1, 2015.

Renee Ladd
Appeals Examiner

Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopts the Appeals Examiner's findings of fact, conclusions of law and order as the agency's final decision.

Date

cc: [REDACTED] Appellant
Michael Turpin, MNsure General Counsel

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 this decision, 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.
- **Start an appeal in the district court.** This is a separate legal proceeding that you must start *within 30 days of the date of this decision*. You start this proceeding by serving a written copy of a notice of appeal upon MNsure and any other adverse party of record, and filing the original notice and proof of service with the court administrator of the county district court. The law that describes this process is Minnesota Statute § 62V.05, subdivision 6(e)-(i).