



**DECISION OF  
MNSURE BOARD  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: Qualified Health Plan (QHP)  
Agency: MNSure Board  
Docket: 163939

On July 2, 2015, Appeals Examiner Christopher Cimafranca held an evidentiary hearing under 42 United States Code §18081(f) and Minnesota Statutes, §62V.05, subdivision 6(a).

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 correctly determined that the Appellant was not eligible to enroll in a Qualified Health Plan (QHP) because she failed to enroll in a health plan during the special enrollment period, beginning March 1, 2015 through April 30, 2015, for individuals who received a tax penalty for not having health insurance in 2014.

## FINDINGS OF FACT

1. On March 4, 2015, the Agency issued a news release explaining that consumers who had a tax penalty for not having health insurance in 2014 were eligible for a special enrollment period beginning March 1, 2015 through April 30, 2015. *Exhibit 1; Exhibit 3.* The Agency required the applicants to enroll in a health plan by April 30, 2015. *Exhibit 3.*

2. On April 27, 2015, the Appellant applied for health coverage on the MNsure website because she heard of the special enrollment period described above. *Testimony of Appellant.* After completion of the application, the website instructed the Appellant to contact the Agency for a special enrollment eligibility determination. *Exhibit 1.*

3. On April 28, 2015, the Appellant called the Agency. *Exhibit 1.* She attested to an Agency representative that she received a tax penalty. *Exhibit 1.* The Agency determined that the Appellant was eligible for the special enrollment period. *Exhibit 1.* The Agency representative told the Appellant that she needed to enroll in a plan. *Exhibit 1.* The Appellant stated that she would follow up with the individual carriers and would call back to enroll. *Exhibit 1.*

4. On May 27, 2015, the Appellant called the Agency so she could enroll in a qualified health plan. *Testimony of Appellant; Exhibit 1.* The Agency determined that the Appellant was no longer eligible to enroll in a health plan. *Exhibit 1.*

5. On May 27, 2015, the Appellant filed an appeal with the Appeals Office. *Exhibit 1.*

6. On July 2, 2015, Appeals Examiner Christopher Cimafranca held an evidentiary hearing by telephone conference. The record was closed at the conclusion of the hearing, consisting of three exhibits.<sup>1</sup>

7. The Appellant claims that she was told by an Agency representative that she

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<sup>1</sup> State Agency Appeals Summary, Exhibit 1; Appeal Request, Exhibit 2; MNsure announcement of the special enrollment period for not enrolling in coverage in 2014, Exhibit 3.

had until June 1, 2015 to enroll in a qualified health plan. *Testimony of Appellant*. I find that the Appellant was not told this by an Agency representative.

8. The Appellant also claims that she was unable to enroll in a health plan by April 30, 2015 because she was in the process of moving as a result of a home fire in December 2014. *Testimony of Appellant*.

### CONCLUSIONS OF LAW

1. I conclude that this appeal was started within the allowed time limits under 45 C.F.R. §155.520(b).

2. 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 Statutes § 62V.05, subdivision 6.

3. 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)*.

4. 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. §155.410(e)*.

5. However, the Exchange must allow qualified individuals and enrollees to enroll in or change from one QHP to another as a result of the following triggering events:

- (1) A qualified individual or dependent loses minimum essential coverage;
- (2) A qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption or placement for adoption;
- (3) An individual, who was not previously a citizen, national, or lawfully present individual gains such status;
- (4) A qualified individual's 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. In such cases, the Exchange may take such action as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction;
- (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. The Exchange must permit individuals whose existing coverage through an eligible employer-sponsored plan will no longer be affordable or provide minimum value for his or her employer's upcoming plan year to access this special enrollment period prior to the end of his or her coverage through such eligible employer-sponsored plan;

(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.

*45 C.F.R. §155.420(d).*

6. The MNsure Board established a special enrollment period for consumers who received a tax penalty in 2014. *Exhibit 3*. Under this special enrollment period, consumers were allowed to apply and enroll in a qualified health plan from March 1, 2015 through April 30, 2015. *Exhibit 3*.

7. In this case, the record establishes that the Appellant did not enroll in a plan by April 30, 2015. It is doubtful that the an Agency representative told the Appellant that she had until June 1, 2015 to enroll in a plan. In addition, the greater weight of the evidence does not show that the Appellant meets the other triggering events described above. I conclude that the move due to the house fire in December 2014, which was three months before the application, was not an exceptional circumstance. Therefore, I recommend affirming the Agency's determination that the Appellant is not eligible to enroll in a health plan.

### RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board AFFIRM the Agency's determination that the Appellant is not eligible to enroll in a qualified health plan.

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Christopher Cimafranca  
Appeals Examiner

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Date

ORDER OF THE MNSURE BOARD

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNSure Board adopts the Appeals Examiner's recommendation as the final decision.

FOR THE MNSure Board:

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\_\_\_\_\_ 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](http://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).