



**DECISION OF  
AGENCY ON  
APPEAL**

In the Appeal of: [REDACTED]  
For: Qualified Health Plan  
Agency: MNsure Board  
Docket: 164049

On July 8, 2015, Appeals Examiner Jonathan R. Hall held an evidentiary hearing under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED] Appellant.<sup>1</sup>  
[REDACTED] Appellant's Witness

Based on the evidence in the record and considering the arguments of the parties, the human services judge recommends the following findings of fact, conclusions of law, and order.

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<sup>1</sup> Both the MNsure and Department of Human Services agencies were provided with a copy of the Notice and Order for Hearing, but no representative from either agency appeared.

## STATEMENT OF ISSUES

Whether the MNsure Board (“Agency”) properly determined that the Appellant was ineligible to enroll in a Qualified Health Plan (QHP) because the open enrollment period had ended and the appellant was ineligible for a special enrollment period.

## FINDINGS OF FACT

1. On March 31, 2015, the Appellant applied for health insurance as a household of one person. The MNsure eligibility system advised Appellant that her household was eligible for a qualified health plan and \$0.00 in tax credits. The Appellant challenged this action by filing an appeal with the MNsure Agency on May 29, 2015. *Exhibit 1.*

2. Appeals Examiner Jonathan R. Hall scheduled an evidentiary hearing via telephone conference on July 1, 2015, then rescheduled it until July 8, 2015 for the Appellant’s benefit. The record, consisting of four exhibits,<sup>2</sup> was closed at the end of the hearing.

3. On March 10, 2015, the Appellant moved to Minnesota from California. *Exhibit 4; Appellant Testimony.*

4. On March 31, 2015, the Appellant applied for health insurance on the Agency’s website. She was told by agency staff to wait one week, and then call Hennepin County to verify her application. *Exhibit 4; Appellant Testimony.*

5. On April 13, 2015, the Appellant was informed by Hennepin County that she was “active with MN Care” and needed to contact the member help desk for further information. She did not know what to do. *Exhibit 4; Appellant Testimony.*

6. On April 16, 2015, the Appellant was informed by someone at the member help desk that the Agency was waiting for income verification. She sent a letter with her paystubs to MN Care. *Exhibit 4; Appellant Testimony.*

7. On May 29, 2015, the Appellant called the Agency and was advised that she was not eligible for a special enrollment period. *Exhibit 2.* She was able to review the QHPs available, but the system would not allow her to choose a plan. Further, she could not afford any of the QHPs. The Appellant contended that she informed the Agency during that phone call that she may have employer sponsored insurance available to her beginning on July 1, 2015 but was concerned about a possible tax penalty for not having insurance between April 1, 2015 and July 1, 2015. The Agency suggested that the

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<sup>2</sup> Exhibit 1 (Appeal); Exhibit 2 (MNsure Agency Appeals Summary); Exhibit 3 (DHS Appeals Summary); Exhibit 4 (Appellant Chronology).

Appellant initiate an appeal. *Exhibit 4; Appellant Testimony.*

8. The Agency's only record of the Appellant contacting it was on May 29, 2015. *Exhibit 2.*

### CONCLUSIONS OF LAW

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

10. The MNsure Board has legal authority to review Appellant's household's eligibility for a QHP. *45 C.F.R. § 155.400.*

11. ***Special Enrollment Period; General Rule.*** The Agency must allow a qualified individual to enroll in a QHP who experiences a triggering event. A qualified individual has 60 days from the date of a triggering event to select a QHP. *45 C.F.R. § 155.420(d); 45 C.F.R. § 155.420(c)(1).*

12. ***Special Enrollment Period; Agency Error.*** The Agency must allow a qualified individual to enroll in a QHP who experiences a triggering event, including when the qualified individual's non-enrollment in a QHP is the result is unintentional, inadvertent, or erroneous and is the result of error, misrepresentation or inaction of the Agency. In such cases, the Agency may take such action as may be necessary to correct or eliminate the effects of such error, misrepresentation or inaction. *45 C.F.R. § 155.420(d)(4).*

13. ***Special Enrollment Period; Permanent Move.*** The Agency must allow a qualified individual to enroll in a QHP who experiences a triggering event, including when the qualified individual gains access to a QHP as a result of a permanent move. *45 C.F.R. § 155.420(d)(7).*

14. ***2014 Tax Penalty Special Enrollment Period.*** On March 4, 2015, the Agency announced through a press release that Minnesotans who are subject to a tax penalty for not having 2014 health coverage, and who did not enroll during the 2015 open enrollment period,<sup>3</sup> were eligible to enroll in a QHP during the 2014 tax penalty special enrollment period, which ran from March 1, 2015 through April 30, 2015. *Paying a Penalty for Not Enrolling in Coverage in 2014? Special Enrollment Period for 2015 Coverage Began March 1: MNsure Website (2015), <http://www.mnsure.org/news-room/news/news-detail.jsp?id=486-158034> (last visited August 24, 2015).*

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<sup>3</sup> The 2015 open enrollment period ran from November 15, 2014 through February 15, 2015.

15. In this case, the Appellant applied for a QHP on March 31, 2015 after moving to Minnesota from California on March 10, 2015. Her move is a triggering event which made her eligible for a special enrollment period to select a QHP beginning March 10, 2015 through May 9, 2015. She did not specifically request a special enrollment period for a permanent move, and the evidence is unclear whether she informed the Agency that she had recently moved to Minnesota, which would have put the Agency on notice that she was eligible for a special enrollment period. For these reasons, I conclude that the Appellant failed to request a special enrollment period based on a permanent move. Further, I can find no error on the Agency's part which resulted in the Appellant's non-enrollment in a QHP on the basis of a permanent move. Therefore, I conclude that the Appellant was not eligible for a special enrollment period on the basis of her move to Minnesota. With respect to the Appellant's eligibility for a special enrollment period based on the 2014 Tax penalty special enrollment period, the preponderant evidence supports a conclusion that she is not eligible because she did not choose a QHP by April 30, 2015. By the time the Appellant called the Agency on May 29, 2015, the special enrollment period had ended. Based on the facts of this case, I must conclude that the Agency correctly denied the Appellant's request for a special enrollment period, either on the basis of a permanent move, Agency error, or the 2014 tax penalty special enrollment period. Therefore, the Agency's decision should be affirmed.

#### RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board AFFIRM the Agency's determination that the Appellant was ineligible for a special enrollment period.

/s/ Jonathan R. Hall  
Jonathan R. Hall  
Appeals Examiner

August 28, 2015  
Date

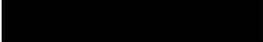
ORDER

IT IS THEREFORE ORDERED THAT:

FOR THE MNSURE BOARD as to any effect the decision has on Appellant's eligibility through MNSure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program.

/s/ AmyLynne Hermanek  
AmyLynne Hermanek  
Co-Chief Human Services Judge

August 31, 2015  
Date

cc:  Appellant  
Michael Turpin, MNSure General Counsel  
DHS 0838, Teresa Saybe

## **FURTHER APPEAL RIGHTS**

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 **Advanced 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 855-889-34325); or by downloading the appeals form for Minnesota from the appeals landing page on [www.healthcare.gov](http://www.healthcare.gov).
- **Seek judicial review** to the extent it is available by law.