



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: ██████████
For: Qualified Health Plan
Agency: MNSure Board
Docket: 164055

On June 29, 2015, Appeals Examiner Ngoc Nguyen held an evidentiary hearing by telephone conference under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a).

The following persons appeared at the hearing:

██████████, 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 the Appellant's Qualified Health Plan as provided in the Affordable Care Act and its policies.

FINDINGS OF FACT

1. On June 29, 2015, Appeals Examiner Ngoc Nguyen held an evidentiary hearing by telephone conference. The record was left open until July 13, 2015 in order to allow Appellant an opportunity to submit a letter from the insurance agency and MNsure to respond to the new information. On July 13, 2015, the record closed and a total of five exhibits¹ were collected into record.
2. On April 3, 2015, Appellant applied for health care coverage as household of five. *Exhibit 1.* MNsure determined that Appellant met the eligibility requirements for a qualified health plan (QHP) pending a report of a triggering event to qualify for a special enrollment period. *Id.* The agency sent Appellant an eligibility notice on April 3, 2015. *Id.*
3. Appellant contacted MNsure on April 6, 2015 and reported the loss of employer-sponsored insurance on April 30, 2015. *Exhibit 1.* Based on this information, MNsure determined Appellant eligible for special enrollment. MNsure confirmed Appellant enrolled in a qualified health plan on April 3, 2015. MNsure records show that Appellant's enrollment was sent to the carrier on May 8, 2015. *Id.*
4. On April 20, 2015, Appellant contacted MNsure regarding the status of her enrollment start date. The agency informed her that her enrollment start date is effective May 1, 2015 because she enrolled in a qualified health plan on April 3, 2015 and lost employer-sponsored insurance on April 30, 2015. *Exhibit 1, See Call log notes.*
5. On May 4, 2015, Appellant contacted MNsure and reported that she had not received insurance cards and her insurance was to start May 1, 2015. *Exhibit 1, See Call log notes.* Appellant reported that Blue Cross Blue Shield, the provider, did not have any information of coverage. The agency informed her that it takes time for the provider to process the information and that her health care coverage was effective May 1, 2015. *Id.*
6. Appellant does not dispute that she applied for health care coverage April 3, 2015 and chose a plan on that date. *Testimony of Appellant.* Appellant argued that the agency only told her that she "should be covered;" however she did not receive any documentation or insurance cards in the mail. She contacted Blue Cross Blue Shield (BCBS) and they did not have

¹ Exhibit 1 – MNsure Appeals Summary with attachments; Exhibit 2 – Appellant's appeal and letter; Exhibit 3 – Fairview Letter; Exhibit 4 – Email exchange between the provider and Appellant, Letter from provider; Exhibit 5 – Response from MNsure.

record of her coverage. In mid-May, (BCBS) was able to verify that Appellant was in their system. On May 19, 2015, BCBS sent Appellant a letter informing her that before BCBS can make a determination of eligibility of coverage, BCBS needed documents to show that she qualified for special enrollment. *Exhibit 4*. On May 26, 2015, BCBS informed Appellant via email that questions regarding the effective date should be directed to MNsure. *Id.*

7. Appellant reported that her husband's mother passed away in April 2015 and wanted to use counseling services; however he put them off because the family was unsure whether they were covered. *Testimony of Appellant; Exhibit 2*. Appellant postponed her children's doctor visits for the same reason. Appellant pays \$1308.12 per month for health care for the family. Appellant does not feel that she should pay for the premium for the month of May 2015 because she did not use it and there was confirmation that the family was insured. At that time, BCBS was still determining eligibility for coverage. *Id.*

8. After receiving Appellant's evidence from BCBS, the agency argued that the May 19, 2015 letter from BCBS requesting documentation was a routine eligibility verification letter. BCBS must verify that Appellant qualified for special enrollment. The agency argued that the letter does not state that Appellant did not have coverage. *Exhibit 5*. The agency asserted that only MNsure has the authority to determine the effective date in a QHP.

CONCLUSIONS OF LAW

1. 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)*. Appellant filed an appeal within the time frame.

2. 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.

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. §155.400(a)(2)*. Enrollment must begin the first day of the following month if a qualified health plan is selected between the first and the fifteenth day of the any month. *45 C.F.R. § 155.420(b)(i)*.

4. The Exchange must allow a qualified individual or enrollee, to enroll in or change

from one QHP to another via a special enrollment period if a triggering event occurs, including among other things, the qualified individual or his or her dependent loses minimum essential coverage. *45 C.F.R. §155.420(d)*. The effective date is the first day of the month after the person selects his or her plan if the plan selection is made on or before the day of the triggering event, such as a loss of coverage. *45 C.F.R. §155.420 (b)(2)(iv)*.

5. There is no dispute that Appellant qualified to enroll in a qualified health plan due to being eligible for special enrollment. There is also no dispute that Appellant submitted her application for health care coverage to MNsure on April 3, 2015 and selected a plan. The MNsure policy for people applying in a special enrollment period requires coverage the first of the month after the applicant selects a plan if the plan selection is made on or before the day of the triggering event. If the plan selection is made on or before the day of the triggering event, then the effective date is the first day of the month after the person selects a plan. As such, MNsure was obligated by federal law to ensure QHP coverage effective May 1, 2015 as the triggering event was April 30, 2015 and Appellant had selected a plan on April 3, 2015. This policy is clearly designed to benefit people in the Appellant’s position that need coverage quickly due to the loss of minimal health insurance coverage. It is unfortunate that Appellant did not receive her insurance cards until the end of May; however had Appellant incurred medical expenses during this period, she would have been insured. The evidence shows that the agency informed Appellant that the effective date was May 1, 2015. For these reasons, the agency correctly determined the effective date of Appellant’s coverage to be May 1, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency’s determination of the qualified health plan effective date as May 1, 2015.

Ngoc Nguyen
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.

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.
- **Seek judicial review** to the extent it is available by law.