



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Advance Payment of a Premium Tax Credit
MinnesotaCare
Medical Assistance
Agency: MNsure Board
Minnesota Department of Human Services
Docket: 165441

On August 18, 2015, Appeals Examiner Christopher Cimafranca held an evidentiary hearing under 42 United States Code §18081(f) and Minnesota Statute §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 ISSUES

Whether the Appellant is entitled to child support deductions in the calculation of his modified adjusted gross income for the purpose determining his eligibility for MinnesotaCare, Medical Assistance, and advance payment of a premium tax credit.

Whether the Minnesota Department of Human Services correctly determined that the Appellant is ineligible for Medical Assistance and MinnesotaCare.

Whether the MNsure Board correctly determined that the Appellant is ineligible for advance payment of a premium tax credit.

FINDINGS OF FACT

1. On May 4, 2015, the Appellant applied for health coverage. *Exhibit 1.*

2. By Health Care Notice dated June 12, 2015, the Appellant was informed that he was ineligible for Medical Assistance and MinnesotaCare and that he was ineligible for advanced payment of a premium tax credit. *Exhibit 1.*

3. The Minnesota Department of Human Services determined that the Appellant was ineligible for MinnesotaCare and Medical Assistance because his household income was above the income limit for a household size of one. *Exhibit 1.*

4. The MNsure Board determined that the Appellant was eligible to enroll in a qualified health plan with zero advance payment of a premium tax credit because the second lowest cost silver level plan in the Appellant's zip code was less than the Appellant's affordability amount. *Exhibit 1.*

5. The Appellant filed an appeal on July 15, 2015 because he wants his child support payments to be deducted from his modified adjusted gross income (MAGI). *Exhibit 2.* The Appellant believes it is unfair that alimony is allowed as a deduction but not child support. *Testimony of Appellant.*

6. On August 18, 2015, Appeals Examiner Cimafranca held an evidentiary hearing via telephone conference. The record was closed at the conclusion of the hearing consisting of two exhibits (MNsure Memorandum and State Agency Appeal Summary, Exhibit 1 and Appeal Request, Exhibit 2).

7. The Appellant was born on [REDACTED]. *Exhibit 1.* The Appellant has a household size of one. *Exhibit 1.* He lives with his fiancée and their two children. *Exhibit 1.* The Appellant's fiancée claims the children as tax dependents. *Exhibit 1.*

8. The Appellant's projected annual income is \$39,415.48 in 2015. *Testimony of*

Appellant; Exhibit 1. He pays approximately \$586.00 bi-weekly in child support for his other children. *Testimony of Appellant.* The Appellant lives in ██████████ County with a zip code of ██████████. *Exhibit 1.* The second-lowest silver level plan in this zip code costs \$206.69 per month. *Exhibit 1.*

9. The Appellant's affordability amount is \$315.32 per month, the maximum premium the Appellant would be required to pay. *Exhibit 1.* MNsure arrived at this amount by multiplying the Appellant's income by the applicable percentage (9.56%) and dividing the product by 12 months. *Exhibit 1.* MNsure determined that the Appellant's applicable percentage was 9.56 based on his calculated federal poverty level of 337.75%. *Exhibit 1*

CONCLUSIONS OF LAW

1. This appeal was started within the allowed time limits under Minnesota Statutes, § 256.045, subdivision 3(h) and 45 C.F.R §155.520(b).

2. The Commissioner of the Minnesota Department of Human Services has authority to review Appellant's household's eligibility for Medical Assistance and MinnesotaCare under Minnesota Statutes, § 256.045, subdivision 3, and the MNsure Board has legal authority to review Appellant's household's eligibility for premium assistance and cost sharing under Minnesota Statutes, § 62V.05, subdivision 6.

3. The state laws about MinnesotaCare are set forth in Minnesota Statutes, Chapter 256L. Federal regulations concerning eligibility for advance payment of a premium tax credit are found at 45 C.F.R. §155.305(f)(1) and 26 C.F.R §1.36B-2.

4. MinnesotaCare and Advanced Premium Tax Credit (APTC) eligibility is determined using the Modified Adjusted Gross Income (MAGI) income methodology. *Minn. Stat. § 256L.01, subd. 5; 42 C.F.R. § 155.305; 26 C.F.R. §1.36B-1(e)(2).* Household income calculated using the MAGI income methodology includes the types of income included in adjusted gross income with the following additions: nontaxable foreign earned income and housing cost of citizens or residents of the United States living abroad; nontaxable interest income; and nontaxable Social Security and tier one railroad retirement benefits. *26 C.F.R. §1.36B-1(e)(2).*

5. The state laws about Medical Assistance are set forth in Minnesota Statutes, Chapter 256B. Income eligibility for Medical Assistance (MA) for Families with Children and Adults is determined based on the Modified Adjusted Gross Income (MAGI) income methodology. *Minn. Stat. § 256B.056, subd. 1a(b)(1).* This income methodology includes much of the same income types as the MAGI income methodology, but is different in the following ways: lump sum income is counted in the month received; scholarships, awards or fellowship grants used for education purposes and not for living expenses is excluded; and certain American Indian/Alaska Native income is excluded. *42 C.F.R. § 435.603(e).*

6. Adjusted gross income means, in the case of an individual, gross income minus the following deductions:

- Educator expenses
- Certain business expenses of reservists, performing artists and fee-basis government officials
- Health savings account
- Moving expenses
- Deductible portion of self-employment tax
- Self-employed Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees (SIMPLE) and qualified plans
- Self-employed health insurance
- Penalty on early withdrawal of savings
- Alimony paid (spousal support)
- IRA deduction
- Student loan interest
- Tuition and fees
- Domestic production activities

26 U.S.C. § 62

Income Standard for Medical Assistance

7. To be eligible for Medical Assistance an adult without children may have income up to 133% of the federal poverty guidelines (FPG) for the household size. *Minn. Stat. § 256B.056, subd. 4(c)*. An additional 5% FPG disregard is applied to the actual FPG percentage of pregnant women, infants, children younger than age 21, parents and relative caretakers, and adults without children when the applicant's income standard and the 5% FPG disregard allow the person to qualify for MA for Families with Children and Adults. *Minn. Stat. § 256B.056, subd. 1a(b)(2)*.

8. Effective July 1, 2014 through June 30, 2015, for an individual with a household size of one, 100% of the FPG is \$973.00 or \$11,670.00 annually and 133% of the FPG is \$15,521.00 annually or \$1,293.00 monthly. *Federal Register, Vol. 79, No. 14, January 22, 2014, p. 3593; Minnesota Department of Human Services Health Care Programs Manual, Chapter 22.05.05*.

9. Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size. *42 C.F.R. 435.603(h)(1)*.

Income Standard for MinnesotaCare

10. To be eligible for MinnesotaCare, a person must have income equal to or less than 200% FPG and be ineligible for MA. *Insurance Affordability Programs Manual 500.15.05; Minn. Stat. § 256L.04, subd. 1*. In 2015, 200% of the FPG for a household size of one is \$23,340.00 annually. *Insurance Affordability Programs Manual, Income Standards for MinnesotaCare; Federal Register, Vol. 79, No. 14, January 22, 2014, p. 3593*.

Premium Assistance

11. Federal regulations concerning eligibility for advance payment of a premium tax credit are found at 45 C.F.R. §155.305(f)(1) and 26 C.F.R. §1.36B-2.

12. A taxpayer's premium assistance credit amount for a taxable year is the sum of the premium assistance amounts determined under 26 C.F.R. §1.36B-3(d) for all coverage months for individuals in the taxpayer's family. 26 C.F.R. §1.36B-3(a).

13. The premium assistance amount for a coverage month is the lesser of: (1) the premiums for the month for one or more qualified health plans in which a taxpayer or a member of the taxpayer's family enrolls through the Exchange; or (2) the excess of the adjusted monthly premium for the applicable benchmark plan (second lowest-cost silver plan) over 1/12 of the product of a taxpayer's household income and the applicable percentage for the taxable year. 26 C.F.R. §1.36B-3(d).

14. The adjusted monthly premium is the premium an insurer would charge for the applicable benchmark plan to cover all members of the taxpayer's coverage family, adjusted only for the age of each member of the coverage family as allowed under section 2701 of the Public Health Service Act (42 U.S.C. 300GG). 26 C.F.R. §1.36B-3(e). The adjusted monthly premium is determined without regard to any premium discount or rebate under the wellness discount demonstration project under 2705(d) of the Public Health Service Act, and may not include any adjustments for tobacco use. *Id.*

15. The applicable benchmark plan for each coverage month is the second lowest-cost silver plan as described in section 1302(d)(1)(B) of the Affordable Care Act offered through the Exchange for the rating area where the taxpayer resides. 26 C.F.R. §1.36B-3(f). The applicable benchmark plan provides self-only or family coverage. *Id.* Self-only coverage is for a taxpayer: (1) who computes tax under 26 U.S.C. §1(c) (meaning unmarried individuals other than surviving spouses and heads of household) and is not allowed a deduction under section 151 for a dependent for the taxable year; (2) who purchases only self-only coverage for one individual; or (3) whose coverage family includes only one individual. 26 C.F.R. §1.36B-3(f)(1)(i). Family coverage is for all other taxpayers. 26 C.F.R. §1.36B-3(f)(1)(ii). The applicable benchmark plan for family coverage is the second lowest cost silver plan that applies to the members of the taxpayer's coverage family (such as a plan covering two adults if the members of a taxpayer's coverage family are two adults). 26 C.F.R. §1.36B-3(f)(2).

16. The applicable percentage multiplied by taxpayer's household income determines the taxpayer's required share of premiums for the benchmark plan. 26 C.F.R. §1.36B-3T(g)(1). This required share is divided by 12 and this monthly amount is subtracted from the adjusted monthly premium for the applicable benchmark plan when computing the premium assistance amount. *Id.* There are several steps to calculate the applicable percentage. First, the percentage that the taxpayer's household income bears to the federal poverty line for the taxpayer's family size needs to be determined. *Id.* Second, the resulting federal poverty line percentage is compared to the income categories described in the table in 26 C.F.R. §1.36B-3(g)(2) (or successor tables). *Id.* Third, an applicable percentage within an income category increases on a sliding scale in a linear

manner, and is rounded to the nearest one-hundredth of one percent. *Id.* The applicable percentage table is:

Household income percentage of federal poverty line	Initial percentage	Final percentage
Less than 133%	2.01	2.01
At least 133% but less than 150%	3.02	4.02
At least 150% but less than 200%	4.02	6.34
At least 200% but less than 250%	6.34	8.10
At least 250% but less than 300%	8.10	9.56
At last 300% but less than 400%	9.56	9.56

26 C.F.R. §1.36B-3T(g)(1); Rev. Proc. 2014-37 .

17. I recognize that it seems unfair that child support payments are not allowed deductions. However, the law is clear on this and it must be applied as it is written. The record establishes that the Appellant does not meet the income standards and is ineligible for Medical Assistance, MinnesotaCare, and advanced payment of a premium tax credit. Therefore, the determinations should be affirmed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency’s denial of eligibility for advanced payment of a Premium Tax Credit as provided in the Affordable Care Act effective January 1, 2014.
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant is not eligible for Medical Assistance and MinnesotaCare.

/s/ Christopher Cimafranca
Christopher Cimafranca
Appeals Examiner

September 25, 2015
Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNSure Board and the Commissioner of the Minnesota Department of Human Services adopt the Appeals Examiner's findings of fact, conclusions of law and order as each agency's final decision.

FOR THE COMMISSIONER OF HUMAN SERVICES as to any effect the decision has on Appellant's eligibility for Medical Assistance and/or MinnesotaCare benefits.

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/ Inta M. Sellars
Inta M. Sellars
CO-Chief Human Services Judge

September 28, 2015
Date

cc: [REDACTED] Appellant
MNSure General Counsel
Teresa Saybe, Minnesota Department of Human Services

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.
- **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).

If you disagree with the 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*. You may also fax the request to (651) 431-7523.
- **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 the Commissioner 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 § 256.045, subdivision 7.