DECISION
OF AGENCY
ON APPEAL

In the Appeal of: [redacted]

For: Qualified Health Plan

Agency: Minnesota Department of Human Services
MNsure Board

Docket: 166338

On September 29, 2015, Appeals Examiner Jonathan R. Hall 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 people appeared at the hearing:

[redacted], Appellant[1]
Mubarek Abdi, MNsure Representative

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.

[1] 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 ("MNsure") properly determined to terminate Appellant's eligibility for a qualified health plan effective June 1, 2015 because Appellant requested the action.

FINDINGS OF FACT

1. On December 7, 2014, the MNsure eligibility system advised Appellant that she was not eligible for Medical Assistance and MinnesotaCare benefits, but that she was eligible for an advance payment of a premium tax credit of $80.00. Appellant challenged this action by filing an appeal on August 11, 2015. *Exhibit 1.*

2. On September 29, 2015, Appeals Examiner Jonathan R. Hall held an evidentiary hearing via telephone conference. The record, consisting of two exhibits,[2] was closed at the end of the hearing.

3. On her December 7, 2014 application, Appellant's attested to a 2015 projected annual household income of $37,200, and that she files taxes jointly with [redacted]. *Exhibit 2; M. Abdi Testimony.*

4. On December 7, 2014, Appellant selected a qualified health plan (QHP) through Blue Cross Blue Shield (BCBS). MNsure determined that her coverage would be effective on January 1, 2015. *Exhibit 2; M. Abdi Testimony.*

5. On July 7, 2015, Appellant reported the birth of her daughter [redacted] on [redacted] to MNsure. *Exhibit 2; M. Abdi Testimony.*

6. On July 21, 2015, Appellant the birth of her daughter to the Minnesota Department of Human Services (DHS). DHS determined that [redacted] was eligible for Medical Assistance and that Appellant and [redacted] were eligible for MinnesotaCare coverage. *Exhibit 2; M. Abdi Testimony.*

7. On August 11, 2015, Appellant contacted MNsure and requested that it terminate her QHP effective June 1, 2015. MNsure informed Appellant that it could not terminate her QHP effective June 1, 2015 because Appellant did not request termination until August 11, 2015. MNsure determined to terminate the appellant's QHP effective September 1, 2015. MNsure contended that Appellant's QHP termination date was governed by federal laws which require that, if a QHP enrollee does not provide 14 days prior notice to MNsure to terminate her QHP, MNsure must terminate the QHP effective 14 days after the enrollee requests termination. Since Appellant's request for termination did not provide 14 days prior notice, MNsure terminated her QHP 14 days after her request, on August 25, 2015. *Exhibit 2; M. Abdi Testimony.*

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[2] Exhibit 1 (Appeal); Exhibit 2 (MNsure Appeals Memorandum/Summary).

8. Appellant contended at the hearing that she contacted BCBS on June 30, 2015 to report the birth of her child but had to leave a voice message. Appellant did not hear back from BCBS until July 7, 2015, when she received a voice message informing her that she had to contact MNsure to initiate termination of her QHP. *Appellant Testimony.*

9. On July 7, 2015, Appellant spoke with MNsure intending to have [redacted] placed on Appellant's QHP. She believed that MNsure was processing the change when she received notice in the mail that [redacted] had been approved for Medical Assistance and Appellant and Mr. [redacted] had been approved for MinnesotaCare. *Appellant Testimony.*

10. Appellant contended that she understood why her QHP could not be terminated effective June 1, 2015, but that MNsure was not clear or transparent on the process it followed in determining the termination date. Appellant paid BCBS premiums in June, July and August 2015 even though her Medical Assistance benefits were approved retroactively to June 1, 2015. Appellant contended that she should be reimbursed for premium payments she made to BCBS for August 2015 because she also paid a MinnesotaCare premium for that month. She believed that her QHP coverage would be terminated automatically when her and her daughter's care was picked up by MinnesotaCare and Medical Assistance, respectively. Had she been made aware that she was responsible to cancel her BCBS coverage, she would have done so when she applied for Medical Assistance for her daughter. *Appellant Testimony.*

CONCLUSIONS OF LAW

11. Federal regulations governing Medical Assistance and Exchange appeals require that, if an individual appeals a determination of eligibility for the advance payment of the premium tax credit or cost sharing reductions, the appeal will automatically be treated as a request for a fair hearing of the denial of eligibility of Medicaid.[3] The reason for this automatically pairing of Medicaid appeals with appeals concerning advance payment of the premium tax credits is to further the goal of providing a streamlined, coordinated appeals process for appellants which avoids the need for the appellant to file multiple appeals with different agencies. *Id.* In Minnesota, Medicaid programs include Medical Assistance and MinnesotaCare.

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

13. ***Termination of QHP enrollment; Enrollee-Initiated Terminations.*** The MNsure Exchange must permit an enrollee to terminate his or her coverage or enrollment in a QHP through the Exchange, including as a result of the enrollee obtaining other minimum essential coverage. *45 C.F.R §155.430(b)(1)(i).*

14. ***Effective Dates for Termination of Coverage.*** In the case of a termination in accordance with paragraph (b)(1) of this section, the last day of enrollment through the Exchange

[3] 45 C.F.R. § 155.510(b)(3); 78 Fed. Reg. 4598 (proposed Jan. 22, 2013) (comments regarding proposed 42 C.F.R. § 431.221(e)); and 78 Fed. Reg. 54096 (Aug. 30, 2013)(comments regarding 45 C.F.R. § 155.510(b)(3)).

is—

(i) the termination date specified by the enrollee, if the enrollee provides reasonable notice;

(ii) fourteen days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice; or

(iii) on a date on or after the date on which the termination is requested by the enrollee, subject to the determination of the enrollee's QHP issuer, if the enrollee's QHP issuer agrees to effectuate termination in fewer than fourteen days, and the enrollee requests an earlier termination effective date. *45 C.F.R §155.430(d).*

15. ***Reasonable Notice.*** Reasonable notice is defined as at least 14 days before the requested effective date of termination. *45 C.F.R §155.430(d)(1)(i).*

16. In this case, the preponderant evidence supports a conclusion that MNsure correctly determined the termination date for Appellant's QHP. Appellant requested termination of her QHP on August 11, 2015, but requested that the termination effective date be retroactive to June 1, 2015. I conclude that Appellant failed to provide reasonable notice, and so MNsure correctly determined to terminate her QHP effective 14 days after her request, or August 25, 2015. Therefore, MNsure's determination should be affirmed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board AFFIRM the determination that Appellant's QHP terminated on August 25, 2015.

_____ _____

Jonathan R. Hall
Appeals Examiner

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 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.

_____ _____

Date

cc: [redacted], Appellant
MNsure General Counsel
Teressa Saybe, Minnesota Department of Human Services - 0838

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.

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
  Fax: (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 notice of appeal upon the other parties and the Commissioner, and filing the original notice and proof of service with the county district court. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.