



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
Agency: MNsure Board
Docket: 166914

On October 1, 2015, Appeals Examiner Mariam P. Mokri 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.

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 MNsure board correctly determined Appellant is ineligible to enroll in a qualified health plan (QHP).

FINDINGS OF FACT

1. On May 21, 2015, MNsure generated an eligibility notice to Appellant. *Exhibit 1*. On August 31, 2015, Appellant filed an appeal with the state agency. *Exhibit 2*. On October 1, 2015, Appeals Examiner Mariam Mokri held an evidentiary hearing via telephone conference. The record was held open for the submission of additional information. On October 9, 2015, the record closed with four exhibits¹.

2. On May 5, 2015, Appellant applied to health coverage through the MNsure system as a family of two. *Exhibit 1*. Appellant reported an income of \$24,000 for 2015. *Id.* MNsure determined Appellant and his son eligible to enroll in QHPs pending the reporting of a triggering event to qualify for a special enrollment period. *Id.* MNsure also determined Appellant and his son were eligible for \$258 per month in tax credits. *Id.* An eligibility notice was generated and mailed on May 21, 2015. *Id.*

3. On July 1, 2015, Appellant contacted MNsure and reported the loss of MinnesotaCare coverage effective January 1, 2014. *Exhibit 1*. MNsure informed Appellant that the loss of MinnesotaCare coverage created a 60 day special enrollment period, which had since long passed. *Id.*

4. Appellant testified that his son lost his coverage under medical assistance (MA) effective March 31, 2015. *Testimony of Appellant*. Appellant is concerned that his son does not have health care right now. *Id.*

5. MNsure responded that the loss of MA also created a 60 day special enrollment period, but a QHP selection had to have been made by May 20, 2015. *Exhibit 4*. Since Appellant did not enroll in a QHP during that timeframe, neither he nor his son are eligible to enroll in a QHP at this time. *Id.*

APPLICABLE 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)*.

2. The MNsure Board has the legal authority to review and decide issues in this appeal regarding Appellant's eligibility through MNsure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options

¹ Exhibit 1: State Agency Appeals Summary – MNsure; Exhibit 2: Appeal to State Agency; Exhibit 3: State Agency Appeals Summary – DHS; Exhibit 4: Addendum to MNsure's Appeal Summary.

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. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues in this appeal regarding Appellant's eligibility for Medical Assistance and MinnesotaCare. *Minn. Stat. § 256.045, subd. 3.* Appeals of premium assistance shall also include a determination regarding medical assistance and MinnesotaCare. *45 C.F.R. § 155.510(b).*

Enrollment Periods

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).* The initial open enrollment period began October 1, 2013 and extended through March 31, 2014. *45 C.F.R. §155.400(b).* 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. §155.400(e).*

4. The Exchange must allow a qualified individual or enrollee, and, when specified below, his or her dependent, to enroll in or change from one QHP to another via a special enrollment period if one of the following triggering events occur:

- a. Loss of minimum essential coverage;
- b. Loss of pregnancy-related coverage;
- c. Loss of medically needy coverage;
- d. Household gains a dependent or becomes a dependent through marriage, birth, adoption, adoption placement, or foster care placement;
- e. Individual becomes a citizen;
- f. Individual's enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of error, misrepresentation, or inaction of a MNsure employee;
- g. Enrollee or dependent adequately demonstrates to MNsure that the QHP they are enrolled in substantially violated a material contract provision;
- h. Change in eligibility for tax credits or cost-sharing reductions;
- i. Qualified individual or dependent obtains a new QHP as the result of a permanent move;

- j. Enrollee is an Indian as defined by the Indian Health Care Improvement Act; or
- k. Enrollee is not enrolled or misenrolled due to misconduct by a non-Exchange entity.

45 C.F.R. § 155.420(d).

5. A triggering event for a special enrollment period is also available to a qualified individual if the enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of the exchange. *45 C.F.R. § 155.420(d)(4).*

6. Special enrollment periods are unavailable to those who voluntarily terminate coverage. *45 C.F.R. § 155.420(e)*

7. Special enrollment periods generally allow a qualified individual 60 days to enroll in a QHP. *45 C.F.R. § 155.420(c).* However, in the case where a qualified individual's non-enrollment is due to error by MNsure, MNsure may determine the length of the special enrollment period, as long as it does not exceed 60 days. *45 C.F.R. § 155.420(c)(3) & (d)(4).*

CONCLUSIONS OF LAW

8. The Commissioner has jurisdiction to hear this appeal pursuant to 45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).

9. In this case, Appellant did have a triggering event for a special enrollment period, namely the loss of his son's MA coverage effective March 31, 2015. Appellant had 60 days within which to enroll in a QHP. While he was found eligible to enroll in a QHP, he did not provide a valid triggering event for a special enrollment period until after the 60 day window had passed. There is no indication that a MNsure error prevented Appellant from providing a triggering event prior to May 30, 2015. MNsure's determination that Appellant is ineligible to enroll in a QHP should be affirmed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency’s determination that Appellant is ineligible to enroll in a QHP at this time as provided in the Affordable Care Act.

Mariam Mokri
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
Michael Turpin, MNsure
Teresa 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 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.
- **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).