



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: Qualified Health Plan

Agency: MNSure Board

Docket: 167558

On October 27, 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
[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 (“MNsure”) properly determined that the effective date of the appellant’s qualified health plan (QHP) was August 1, 2015 because he selected a QHP on July 9, 2015.

FINDINGS OF FACT

1. On July 9, 2015, the appellant applied for health coverage via the MNsure website as a household of three people. On that date, MNsure determined that the appellant that he and his wife, ██████████ were eligible to enroll in a QHP and was eligible for an advance payment of a premium tax credit of \$156.23 per month. The appellant selected a QHP on July 9, 2015 and MNsure determined a coverage effective date of August 1, 2015. *Exhibit 2*. The appellant challenged this action by filing an appeal with the MNsure Agency on August 24, 2015. *Exhibit 1*. The appeals office received the appeal on September 16, 2015. On October 27, 2015, Appeals Examiner Jonathan R. Hall held an evidentiary hearing via telephone conference. The Appeals Examiner closed the record, consisting of two exhibits,¹ on that date.

2. On July 9, 2015, the appellant was instructed by MNsure to call to verify his eligibility for a special enrollment period. ██████████ called and verified with MNsure that her family’s medical assistance benefits had terminated on June 30, 2015. On that basis, MNsure determined that the appellant’s family was eligible for a 60-day special enrollment period beginning July 1, 2015 and ending August 29, 2015, and notified the appellant. *Exhibit 2*.

3. On July 28, 2015, MNsure sent the appellant’s QHP enrollment information to the insurance carrier selected by the appellant. *Exhibit 2*.

4. The appellant contended at the hearing that, when he selected a QHP on July 9, 2015, MNsure informed him that it would “try” to make his QHP coverage effective on August 1, 2015. However, he did not receive insurance cards until August 22, 2015, along with a premium due notice for August and September 2015. He was not aware until September 2015 that his insurance was had taken effect on August 1, 2015. He contended that he should not be required to pay the premium for August 2015 because he was not aware that he was covered. Further, he paid out-of-pocket for prescriptions on August 2, 2015 and August 17, 2015 before he learned that his coverage had been made effective on

¹ Exhibit 1 (Appeal); Exhibit 2 (MNsure Memorandum).

CONCLUSIONS OF LAW

5. For Medical Assistance and MinnesotaCare appeals, a person may request a state fair hearing by filing an appeal either: 1) within 30 days of receiving written notice of the action; or 2) within 90 days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the 30 day time limit. *Minn. Stat. § 256.045, subd. 3(h); Minn. Stat. § 256L.10.* 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).*

6. 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), and the MNsure Board has jurisdiction.

7. ***Special Enrollment Period.*** MNsure must allow a qualified individual to enroll in a QHP if one of the following triggering events occur: (1) the qualified individual: (i) loses minimum essential coverage. The date of the loss of coverage is the last day the consumer would have had coverage under his or her previous plan or coverage. *45 C.F.R. § 155.420(d)(1)(i).*

8. ***Effective Dates.*** (1) Regular effective dates. Except as specified in paragraphs (b)(2) and (3) of this section, for a QHP selection received by the Exchange from a qualified individual (i) Between the first and the fifteenth day of any month, the Exchange must ensure a coverage effective date of the first day of the following month; and (ii) Between the sixteenth and the last day of any month, the Exchange must ensure a coverage effective date of the first day of the second following month. *45 C.F.R. § 155.420(b)(1).*

9. ***Special Enrollment QHP Effective Date.*** If the consumer selects a QHP on or before the date of the triggering event, MNsure must ensure that the coverage effective date is on the first day of the month following the loss of coverage. If the consumer selects a QHP after the date of the triggering event, MNsure must ensure coverage is effective according to section 155.420(b)(1), or on the first day of the following month, at the option of MNsure. *45 C.F.R. § 155.420(b)(2)(iv).*

10. In this case, the preponderant evidence supports a finding that MNsure

² The Appeals Examiner informed the appellant during the hearing that, since his coverage was effective on August 1, 2015, he could request reimbursement from his pharmacy for the out-of-pocket expenses he paid for his prescriptions, and request that his pharmacy bill his insurer.

correctly determined the effective date of the appellant's QHP which he chose through a special enrollment period. The appellant's special enrollment period began on July 1, 2015. The appellant chose a QHP on July 9, 2015. Under the federal regulations, his QHP coverage must be effective either according to section 155.420(b)(1), or "on the first day of the following month." Under section 155.420(b)(1), a QHP selected between the first and fifteenth day of any month is effective on the first day of the following month. *45 C.F.R. § 155.420(b)(1)(i)*. Therefore, I conclude that MNsure correctly determined the effective date of the appellant's QHP chosen during a special enrollment period, and its decision should be affirmed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board AFFIRM MNsure's determination of the coverage effective date for the QHP selected by the appellant during a special enrollment period.

Jonathan R. Hall
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 each agency's final decision.

FOR THE MNSURE BOARD as to any effect the decision has on Appellant's eligibility through MNsure for a Qualified Health Plan.

cc: [REDACTED], Appellant
MNsure, MNsure General Counsel

Date

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.