



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED] [REDACTED] and [REDACTED] [REDACTED]
For: Dental Plan
Agency: MNSure
Docket: 168021

On November 4, 2015, Appeals Examiner Munazza Humayun held an evidentiary hearing under 42 United States Code § 18081(f) and Minnesota Statutes, section 62V.05, subdivision 6.

The following people appeared at the hearing:

[REDACTED] [REDACTED] Appellant
Mubarek Abdi, MNSure Appeals Representative

Based on the evidence in the record and considering the arguments of the parties, the Appeals Examiner recommends the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUE

The issue raised in this appeal is:

Whether MNSure correctly determined that Appellants' coverage under a dental plan was terminated effective November 1, 2015.

BACKGROUND

On or around October 2, 2015, MNSure processed a request from [REDACTED] [REDACTED] ("Ms. [REDACTED] to terminate her and her daughter's coverage under a dental plan in which she had enrolled through the MNSure eligibility system.¹ On October 2, 2015, Ms. [REDACTED] filed an appeal challenging the date on which the termination was effective.² On November 4, 2015, I held an evidentiary hearing on the matter via telephone conference. Because Ms. [REDACTED] claimed she had called MNSure in August 2015 to terminate both her qualified health plan and dental plan coverage, and MNSure disputed this claim, I held the record open until November 27, 2015 to allow MNSure to research whether Ms. [REDACTED] had enrolled in a qualified health plan through MNSure in addition to enrolling in a dental plan, and to allow Ms. [REDACTED] to submit phone records showing that she had called MNSure in August 2015 to terminate her dental plan coverage. On November 5, 2015, MNSure submitted a memo summarizing the results of its research. Ms. [REDACTED] submitted her phone records on November 30, 2015, and explained that she had been unable to submit them by November 27 because she had been dealing with serious health issues. In light of the exigent circumstances, I accepted the late submission, admitted six exhibits³ into evidence, and closed the record at the end of the day on November 30, 2015.

FINDINGS OF FACT

1. On July 31, 2015, Ms. [REDACTED] enrolled herself and her 13-year-old daughter, [REDACTED] [REDACTED] in a stand-alone dental plan through the MNSure eligibility system.⁴ MNSure determined August 1, 2015 as the effective date of coverage under the dental plan Ms. [REDACTED] had selected.⁵

¹ Exhibit 2.

² Exhibit 1.

³ Exhibit 1 – Appeal request. Exhibit 2 – MNSure Appeals Memorandum and screenshot showing date of Ms. [REDACTED] MNSure application. Exhibit 3 – MNSure logs of Ms. [REDACTED] contacts with MNSure. Exhibit 4 – Health Care Notice MNSure sent to Ms. [REDACTED] on July 9, 2015. Exhibit 5 – MNSure memo regarding Ms. [REDACTED] enrollment in a qualified health plan through MNSure. Exhibit 6 – Ms. [REDACTED] phone records.

⁴ Exhibit 2, p. 1; Ms. [REDACTED] testimony.

⁵ Exhibit 2, p. 1.

2. On August 24, 2015, Ms. [REDACTED] called MNSure to disenroll herself and [REDACTED] from the dental plan because she had obtained dental coverage through her new employer.⁶ She told a MNSure representative that she wanted coverage terminated as of September 1, 2015.⁷

3. On October 2, 2015, Ms. [REDACTED] received a premium bill from the dental plan carrier.⁸ She called MNSure and was informed that her coverage had not been terminated.⁹ Ms. [REDACTED] then filed this appeal.

4. MNSure terminated the coverage effective November 1, 2015.¹⁰

5. Ms. [REDACTED] argues that the termination date of coverage should be sometime in September 2015 because she had made the request in late August.¹¹

CONCLUSIONS OF LAW

1. ***Jurisdiction.*** The Appeals Examiner does not have jurisdiction over this appeal. Appeals are available for the following MNSure actions:

(1) initial determinations and redeterminations made by MNSure of individual eligibility to purchase a qualified health plan through MNSure;

(2) initial determinations and redeterminations made by MNSure of eligibility for and level of advance payment of premium tax credit, and eligibility for and level of cost sharing reductions;

(3) initial determinations and redeterminations made by MNSure of employer eligibility to purchase coverage for qualified employees through the Small Business Health Options Program;

(4) initial determinations and redeterminations made by MNSure of employee eligibility to purchase coverage through the Small Business Health Options Program;

(5) initial determinations and redeterminations made by MNSure of individual eligibility for an exemption from the individual responsibility requirement;

(6) a failure by MNSure to provide timely notice of an eligibility determination in

⁶ Ms. [REDACTED] testimony; *see* exhibit 6, p. 2.

⁷ Exhibit 1.

⁸ Ms. [REDACTED] testimony.

⁹ *See* Exhibit 3, p. 14; Ms. [REDACTED] testimony.

¹⁰ Exhibit 2.

¹¹ Exhibit 1; Ms. [REDACTED] testimony.

accordance with Code of Federal Regulations, title 45, sections 155.310 (g); 155.330 (e)(1)(ii); 155.335 (h)(ii); 155.610 (i); and 155.715 (e) and (f);

(7) a notice from MNsure to an employer that the employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer provides coverage that is not affordable; and

(8) a denial of a request to vacate a dismissal of an appeal.¹²

Ms. [REDACTED] appealed MNsure's failure to terminate her coverage under a plan on her desired date. This is not an action or omission for which an appeal is available under Minn. R. 7700.0105, subp. 1(A). This appeal must be dismissed for lack of subject matter jurisdiction.¹³

¹² Minn. R. 7700.0105, subp.1(A).

¹³ During the hearing, the MNsure appeals representative stated that because Ms. [REDACTED] made a termination request on October 2, 2015, MNsure was willing to terminate Appellants' coverage as of October 16, 2015. He stated that this was in accordance with 45 C.F.R. § 155.430(d), which states that if an enrollee requests termination and makes that request at least 14 days before the requested effective date of termination, then MNsure must make the termination effective on the date specified by the enrollee; otherwise, the termination is effective 14 days after the enrollee made the request. (45 C.F.R. § 155.430(d) applies to qualified health plans, but has been interpreted by the federal Center for Consumer Information & Insurance Oversight as equally applicable to dental plans; *see* Federally-facilitated Marketplace and Federally-facilitated Small Business Health Options Program Enrollment Manual, available at https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated_ENR_Manual.pdf.) Because Ms. [REDACTED] phone records indicate that she made the termination request on August 24, 2015, MNsure should consider making the termination effective 14 days after that date, in accordance with federal regulations and guidance.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board DISMISS this appeal for lack of jurisdiction.

Munazza Humayun
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] [REDACTED] Appellant
Michael Turpin, MNsure General Counsel

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.