



**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED]

For: Qualified Health Plan
MinnesotaCare

Agency: MNSure
Minnesota Department of Human Services

Docket: 168470

On December 4, 2015, Appeals Examiner Munazza Humayun 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] [REDACTED] Appellant; and
[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 ISSUE

The issue raised in this appeal is:

Whether Appellants are entitled to reimbursement of premiums they paid for coverage under a Qualified Health Plan (“QHP”) because the Minnesota Department of Human Services (“DHS”) determined them retroactively eligible for MinnesotaCare coverage for the same period.

BACKGROUND

On July 17, 2015, MNSure sent Appellants a notice stating they were eligible to purchase a QHP.¹ On October 12, 2015, DHS sent Appellants a notice informing them they were eligible for MinnesotaCare beginning January 1, 2015.² On October 19, 2015, Appellants filed an appeal, seeking reimbursement of a portion of the QHP premiums they had paid for months for which they were retroactively found eligible for MinnesotaCare.³ On December 4, 2015, I held an evidentiary hearing by telephone. I accepted four exhibits⁴ into evidence and closed the record at the end of the hearing.

FINDINGS OF FACT

1. Mr. and Ms. █████ were found ineligible for MinnesotaCare for 2014 because their household income was above the limit for the program.⁵ They were eligible to buy a QHP,⁶ and they bought one.⁷ They were also found eligible for advance premium tax credits.⁸

2. In February 2015, the Agencies sent Appellants a renewal form to determine their eligibility for health insurance affordability programs for 2015.⁹ Appellants completed and returned the form on March 4, 2015,¹⁰ and provided required verification of income on April 22, 2015.¹¹ On July 17, 2015, the Agencies sent Appellants a notice stating they were not eligible

¹ Exhibit 3, pp. 17-24.

² Exhibit 3, pp. 27-34.

³ Exhibit 1.

⁴ Exhibit 1 – Appeal Request; MinnesotaCare premium bill dated October 4, 2015; and copy of █████ █████ HealthPartners insurance card. Exhibit 2 – DHS State Agency Appeals Summary. Exhibit 3 – DHS Memorandum with screenshots showing data pulled from Appellants’ MNSure application; renewal form and income verification Appellants submitted in March and April 2015; screenshots showing eligibility determination history for Appellants; Agency log of activity on Appellants’ account between March 2 and October 12, 2015; eligibility notices dated July 17, 2015 and October 12, 2015; and renewal notice dated November 9, 2015. Exhibit 4 – MNSure appeals memorandum.

⁵ Exhibit 3, p. 1.

⁶ See Exhibit 3, p. 1.

⁷ See Exhibit 1, p. 1.

⁸ Exhibit 3, p. 1.

⁹ Exhibit 3, pp. 9-12.

¹⁰ Exhibit 3, pp. 9-12.

¹¹ Exhibit 3, pp. 13-14.

for MinnesotaCare, but were eligible to buy a QHP.¹²

3. On October 12, 2015, DHS sent Appellants a notice stating they were eligible for MinnesotaCare starting January 1, 2015.¹³ DHS did not inform Appellants before October 2015 that they were eligible for MinnesotaCare.¹⁴

4. Appellants paid premiums for coverage under a QHP for January through September 2015.¹⁵ If Appellants had found out sooner that they were eligible for MinnesotaCare, they would have terminated their coverage under the QHP because their MinnesotaCare premium would have been lower than what they paid in QHP premiums.¹⁶ After Appellants unsuccessfully sought reimbursement from the QHP carrier, MNsure, and DHS for a portion of the QHP premiums they had already paid to the QHP carrier, they filed this appeal.¹⁷

APPLICABLE LAW

1. ***Jurisdiction over MinnesotaCare matters.*** A MinnesotaCare applicant or enrollee aggrieved by a determination or action of the commissioner of human services may appeal within 30 days after receiving written notice of the determination or action.¹⁸ This period may be extended to 90 days if the appellant shows good cause for not appealing within 30 days.¹⁹

2. ***Jurisdiction over MNsure determinations.*** The MNsure Board has the legal authority to hear appeals of MNsure determinations.²⁰ The MNsure Board has an agreement with the Department of Human Services to hear and decide MNsure eligibility appeals. An individual may appeal a MNsure determination regarding his or her eligibility to buy a qualified health plan through MNsure.²¹ The appeal request must be received by MNsure within 90 days from the date of the notice of eligibility determination.²² There is a rebuttable presumption that the date of the notice of eligibility is five business days later than the date printed on the notice.²³ The appeal hearing is a de novo review; it must address the correctness and legality of MNsure's action and is not simply a review of the propriety of MNsure's action.²⁴

3. ***Eligibility determination for MinnesotaCare.*** An individual is eligible for MinnesotaCare *following a determination by the commissioner of human services* that the individual meets the eligibility criteria for the applicable period of eligibility.²⁵ The

¹² Exhibit 3, pp. 17-24.

¹³ Exhibit 3, pp. 27-34.

¹⁴ ██████ testimony.

¹⁵ Exhibit 1, p. 1.

¹⁶ See Exhibit 1, p. 1 and ██████ testimony.

¹⁷ ██████ testimony.

¹⁸ Minn. R. 9506.0070, subp. 2.

¹⁹ Minn. Stat. § 256.045, subd. 3; Minn. R. 9506.0070, subp. 2.

²⁰ Minn. Stat. § 62V.05, subd. 6.

²¹ Minn. R. 7700.0105, subp. 1(A)(1).

²² 45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).

²³ Minn. R. 7700.010, subp. 2(D).

²⁴ Minn. R. 7700.0105, subp. 16(C).

²⁵ Minn. Stat. § 256L.05, subd. 2a (emphasis added).

commissioner must determine an applicant's eligibility for MinnesotaCare within 45 days from the date that the application is received by DHS²⁶ and must send the applicant a written notice of the determination.²⁷ A person eligible for MinnesotaCare is not eligible to enroll in a QHP through MNsure.²⁸

CONCLUSIONS OF LAW

1. Appellants filed their appeal within 30 days of receiving the written notice of action dated October 12, 2015 and within 90 days of the notice dated July 17, 2015. The appeal is therefore timely and the commissioner of human services and the MNsure Board have jurisdiction over the appeal.

2. MNsure's determination that Appellants were eligible to purchase a qualified health plan was correct. As of July 17, 2015, Appellants had not been determined eligible for MinnesotaCare by the commissioner of human services. They were therefore eligible to purchase a qualified health plan at that time.

3. DHS did not abide by the 45-day rule in determining Appellants' eligibility for MinnesotaCare. It determined their eligibility in October 2015, more than five months after it received their completed application in April 2015. Despite this error, however, the remedy Appellants are seeking—reimbursement of premiums paid to a QHP carrier—is not authorized by any statute or rule. I do not have jurisdiction over the QHP carrier, and therefore cannot order the QHP carrier to take any action. I also do not have authority under any statute or rule to order DHS or MNsure to somehow reimburse Appellants for the higher amounts they already paid to the QHP carrier. Appellants may wish to pursue reimbursement directly from the QHP carrier.

²⁶ Minn. Stat. § 256L.05, subdivision 4.

²⁷ Minn. Stat. § 256L.05, subdivision 4; 42 C.F.R. § 435.912.

²⁸ Minn. Stat. § 256L.04, subd. 1c.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNSure Board AFFIRM the determination of MNSure to deny Appellants' request for reimbursement of premiums they paid for coverage from January through September 2015.
- The Commissioner of Human Services AFFIRM the determination of the Minnesota Department of Human Services to deny Appellants' request for reimbursement of premiums they paid for coverage from January through September 2015.

Munazza Humayun
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 COMMISSIONER OF HUMAN SERVICES as to any effect the decision has on Appellants' eligibility for Medical Assistance and/or MinnesotaCare benefits.

FOR THE MNSURE BOARD as to any effect the decision has on Appellants' 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] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED] Appellants
Michael Turpin, 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.