



**DECISION  
OF AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED] [REDACTED]  
For: MinnesotaCare  
Advance Payment of Premium Tax Credit  
Agency: Minnesota Department of Human Services  
MNsure Board  
Docket: 169132

On December 8, 2015, Appeals Examiner Tonja J. Rolfson 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.

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 Minnesota Department of Human Services (DHS) was correct when it terminated the appellant's MinnesotaCare effective September 30, 2015.

## FINDINGS OF FACT

1. The appellant filed an appeal on November 9, 2015. *Exhibit 1*. The Appeals Examiner held a telephone hearing on December 8, 2015, accepted 14 exhibits<sup>1</sup> into evidence and closed the record on that date.
2. On December 14, 2014, the appellant applied for insurance coverage through MNsure. *Exhibit 3, Attachment 1*. MNsure sent the appellant written notice dated December 14, 2014 stating that her eligibility for Medical Assistance effective December 1, 2014 was "pending." *Exhibit 3, Attachment 4*. The appellant received this notice. *Testimony of the appellant*.
3. MNsure sent the appellant written notice dated April 16, 2015 stating she did not qualify for Medical Assistance and was approved for MinnesotaCare effective April 1, 2015. *Exhibit 3, Attachment 5*. The appellant received this notice. *Testimony of the appellant*.
4. Due to a system glitch, the appellant was not placed on active coverage until July 2015. *Exhibit 3, Memorandum*. On July 17, 2015, MNsure placed the appellant on MinnesotaCare coverage and backdated her coverage to January 1, 2015. *Exhibit 3, Memorandum*. MNsure sent the appellant an initial premium bill for \$71 for August 2015 coverage on July 26, 2015. *Exhibit 3, Memorandum; Exhibit 3, Attachment 6; Exhibit 4*. The appellant paid this premium on August 2, 2015. *Exhibit 5*. MNsure cashed her check on August 10, 2015. *Id*. The appellant was enrolled in UCare, a managed care plan. *Exhibit 3, Memorandum*. She received her insurance card. *Testimony of the appellant*. She did not realize that she was on MinnesotaCare; she just knew she had health insurance. *Id*.
5. On August 6, 2015, the appellant reported a change of income which, according to MNsure, resulted in the appellant being over the maximum limit for MinnesotaCare. *Exhibit 3, Memorandum*. The appellant does not dispute this determination. *Testimony of the appellant*.

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<sup>1</sup> The exhibits are as follows: 1) Appeal Request; 2) DHS's State Agency Appeals Summary; 3) DHS's Memorandum; 4) July 26, 2015 MNsure Premium Bill; 5) August 2, 2015 Cancelled Check for \$71; 6) September 2, 2015 MNsure Premium Bill; 7) September 22, 2015 Canceled Check for \$142; 8) Appellant's October 15, 2015 Bank Statement; 9) MNsure Premium Due for November 2015; 10) October 16, 2015 Cancelled Check for \$71; 11) November 13, 2015 Bank Statement; 12) November 2, 2015 MNsure Premium Bill; 13) Certificate of Creditable Coverage; and 14) Letter from Appellant to Appeals Examiner. Exhibit 3 has the following attachments: 1) MNsure Application Date; 2) MNsure Tax Filing Status; 3) MNsure Current and Projected Annual Income; 4) December 14, 2015 Health Care Notice; 5) April 15, 2015 Health Care Notice; 6) Initial MinnesotaCare Premium Bill; 7) August 6, 2015 Health Care Notice; 8) Health Plan Disenrollment Notice; and 9) Fee-for-Service Letter.

6. MNSure sent the appellant a written Health Care Notice dated August 6, 2015. *Exhibit 3, Attachment 7*. The appellant does not recall receiving it. *Testimony of the appellant*. It was the appellant's habit to retain copies of notices. *Id.* She does not have a copy of it in her records. *Id.* The notice stated she was approved for MinnesotaCare effective December 14, 2014, did not qualify for Medical Assistance effective August 6, 2015 and that her eligibility for Advanced Premium Tax Credits and/or Cost-Sharing Reductions was "pending." It said: "You are eligible to purchase a Qualified Health Plan (QHP) through MNSure, but you must meet a qualifying event to be able to enroll in a QHP outside of open enrollment. You will get a separate notice letting you know if you meet the qualifications for enrollment or if you can change your QHP if you are already enrolled." *Exhibit 3, Attachment 7*.

7. The agency claims it sent the appellant written notice of disenrollment from UCare dated August 25, 2015 with an effective date of August 31, 2015. *Exhibit 3, Attachment 8*. The agency did not include a copy of this notice, only a record that such a notice was sent. *Id.* The appellant did not receive this notice. *Testimony of the appellant*. There is no evidence in the record that the agency sent the appellant written notice terminating her MinnesotaCare coverage beginning September 1, 2015. There is no evidence the appellant received a notice telling her she qualified for a special enrollment period.

8. The agency does not appear to have sent a premium notice in August 2015 for September 2015 coverage.

9. The agency sent the appellant a premium notice dated September 2, 2015 for MinnesotaCare coverage during the period October 1, 2015 through October 31, 2015. The bill was for \$142 which represented \$71 currently owing plus \$71 owing from the "previous bill." *Exhibit 6*. This means the notice sought payment for both September 2015 and October 2015 coverage. The appellant paid MNSure \$142. *Exhibit 7*. MNSure cashed the check on September 25, 2015. *Exhibit 7; Exhibit 8*.

10. The agency's records show that the appellant was charged a premium of \$71 for MinnesotaCare coverage for November 1, 2015 through November 30, 2015. *Exhibit 9*. The appellant paid this premium by check. *Exhibit 10*. The agency cashed the check on October 20, 2015. *Exhibit 10; Exhibit 11*.

11. The agency sent the appellant a premium notice for \$71 for MinnesotaCare dated November 5, 2015 for coverage for the period December 1, 2015 through December 31, 2015. *Exhibit 12*. The appellant did not pay this premium. *Testimony of the appellant; Exhibit 14*.

12. DHS issued the appellant a Certificate of Creditable Coverage dated November 1, 2015 in its evidence stating that the appellant was covered under Minnesota Health Care Programs from January 1, 2015 through August 31, 2015. *Exhibit 13*.

13. DHS included in its evidence a Minnesota Health Care Program's Fee-for-Services Coverage sheet dated December 2, 2015 stating that the appellant has health coverage on a fee-for-services basis for the months of January 1, 2015 through July 31, 2015 and September 1, 2015 through September 30, 2015. *Exhibit 3, Attachment 9*. The agency stated it provided the

appellant with one additional month of MinnesotaCare coverage for the month of September 2015 due to the late Health Plan Disenrollment Notice that was mailed which did not provide a 10 day notice. *Exhibit 3, Memorandum.*

14. The agency adjusted the appellant's MinnesotaCare premium bills to \$0 for the months of October 2015 through December 2015. *Exhibit 3, Memorandum.*

15. The appellant is concerned she will have to pay a penalty for not having insurance in 2015. *Testimony of the appellant.*

## CONCLUSIONS OF LAW

### Timeliness and Jurisdiction

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

2. The Commissioner of DHS has authority to review the appellant's household's eligibility for Medical Assistance and MinnesotaCare under Minnesota Statute § 256.045, subdivision 3, and the MNsure Board has legal authority to review the appellant's household's eligibility for premium assistance and cost sharing under Minnesota Statute § 62V.05, subdivision 6.

### MinnesotaCare

3. If the agency suspends, reduces, or terminates eligibility for the MinnesotaCare program, or services provided under the MinnesotaCare program, the agency must provide notification according to the laws and rules governing the Medical Assistance program. *Minn. Stat. § 256L.10.* Under Medical Assistance, in the case of a denial, reduction, or termination of eligibility, the agency shall notify the person in writing no later than ten calendar days before the effective date of the action. *Minn. R. 9505.0125, subpart 1, item C.* The notice must clearly state the proposed action, the reason for the action, the person's right to appeal the proposed action, and the person's right to reapply for eligibility or additional eligibility. *Minn. R. 9505.0125, subpart 1.*

4. The Commissioner of Human Services is required to contract with managed care organizations to provide MinnesotaCare coverage to recipients. *Minn. Stat. § 256L.12, subd. 1.* However, a disenrollment notice from a managed care plan is not a termination of MinnesotaCare eligibility. A person can be eligible for MinnesotaCare on a fee-for-service basis as is evidenced by the agency issuing a fee-for-service coverage letter to the appellant in this case for the months of January 1, 2015 through July 31, 2015 and September 1, 2015 through September 30, 2015.

5. The August 6, 2015 notice did not state that the appellant was terminated from MinnesotaCare or not eligible for MinnesotaCare. In fact, it said she was approved as of December 14, 2014 and that her eligibility for advanced premium tax credits and cost-sharing reductions was only “pending.” The appellant did not receive a notice from the agency terminating her MinnesotaCare. The appellant paid for coverage for the months of August 2015 through November 2015. The agency cashed those premium payments.

6. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare. *Minn. Stat. § 256L.06, subd. 3(c)*. Nonpayment of the premium will result in disenrollment from the plan effective for the calendar month following the month for which the premium was due. *Id. at subd. 3(d)*.

7. The appellant did not receive a notice specifying the amount of advanced premium tax credits for which she qualified. The appellant did not receive a notice that she was eligible to enroll in a qualified health plan outside the open enrollment period.

8. While the appellant does not dispute she was ineligible for MinnesotaCare as a result of her updating her income information in August 2015, the agency failed to provide the appellant with a written termination notice of her MinnesotaCare benefits as is required by law. The appellant paid premiums for MinnesotaCare coverage through November 2015. The appellant did not pay a premium in November 2015 for December 2015 coverage. However, the agency again failed to send the appellant written notice terminating coverage as it should have done when it did not receive the premium for December 2015 coverage timely in the month of November 2015. The failure to send proper notice of termination to the appellant as required by law was agency error. The agency cannot attempt to reconstruct what should have happened if it had sent proper termination notices by retroactively terminating the appellant’s benefits. The fact remains that the notices were not sent. The law requires a timely notice of termination before MinnesotaCare benefits can be terminated even if the recipient is not eligible for those benefits. Because of this, the appellant should remain covered under MinnesotaCare from October 1, 2015 through December 31, 2015. The Commissioner of Human Services should order the agency to issue a Fee-for-Service Coverage letter stating that the appellant has fee-for-service coverage for the months of January 1, 2015 through July 31, 2015 and September 1, 2015 through December 31, 2015. The Commissioner should order the agency to send the appellant a new Certificate of Creditable Coverage stating that her coverage under Minnesota Health Care Programs began on January 1, 2015 and ended December 31, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of DHS REVERSE its termination of the appellant's MinnesotaCare benefits effective September 30, 2015 and ORDER the agency to continue the appellant's MinnesotaCare coverage through December 31, 2015;
- The Commissioner of DHS ORDER the agency to issue a Fee-for-Service Coverage letter stating that the appellant has fee-for-service coverage for the months of January 1, 2015 through July 31, 2015 and September 1, 2015 through December 31, 2015; and
- ORDER the agency to send the appellant a new Certificate of Creditable Coverage stating that her coverage under Minnesota Health Care Programs began on January 1, 2015 and ended on December 31, 2015.

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Tonja J. Rolfson  
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 Appellant's eligibility for Medical Assistance and/or MinnesotaCare benefits.

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] [REDACTED] Appellant  
Michael Turpin, MNsure  
Teressa Saybe, DHS-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](http://www.healthcare.gov).
- **Seek judicial review** to the extent it is available by law.

If you disagree with this 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, and you must start this *within 30 days of the date of this decision* by serving a notice of appeal upon the other parties and the Commissioner. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.