



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED] [REDACTED]

For: Qualified Health Plan

Agency: MNSure Board

Docket: 169227

On December 10, 2015, Appeals Examiner Renee Ladd 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 person 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 ISSUE

Whether the MNsure Board (“agency”) properly determined the effective date for Appellant’s disenrollment in a Qualified Health Plan (QHP).

FINDINGS OF FACT

1. On October 7, 2015, Appellant was notified by an agency representative that his enrollment in a QHP would be effective November 1, 2015. *Appellant Testimony*. No notices regarding the effective date of his disenrollment were provided as part of the appeal and it is unknown if any written notice was sent to Appellant when he disenrolled in a QHP. Appellant challenged the effective date of the termination of his health insurance coverage, which was received by the MNsure agency on November 12, 2015. *Exhibit 1*.
2. On December 10, 2015, Appeals Examiner Renee Ladd held an evidentiary hearing by telephone conference. The record, consisting of the testimony and two exhibits,¹ was closed at the end of the hearing.
3. Appellant retired from █████ in 2007 and received health insurance coverage from █████ until the end of 2014. *Appellant Testimony*. █████ agreed to pay a portion of Appellant’s health insurance coverage until he became eligible for Medicare. *Id.* Appellant attended a meeting sponsored by █████ and spoke with representatives with a number of different health insurance carriers about his options for enrolling in coverage. *Id.* Appellant asked a representative from Blue Cross Blue Shield what would happen once he turned 65 years old and qualified for Medicare coverage. *Id.* The representative told him that his coverage would terminate once he was eligible for Medicare coverage. *Id.*
4. On December 1, 2014, Appellant submitted an application for health care coverage for a household of one person through the MNsure computer eligibility system. *Exhibit 2*. Appellant enrolled in a QHP offered by Blue Cross Blue Shield effective January 1, 2015. *Id.*
5. In October 2015, Appellant turned 65 years old and qualified for Medicare coverage. *Appellant Testimony*. He also purchased a Medicare supplemental plan offered by AARP. *Id.* Based on his prior discussion with the representative from Blue Cross Blue Shield, Appellant thought his QHP coverage would automatically be terminated starting October 1, 2015. *Id.* His premium payments were usually automatically withdrawn from his bank account on the first or second day of each month. *Id.* When no premium payment was withdrawn from his account by October 3, 2015, Appellant assumed that his QHP coverage had terminated. *Id.* The premium payment was withdrawn from his bank account on October 5, 2015. *Id.*

¹ Appeal Request Form, Exhibit 1; MNsure Appeals Memorandum, Exhibit 2.

6. Appellant called Blue Cross Blue Shield after the premium payment was withdrawn from his bank account. *Appellant Testimony*. The representative he spoke with told him that he should call MNsure to cancel his coverage and that his premium would be refunded to him. *Id.*

7. On October 7, 2015, Appellant called the agency and requested his QHP coverage be terminated effective October 1, 2015. *Appellant Testimony*. The agency representative told him that his coverage could not be terminated until November 1, 2015. *Id.*

8. Blue Cross Blue Shield did not refund Appellant's premium payment for October 2015. *Appellant Testimony*. Appellant called Blue Cross Blue Shield in November 2015 and was informed that MNsure would not allow Blue Cross Blue Shield to refund his payment. *Id.* The Blue Cross Blue Shield representative suggested Appellant file an appeal with MNsure. *Id.*

9. After reviewing Appellant's appeal, the agency determined that it erred in terminating his coverage November 1, 2015. *Exhibit 2*. The agency changed the termination date to October 21, 2015, 14 days after Appellant called the agency on October 7, 2015 to request termination of his coverage. *Id.*

10. Appellant requests that his QHP coverage be terminated either October 1, 2015 or October 7, 2015, the date he requested termination of coverage. *Appellant Testimony*. Appellant did not use the QHP coverage in October 2015 and already had coverage through Medicare and the supplemental plan for October 2015. *Id.*

APPLICABLE LAW

11. 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)*.

12. The MNsure Board has the legal authority to review and decide issues about a household's eligibility through MNsure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options 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.

13. MNsure must permit an enrollee to terminate his or her coverage or enrollment in a QHP, including as a result of the enrollee obtaining other minimum essential coverage. *45 C.F.R. § 155.430(b)(1)(i)*. In the case of enrollee-initiated terminations, the last day of enrollment through the Exchange is:

- (i) The termination date specified by the enrollee, if the enrollee provides reasonable notice;

- (ii) Fourteen days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice; or
- (iii) On a date on or after the date on which the termination is requested by the enrollee, subject to the determination of the enrollee's QHP issuer, if the enrollee's QHP issuer agrees to effectuate termination in fewer than fourteen days, and the enrollee requests an earlier termination effective date.
- (iv) If the enrollee is newly eligible for Medicaid, CHIP, or the BHP, if a BHP is operating in the service area of the Exchange, the last day of enrollment in a QHP through the Exchange is the day before the individual is determined eligible for Medicaid, CHIP, or the BHP.
- (v) The retroactive termination date requested by the enrollee, if specified by applicable State laws.

45 C.F.R. §155.430(d)(2).

CONCLUSIONS OF LAW

14. This appeal was started within the allowed time limits under 45 C.F.R §155.520(b) in that it was filed within 90 days of the agency's determination of the effective date of Appellant's termination of coverage.

15. The MNsure Board has legal authority to review Appellant's challenge of its determination of the effective date of termination of his QHP coverage under Minnesota Statute § 62V.05, subdivision 6.

16. There is no dispute that Appellant notified the agency that he wanted to terminate his QHP coverage on October 7, 2015. Appellant did not request termination of coverage because he was newly eligible for Medicaid. Rather, he requested termination of coverage because he was newly eligible for Medicare. Appellant requested termination of coverage effective October 1, 2015. This is not reasonable notice of the request for termination of coverage. Appellant now asks that his coverage be terminated on the date he requested termination, but there is not sufficient evidence in the record that the QHP issuer, Blue Cross Blue Shield, has agreed to effectuate the termination in few than fourteen days. The regulations specifically provide that coverage must be terminated fourteen days after the termination is requested by the enrollee if the enrollee does not provide reasonable notice. The agency initially terminated coverage November 1, 2015, but has now changed the termination date to October 21, 2015, 14 days after Appellant requested termination of coverage. Although Appellant may have had a good faith belief that he was not required to notify the agency that he wanted to terminate his QHP coverage after he became eligible for Medicare, there is nothing in the federal regulations or Minnesota statutes that would allow an earlier termination date based on good cause. As a result, I

recommend the agency be affirmed in its determination that Appellant's QHP coverage is terminated effective October 21, 2015.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the MNsure agency's determination that Appellant's enrollment in a qualified health plan was terminated effective October 21, 2015.

Renee Ladd
Appeals Examiner

Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopts the Appeals Examiner's findings of fact, conclusions of law and order as the agency's final decision.

Date

cc: [REDACTED] [REDACTED] Appellant
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 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).