DECISION
OF AGENCY
ON APPEAL

In the Appeal of: [redacted]

For: Qualified Health Plan

Agency: MNsure

Docket: 170506

On January 21 and 26, 2016, 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] Appellant
[redacted] Appellant's husband

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 ISSUES

The issues raised in this appeal are:

Whether Ms. [redacted] filed a timely appeal to the March 24, 2015 eligibility notice; and

Assuming the appeal was timely, whether MNsure correctly determined that Ms. [redacted] coverage under a qualified health plan was effective April 1, 2015.

BACKGROUND

On March 24, 2015, MNsure sent [redacted] a notice stating that she was eligible to purchase a qualified health plan.[1] On December 21, 2015, Ms. [redacted] filed an appeal challenging the start date of her coverage under the qualified health plan.[2] On January 21 and 26, 2016, I held an evidentiary hearing on the matter via telephone conference. I left the record open until the end of the day on January 26, 2016 to allow Ms. [redacted] to submit emails she exchanged with BlueCross BlueShield. I accepted six exhibits into evidence[3] and closed the record at the end of the day on January 26, 2016.

FINDINGS OF FACT

1. On March 24, 2015, Ms. [redacted] applied for health care coverage on the MNsure eligibility system because she had lost the insurance coverage she had through her husband's former employer.[4] That day, MNsure sent her a notice stating she was eligible to purchase a Qualified Health Plan ("QHP").[5] On March 25, 2015, Ms. [redacted] logged onto her MNsure account and selected a QHP offered by BlueCross BlueShield.[6]

2. On March 26, 2015, Ms. [redacted] husband called MNsure on Ms. [redacted] behalf and said that Ms. [redacted] had lost her previous insurance coverage effective February 28, 2015.[7] During this call, MNsure told Mr. [redacted] that Ms. [redacted] was eligible for a special enrollment period.[8]

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[1] Exhibit 5.
[2] Exhibit 1.
[3] Exhibit 1 – Appeal request. Exhibit 2 – MNsure Appeals Memorandum. Exhibit 3 – MNsure logs of Ms. [redacted] telephone contacts with MNsure. Exhibit 4 – MNsure guide to special enrollment periods. Exhibit 5 – Health Care Notice MNsure sent to Ms. [redacted] on March 24, 2015. Exhibit 6 – Emails Ms. [redacted] exchanged with BlueCross in May 2015.
[4] Exhbit 2, p. 1; Ms. [redacted] testimony.
[5] Exhibit 5. A QHP is an insurance plan that is certified by a health insurance marketplace under the Affordable Care Act, provides essential health benefits, follows established limits on cost-sharing, and meets other federal requirements. Exhibit 5, p. 1; *see also* 45 C.F.R. § 155.20.
[6] Exhibit 2, p. 1.
[7] Exhibit 2, p. 1.
[8] Exhibit 2, p. 1.

3. On April 21, 2015, MNsure sent Ms. [redacted] enrollment file to BlueCross, and instructed BlueCross to enroll Ms. [redacted] in her chosen QHP effective April 1, 2015.[9]

4. Neither Ms. [redacted] nor Mr. [redacted] recall receiving any kind of notice in the mail from MNsure until Ms. [redacted] received her BlueCross enrollment card with her insurance number on it.[10] While she does not know the exact date she received this card, she believes it was sometime in May 2015.[11]

5. Ms. [redacted] had trouble receiving coverage under the BlueCross plan throughout April 2015.[12] When she tried to fill a prescription in April, the pharmacy could not find evidence of insurance coverage for her.[13] Ms. [redacted] did not file any requests for reimbursement of medical expenses she incurred in April 2015.[14] Because of the difficulties she encountered, Ms. [redacted] feels that the coverage effective date of her QHP should be May 1, 2015 instead of April 1, 2015.[15]

6. On August 28, 2015, Ms. [redacted] called MNsure to inquire about an appeal, but the call was dropped and MNsure did not record an appeal.[16] Ms. [redacted] testified that she first tried to file an appeal around Thanksgiving of 2015.[17] Ms. [redacted] filed a written appeal on December 21, 2015.[18]

APPLICABLE LAW

1. An appeal may be filed by phone or in writing.[19] To file an appeal, a person must clearly express, either orally or in writing, that she wishes to have an eligibility determination reviewed by an appeals entity.[20] An appeal must be received by MNsure within 90 days from the date of the notice of eligibility determination. There is a rebuttable presumption that the date of the notice of eligibility determination is five business days later than the date printed on the notice. The person may rebut this presumption by presenting evidence or testimony that she received the notice five business days after the date printed on the notice. An appeal received more than 90 days after the date of the eligibility notice will be dismissed. If the deadline for filing an appeal falls on a day that is not a business day, the filing deadline is the next business day.[21]

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[9] Exhibit 2.
[10] Ms. [redacted] testimony.
[11] Ms. [redacted] testimony.
[12] Ms. [redacted] testimony.
[13] Ms. [redacted] testimony.
[14] Ms. [redacted] testimony.
[15] Exhibit 2 and Ms. [redacted] testimony.
[16] Exhibit 3, p. 5. It appears from the call notes for the December, 19, 2015 call that the August 28 conversation was about some internal appeal process at BlueCross which Ms. [redacted] had been pursuing.
[17] Ms. [redacted] testimony
[18] Exhibit 1.
[19] Minn. R. 7700.0105, subp. 2(A).
[20] 45 C.F.R. § 155.500.
[21] Minn. R. 7700.0105, subp. 2(D).

CONCLUSIONS OF LAW

1. This appeal is not timely under Minnesota Rule 7700.0105, subpart 2(D), because it was not filed within 90 days after the March 24, 2015 eligibility determination. There is a rebuttable presumption that Ms. [redacted] received that determination within five business days after March 24. Ms. [redacted] has not presented evidence sufficient to rebut that presumption or to show that she received the notice more than five business days after March 24, 2015.

Even if the August 28, 2015 phone call is considered an appeal, the appeal would still be untimely. The Appeals Examiner does not have jurisdiction to consider the merits of the case.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board DISMISS this appeal for lack of jurisdiction.

_____ _____

Munazza Humayun Date
Appeals Examiner

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
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.