



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: MNsure – Qualified Health Plan
Agency: MNsure Board
Docket: 172434

On March 2, 2016, Appeals Examiner John Freeman held an evidentiary hearing by telephone conference under 42 United States Code § 18081(f) and Minnesota Statutes § 62V.05, Subdivision 6(a).

The following person appeared at the hearing:

[REDACTED], Appellant.

The Appeals Examiner, based on the evidence in the record and considering the arguments of the parties, recommends the following Findings of Fact, Conclusions of Law, and Order.

STATEMENT OF ISSUE

The issue raised in this appeal is:

Whether the MNsure Board properly determined Appellant's Qualified Health Plan coverage effective date to be January 1, 2016, based on Appellant's open enrollment plan selection on December 28, 2015.

FINDINGS OF FACT

1. On December 28, 2015, MNsure notified [REDACTED] ("Appellant") that her family was approved for coverage in a Qualified Health Plan, with a coverage effective date of January 1, 2016. After learning that her previous coverage would not end until after January 31, 2016, Appellant filed an appeal request that was received by the Appeals Office on January 18, 2016. *Agency Exhibit 1; Appellant Exhibit A.*

2. On March 2, 2016, Human Services Judge John Freeman held an evidentiary hearing by telephone conference. The Judge accepted into the record one exhibit from Appellant and one exhibit from MNsure. At the end of the hearing, the record was closed consisting of the testimony of Appellant and two exhibits.¹

3. Appellant applied for coverage and selected a Qualified Health Plan ("QHP") through MNsure on December 28, 2015, during open enrollment for the 2016 plan year. At the time, Appellant's family of five had private coverage through PreferredOne, which was purchased with the help of an insurance agent. Appellant determined that similar plans available through MNsure would save her family over \$3,000 per year. In particular, Appellant was paying premiums of about \$1,164 per month for the PreferredOne plan, and found similar coverage through MNsure for about \$864 per month. *Testimony of Appellant.*

4. At the time Appellant selected a MNsure plan, she knew she was applying for coverage that would begin on January 1, 2016, but assumed she could cancel her existing coverage at any time. However, Appellant was subsequently told by her insurance agent that cancellation of her PreferredOne coverage could not be made effective December 31, 2015, and would instead need to remain in effect until January 31, 2016. As a result, Appellant had to pay premiums for both plans for the month of January 2016, even though no claims were made for this month. This meant paying over \$2,000 in premiums that month, which was very difficult for Appellant's family to afford. *Testimony of Appellant.*

¹ Appellant Exhibit A: Appeal Request Form. Agency Exhibit 1: MNsure Appeals Memorandum (including call records; application date screenshot; coverage start date screenshot; health care notice).

5. The Agency notes that it extended the deadline to apply for coverage with a January 1 start date from December 15 to December 28, 2015. This was announced on MNSure's website and in a press release.² As noted above, it was Appellant's intent to take advantage of this extension because she assumed her PreferredOne coverage could be canceled to avoid any overlap in coverage. *Agency Exhibit 1; Testimony of Appellant.*

CONCLUSIONS OF LAW

1. ***Jurisdiction.***

a. The MNSure Board of Directors ("MNSure Board") has the legal authority to hear and decide appeals of MNSure determinations, including those regarding QHP effective dates. *Minn. Stat. § 62V.05, subd. 6(a); Minn. R. § 7700.0105, subp. 1(A).* The MNSure Board also has the authority to enter into agreements with state agencies to conduct appeal hearings, and currently has such an agreement with the Minnesota Department of Human Services. *Minn. Stat. § 62V.05, subd. 6(b).*

b. For an appeal request to be considered, it must be received by MNSure within 90 days from the date of the notice of eligibility determination that is being appealed. *45 C.F.R. § 155.520(b)(1); Minn. R. § 7700.0105, subp. 2(D).*

c. In this case, Appellant's appeal request addresses the effective date of her QHP, a determination the MNSure Board has jurisdiction over. Further, the appeal request was received fewer than 90 days from MNSure's notice, so the appeal is timely.

2. ***Enrolling in a QHP.*** MNSure may only permit a qualified individual to enroll in a QHP during the annual open enrollment period, or through a special enrollment period for which the qualified individual has been determined eligible. *45 C.F.R. § 155.410(a)(2).* For the 2016 plan year, the open enrollment period began on November 1, 2015, and ended on January 31, 2016. *45 C.F.R. § 155.410(e).*

3. ***Coverage Start Date.***

a. As a general rule, for the 2016 benefit year, MNSure was required to ensure that coverage began January 1, 2016, for QHP selections received on or before December 15, 2015, and on February 1, 2016, for QHP selections received from December 16, 2015 through January 15, 2016. *45 C.F.R. § 155.410(f)(2).*

b. However, MNSure had the option to provide an earlier start date if it demonstrated to the U.S. Department of Health and Human Services that its participating health insurance carriers agreed to start coverage in a shorter timeframe. *45 C.F.R. § 155.410(c)(2).* As described in its December 12 press release, MNSure exercised this option to extend the enrollment deadline for January 1 coverage to December 28, 2015.

² See, MNSure Press Release, *MNSure Extends Enrollment Deadline for January 1 Coverage to December 28* (December 12, 2015), found at <https://www.mnsure.org/news-room/news/news-detail.jsp?id=486-176427>.

4. **Conclusion.**

a. Appellant enrolled in a MNsure QHP during open enrollment, and during the extension period for January 1, 2016, coverage. Appellant was informed at the time of her enrollment that her coverage would begin January 1, 2016. In fact, Appellant preferred that start date to a later start date, as it would provide her family with significant savings. While Appellant later learned that her request to cancel her previous, non-MNsure health coverage effective December 31, 2015, would be denied, this was not due to an error or mistake by MNsure.

b. Because Appellant's previous coverage with PreferredOne was purchased outside of MNsure, the MNsure Board does not have jurisdiction to address her inability to cancel that coverage effective December 31, 2015. Accordingly, this decision does not consider the correctness of that determination by PreferredOne.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the determination of Appellant's QHP coverage effective date of January 1, 2016, as that effective date was selected by Appellant and required by law to be implemented.

John Freeman
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 its final decision.

FOR THE MNSURE BOARD:

cc: [REDACTED], Appellant
MNsure General Counsel

Date

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).