



**DECISION  
OF AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: Qualified Health Plan  
Agency: MNSure Board  
Docket: 173156

On April 15, 2016, 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 people appeared at the hearing:

[REDACTED], Appellant;  
Lindsey Millard, Appeals Representative.

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. Appellant submitted an appeal request regarding the effective date of the termination of her QHP coverage with the MNsure agency on February 5, 2016. *Exhibit 1*. An appeal hearing was scheduled for March 16, 2016. On March 15, 2016, Appellant’s authorized representative withdrew Appellant’s appeal by telephone. On March 16, 2016, Appellant informed the Appeals Examiner that she did not wish to withdraw the appeal. With Appellant’s consent, the hearing was rescheduled.

2. On April 15, 2016, Appeals Examiner Renee Ladd held an evidentiary hearing by telephone conference. The record, consisting of the testimony and three exhibits,<sup>1</sup> was closed at the end of the hearing.

3. On December 15, 2014, Appellant submitted an application for health care coverage for a household of one person through Minnesota Eligibility Technology System (METS), the MNsure computer eligibility system. *Millard Testimony; Exhibit 3*. Appellant was enrolled in a QHP offered by Blue Cross Blue Shield. *Id.; Appellant Testimony*.

4. In October 2015, the agency sent all enrollees a letter regarding the open enrollment period for 2016 coverage. *Millard Testimony*. This letter informed enrollees that they would be automatically enrolled in the same plans unless they contacted MNsure to terminate the coverage. *Id.* Agency records show this letter was mailed to Appellant. *Id.*

5. Appellant was automatically re-enrolled in the same Blue Cross Blue Shield plan beginning January 2016 because she did not terminate the coverage. *Millard Testimony*.

6. On February 2, 2016, Appellant sent an email to the agency expressing her frustration with trying to enroll in a new QHP in December 2015 and early January 2016. *Exhibit 3*. Appellant stated that she was unable to access her online account because she could not remember her password or correctly answer the questions to recover the password. *Id.* After attempting to reset the password too many times, she was locked out of the account. *Id.* Appellant reported that when she called to speak to a customer service representative, she was told the wait time was more than 60 minutes. *Id.*

---

<sup>1</sup> Appeal Request Form, Exhibit 1; DHS State Agency Appeals Summary, Exhibit 2; MNsure Appeals Memorandum, Exhibit 3.

7. On February 5, 2016, Appellant called the agency and requested her QHP coverage be terminated retroactively to January 1, 2016. *Exhibit 3*. The agency representative told her that her coverage could not be terminated until March 1, 2016 and helped her file the appeal. *Id.*

8. After reviewing Appellant's appeal, the agency determined that it could terminate the enrollment 14 days after Appellant called the agency on February 5, 2016 to request termination of her coverage. *Millard Testimony*. The agency offered to terminate the QHP coverage effective February 19, 2016, but could not guarantee that Blue Cross Blue Shield would prorate Appellant's February 2016 premium. *Id.* The agency sent multiple emails to enrollees regarding the end of open enrollment regardless of whether they were already enrolled in a plan. *Id.*

9. Appellant does not dispute the Department of Human Services' determination regarding her eligibility for Medical Assistance or MinnesotaCare coverage. *Appellant Testimony*. Appellant requests that her QHP coverage be terminated on January 1, 2016 because she did not receive the letter regarding automatic re-enrollment and thought her coverage was terminated on January 1, 2016. *Id.* Appellant received a letter from Blue Cross Blue Shield informing her that the premium for her plan was increasing significantly in 2016 so she did not want to re-enroll in that plan because she could not afford it. *Id.* Appellant received multiple emails from the agency regarding the deadline to enroll during open enrollment and warning her about the penalty for not having insurance. *Id.* Appellant thought that because she received these emails, she was not currently enrolled in a QHP. *Id.* Appellant contacted Medica about enrolling in a new plan and attempted to enroll in that plan during open enrollment because it was more affordable. *Id.* Appellant was unable to enroll through METS and was unable to reach anyone by phone because of the long wait times. *Id.* Appellant did receive medical care in January 2016 but she paid for the care out of pocket because she thought she did not have coverage. *Id.* Appellant has now enrolled in a plan with Medica outside of the MNsure exchange. *Id.*

#### APPLICABLE LAW

10. 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)*.

11. 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.

12. If an enrollee remains eligible for enrollment in a QHP through the Exchange upon annual redetermination and the product under which the QHP in which he or she is enrolled remains available through the Exchange for renewal, such enrollee will have his or her enrollment through the Exchange in a QHP under that product renewed, unless he or she terminates coverage, including termination of coverage in connection with voluntarily selecting a

different QHP. *45 C.F.R. § 155.335(j)*. The enrollee's coverage will be renewed in the same plan as the enrollee's current QHP, unless the current QHP is not available through the Exchange. *Id.*

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 her QHP coverage under Minnesota Statute § 62V.05, subdivision 6.

16. The evidence shows that the agency properly re-enrolled Appellant in the QHP she was enrolled in during 2015 because she did not terminate the coverage prior to the deadline to enroll in coverage starting January 1, 2016. There is no dispute that Appellant notified the agency

that she wanted to terminate her QHP coverage on February 5, 2016. Appellant did not request termination of coverage because she was newly eligible for Medicaid. Rather, she requested termination of coverage because she wanted to enroll in a new plan. Appellant requested termination of coverage effective January 1, 2016. This is not reasonable notice of the request for termination of coverage. 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 March 1, 2016, but has now changed the termination date to February 19, 2016, 14 days after Appellant requested termination of coverage. Although Appellant may not have received the letter from the agency informing her that she would be automatically re-enrolled in her previous plan if she did not terminate coverage, there is nothing in the federal regulations or Minnesota statutes that would allow an earlier termination date based on good cause. Likewise, although Appellant had difficulty enrolling in a new QHP through the MNsure exchange during the open enrollment period, which may have resulted in an earlier termination date, the record shows that this was not due to agency error, but rather because Appellant was unable to log into her account due to a forgotten password and password hints and was unable to wait on hold to talk to an agency representative and apparently did not contact a broker until after open enrollment ended. Even if Appellant's inability to enroll in a new plan was due to agency error, there is nothing in the regulations that would allow an earlier termination date due to agency error. As a result, I recommend the agency be affirmed in its determination that Appellant's QHP coverage is terminated effective February 19, 2016.

### 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 February 19, 2016

---

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], Appellant  
MNsure General Counsel  
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 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](http://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).