



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED] and [REDACTED]
For: Qualified Health Plan
Agency: MNSure
Docket: 176236

On May 9, 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

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 hearing are:

Whether MNsure correctly terminated Appellants' coverage under a Qualified Health Plan effective March 31, 2016; and

Whether MNsure correctly determined that Appellants were not eligible for a special enrollment period.

BACKGROUND

On March 14, 2016, MNsure processed the termination of Appellants' coverage under a Qualified Health Plan (QHP) and made the termination effective March 31, 2016.¹ On April 5, 2016, MNsure determined that Appellants were not eligible for a special enrollment period to reenroll in a QHP.² MNsure did not send written notice of either of these actions to Appellants.³ On April 5, 2016, Ms. [REDACTED] appealed these actions.⁴ On May 9, 2016, I held an evidentiary hearing by phone. I accepted four exhibits⁵ into evidence and closed the record at the end of the hearing.

FINDINGS OF FACT

1. On January 4, 2016, Appellants enrolled in a QHP offered by BlueCross BlueShield through MNsure.⁶

2. On March 14, 2016, Ms. [REDACTED] checked the BlueCross website to see if certain providers were within her network.⁷ She saw that the nearest in-network provider was an hour-and-a-half away from her home.⁸ She called BlueCross and was told to call MNsure.⁹ She called MNsure the same day, and was told that she could not change QHPs at that time because open enrollment had passed and she did not qualify for a special enrollment period.¹⁰ Ms. [REDACTED] then asked MNsure to terminate the coverage she and Mr. [REDACTED] had under the BlueCross QHP.¹¹ The MNsure representative told Ms. [REDACTED] that if she later

¹ Exhibit 2.

² Exhibit 2.

³ Ms. [REDACTED] testimony.

⁴ Exhibit 1.

⁵ Exhibit 1 – Appeal request. Exhibit 2 – MNsure Appeals Memorandum. Exhibit 3 – screenshots showing date of Appellants' MNsure application and call logs. Exhibit 4 – Health Care Notice MNsure sent to Appellants on December 10, 2015.

⁶ Exhibit 2, p. 1; Ms. [REDACTED] testimony.

⁷ Ms. [REDACTED] testimony.

⁸ Ms. [REDACTED] testimony.

⁹ Ms. [REDACTED] testimony.

¹⁰ Exhibit 2.

¹¹ Exhibit 3; *see* Ms. [REDACTED] testimony.

tried to reenroll in a QHP, this termination would not be considered a qualifying life event that would make her eligible for a special enrollment period.¹² Ms. [REDACTED] told MNSure to terminate coverage anyway.¹³

3. On April 4, 2016, Ms. [REDACTED] checked the BlueCross website again and saw that a payment for the April 2016 premium had automatically been deducted.¹⁴ She searched for providers on the website again and saw that providers who were within a reasonable distance of her home and who had previously appeared to be out-of-network were now showing up as in-network.¹⁵

4. On April 5, 2016, Ms. [REDACTED] called MNSure and asked that MNSure stop the termination process because she and Mr. [REDACTED] wanted to keep the QHP coverage.¹⁶ The MNSure representative told her that the termination process could not be stopped.¹⁷

5. Appellants then filed this appeal.¹⁸ They would like their previous QHP coverage reinstated without a gap in coverage.¹⁹

CONCLUSIONS OF LAW

1. ***Jurisdiction.*** The MNSure Board has the legal authority to hear appeals of MNSure determinations (with some exceptions that do not apply to this case).²⁰ The MNSure Board has an agreement with the Department of Human Services to hear and decide MNSure eligibility appeals. The appeal request must be received by MNSure within 90 days from the date of the notice of eligibility determination.²¹

Although MNSure did not send written notice of the actions that Appellants are challenging, the appeal was filed within 90 days of the actions and is therefore timely.

2. ***Termination of QHP coverage.*** If an enrollee requests termination of qualified health plan coverage and makes that request at least 14 days before the requested effective date of termination, then MNSure must make the termination effective on the date specified by the enrollee; otherwise, the termination is effective 14 days after the enrollee made the request.²² The evidence does not show that MNSure violated these rules. Appellants do not contend that they requested a termination date other than March 31, 2016. Ms. [REDACTED] testimony shows that before she checked the BlueCross website on April 4, she has assumed her coverage had ended as of March 31, 2016. Mnsure's termination of Appellants' coverage effective March

¹² Ms. [REDACTED] testimony.

¹³ Exhibit 2; see Ms. Von Rueden's testimony.

¹⁴ Ms. [REDACTED] testimony.

¹⁵ Ms. [REDACTED] testimony.

¹⁶ Ms. [REDACTED] testimony.

¹⁷ Ms. [REDACTED] testimony.

¹⁸ Exhibit 1; Ms. [REDACTED] testimony.

¹⁹ Ms. [REDACTED] testimony.

²⁰ Minn. Stat. § 62V.05, subd. 6.

²¹ 45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).

²² 45 C.F.R. § 155.430(d).

31, 2016 was correct.

3. ***Special enrollment period.*** After January 31, 2016, a person may enroll in qualified health plan coverage for 2016 through MNsure only if he or she is determined eligible for a special enrollment period.²³ MNsure must provide a special enrollment period if a qualified individual or his or her dependent:

- loses minimum essential health coverage;
- gains or becomes a dependent through marriage, birth, adoption, placement for adoption, placement in foster care, or through a child support or other court order;
- gains citizenship or lawful permanent resident status;
- demonstrates to MNsure that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- is determined newly eligible or ineligible for an advance premium tax credit or has a change in eligibility for cost-sharing reductions;
- gains access to new QHPs as a result of a permanent move; or
- demonstrates to MNsure that the individual meets other exceptional circumstances.²⁴

MNsure must also provide a qualified individual a special enrollment period if the individual's enrollment or non-enrollment in a QHP:

- is unintentional, inadvertent, or erroneous, and
- is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of MNsure or the U.S. Department of Health and Human Services, its instrumentalities, or a non-MNsure entity providing enrollment assistance or conducting enrollment activities.²⁵

Appellants have not shown that they meet any of the above requirements. They did not *lose* coverage; they voluntarily terminated their coverage. Appellants have also not met their burden to prove that BlueCross substantially violated a material provision of its contract with MNsure in relation to Appellants.

Appellants also cannot qualify for a special enrollment period based on a claim of non-enrollment as a result of MNsure error, because non-enrollment is not what happened here. Appellants were *enrolled* in a QHP during the annual open enrollment period. They later requested to *terminate* their QHP coverage. Termination of coverage is not the same as non-enrollment or a failure to enroll in the first place.

Appellants are not entitled to a special enrollment period at this time to reenroll in a QHP. MNsure's determination should be affirmed. MNsure should ensure that Appellants are reimbursed for any premium payment made to BlueCross for April 2016 QHP coverage, if they have not already been reimbursed.

²³ 45 C.F.R. § 155.410(e)(2).

²⁴ 45 C.F.R. § 155.420(d). If the qualified individual is an Indian (as defined by section 4 of the Indian Health Care Improvement Act), he or she is entitled to change QHPs one time per month.

²⁵ 45 C.F.R. § 155.420(a) and (d)(4).

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNSure Board:

- AFFIRM MNSure’s termination of Appellants’ qualified health plan coverage effective March 31, 2016; and
- AFFIRM MNSure’s determination that Appellants do not qualify for a special enrollment period based on their voluntary termination of their qualified health plan coverage.

Munazza Humayun
Appeals Examiner

Date

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] and [REDACTED], Appellants
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 action.

If you disagree with this decision, you may:

- **Request the appeal be reconsidered.** 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. The request must be *in writing* and be made *within 30 days of the date of this decision*. The request may be sent to *Appeals Division, Minnesota Department of Human Services, P.O. Box 64941, St. Paul, MN 55164-0941*. You may also fax the request to *(651) 431-7523*. ***A copy of the request must be sent to the other parties.*** To ensure timely processing of your request, please include the name of the Appeals Examiner/Human Services Judge assigned to your appeal, along with the docket number for your appeal.
- **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 the Commissioner of the Department of Human Services (if appealing the decision regarding Medical Assistance or MinnesotaCare) and/or the MNsure Board (if appealing a program offered through 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) and Minnesota Statute § 256.045, subdivision 7.

In addition, 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 also:

- **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). An appeal request may be made to DHHS *within 30 days of the date of this decision* by downloading the appeals form for Minnesota from the appeals landing page on www.healthcare.gov and following the instruction on the landing page for submitting an appeal.