



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Dental Plan
Agency: MNSure Board
Docket: 176513

On May 17, 2016, Appeals Examiner Scott R. Johnson 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.

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 ISSUES

The issue raised in this appeal is:

Whether MNSure properly determined that Appellant's coverage under a dental plan was terminated effective April 30, 2016.

FINDINGS OF FACT

1. On December 12, 2013, [REDACTED] (Appellant) applied for a Qualified Health Plan (QHP) through the MNSure online system. *Exhibit 2*. MNSure determined Appellant was eligible to enroll in a QHP, and on January 20, 2014 Appellant enrolled in a QHP and a dental plan. *Id.* Appellant contacted MNSure to terminate her dental coverage, and MNSure terminated Appellant's dental coverage effective April 30, 2016. On April 12, 2016, Appellant filed an appeal challenging the termination effective date. *Exhibit 1*.

2. On May 17, 2016, Appeals Examiner Scott R. Johnson held an evidentiary hearing by telephone conference. The record was held open following the hearing in order to allow Appellant to submit additional documentation. The Agency did not submit any further information in response. The record closed on May 23, 2016, consisting of the Appellant's testimony and three exhibits.¹

3. As noted above, Appellant enrolled in a QHP and a dental plan on January 20, 2014. *Exhibit 2*. Appellant was thereafter "passively" enrolled in both plans for 2015 and 2016. *Id.*

4. On February 25, 2016, Appellant called MNSure to request that her dental coverage be terminated. *Exhibit 2*. Although MNSure has a record that the telephone call occurred, Appellant's call ended before MNSure terminated the dental plan. *Id.*

5. On April 4, 2016, Appellant called MNSure again regarding terminating her dental coverage. *Exhibit 2*. MNSure terminated the plan effective April 30, 2016. *Id.* After Appellant initiated this appeal, MNSure determined that the earliest it can confirm Appellant attempted to contact MNSure regarding her dental coverage was February 25, 2016. *Exhibit 2*. As a result, MNSure can terminate Appellant's coverage effective March 9, 2016. *Id.*

6. Appellant began trying to terminate her dental coverage in December 2015.

¹ Appellant's Appeal Request, Exhibit 1; MNSure Appeals Memorandum with attachments, Exhibit 2; Appellant's supplemental documentation, Exhibit 3. A fourth exhibit from the Department of Human Services pertaining to Appellant's eligibility for Medical Assistance and/or MinnesotaCare was not received into evidence.

Appellant's Testimony. An unidentified insurance broker advised Appellant she could cancel her dental coverage by submitting a written request to her insurer, Delta Dental. *Id.* On December 15, 2015, Appellant wrote to Delta Dental, requesting her dental coverage be terminated effective December 31, 2015. *Id.; Exhibit 3.* Appellant did not receive a response. *Appellant's Testimony.* When Appellant received a Delta Dental invoice in January 2016, she thought Delta Dental had not received her request in time to process it before mailing her January invoice. *Id.* Appellant called Delta Dental upon receiving another invoice in February 2016. *Id.* A representative advised her to contact MNSure to terminate her dental coverage. *Id.* Appellant called MNSure in February 2016, but her call was transferred several times and she was then disconnected. *Id.* Appellant next attempted to contact MNSure after receiving another invoice from Delta Dental in April 2016. *Appellant's Testimony.* Appellant was told that her termination would be effective at the end of April. *Id.* Appellant believes her dental coverage termination should be effective January 1, 2016. *Id.*

APPLICABLE LAW

1. 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).*

2. 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.

3. MNSure must permit an enrollee to terminate his or her coverage or enrollment in a dental plan obtained through the Exchange. *45 C.F.R. § 155.430(b)(1)(i).* Although the referenced statute applies to qualified health plans, it has been interpreted by the Federal Center for Consumer Information and Insurance Oversight as being equally applicable to dental plans. *See Federally-facilitated Marketplace and Federally-facilitated Small Business Health Options Program Enrollment Manual*, available at https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated_ENR_Manual.pdf. 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

1. This appeal was started within the allotted 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 coverage.

2. The MNsure Board has the legal authority to review and decide issues about a household's QHP eligibility through MNsure. *Minn. Stat. § 62V.05, subd. 6*. This includes the authority to review Appellant's challenge of its determination of the effective date of termination of her dental coverage under *Minn. Stat. § 62V.05, Subd. 6*.

3. There is no dispute that Appellant contacted the Agency to request it terminate her dental coverage on February 25, 2016. Appellant requests termination of her coverage effective January 1, 2016. This is not reasonable notice of the request for termination of coverage. Pursuant to 45 C.F.R. § 155.430(d)(2), coverage must be terminated fourteen days after the termination is requested by the enrollee if the enrollee does not provide reasonable notice. The Agency has agreed to terminate coverage effective March 9, 2016—14 days after Appellant contacted the Agency for termination of coverage.

4. Appellant was incorrectly informed she could terminate her dental plan without notifying the Agency by contacting Delta Dental directly. Although Appellant had a good faith belief that she could terminate her dental plan by only contacting her insurance carrier, there is nothing in the federal regulations or Minnesota statutes that would allow an earlier termination date for good cause based on Appellant's belief that

she had adequately requested her dental plan be canceled. As a result, I recommend the Agency be affirmed in its determination to terminate Appellant's dental coverage effective March 9, 2016.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board DENY the Appellant's request to terminate her dental coverage effective January 1, 2016 and AFFIRM the dental coverage termination date of March 9, 2016.

Scott R. Johnson
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 each agency's final decision.

cc: [REDACTED], Appellant
MNsure General Counsel
Teressa Saybe, DHS – 0838

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 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).