



Minnesota Department of **Human Services**

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**DECISION OF  
STATE AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: Medical Assistance  
Agency: Minnesota Department of Human Services  
Docket: 159582

On February 23, 2015 Human Services Judge Ngoc Nguyen held an evidentiary hearing under Minn. Stat. § 256.045, subd. 3.

The following people appeared at the hearing:

[REDACTED], Appellant's Wife  
[REDACTED], Certified MNsure Navigator (Appellant's Representative)  
Elise, Spanish Interpreter, ID # 22485, Language Line.

The Human Services Judge, 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 ISSUES

Whether Appellant was unable to secure MinnesotaCare coverage because of the Agency's failure to make a timely determination.

## FINDINGS OF FACT

1. On September 24, 2014, Ms. [REDACTED] contacted the Minnesota Department of Human Services (agency) and requested that her husband, [REDACTED] (Appellant) be added to the coverage with his wife and two daughters. *Exhibit 1*. By mid-January, Appellant was not added to the family's case; therefore the Appellant filed a request challenging the agency's inaction, which MNSure received on January 22, 2015. *Exhibit A*. On February 23, 2015, Appeals Examiner Ngoc Nguyen held an evidentiary hearing via telephone conference. The judge accepted into evidence one exhibit with attachments from the agency and two exhibits from Appellant<sup>1</sup>. The record was closed at the end of the hearing.

2. On December 30, 2013, Ms. [REDACTED] applied for health care coverage for herself and her two daughters. *Exhibit 1*. On September 24, 2014, the agency reported that Appellant called to add her husband (Appellant) to her case and to report a change in her income. *Exhibit 1*. The agency placed the request on a tracking list to be updated. *Id.*; *Attach. 2*. The agency updated Ms. [REDACTED] income information; but was unable to add Appellant to the case. Appellant had submitted his application to Anoka County and the agency did not have his information. *Exhibit 1*; *Attach. 3*.

3. Beginning November 11, 2014, the agency ran a system processing that selected cases for renewal on the MNSure system. During the renewal process, the agency is unable to make any changes to cases that were selected for renewal. Ms. [REDACTED] case was selected. The agency explained that due to technical system limitation, changes to cases after renewal processing begins, but before it is finished, may prevent the renewal process from completing correctly. Ms. [REDACTED] renewal process was not completed; therefore changes could not be made. *Exhibit 1*.

4. Agency case notes indicate that on December 10, 2014, [REDACTED] County received Appellant's application and was unable to add him to Ms. [REDACTED] case because Appellant has been in the United States for less than 5 years. *Exhibit 1*; *Attachment 4*.

5. On February 20, 2015, the agency spoke with Appellant's representative and informed her that once the renewal process is completed, Appellant would be added to Ms. [REDACTED] case. *Exhibit 1*.

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<sup>1</sup> Exhibit 1 – Agency Appeal Summary with Attachments 1-4; Exhibit A (Appeal) with Case Notes from September 24, 2014- January 15, 2015; Exhibit B- Case Notes from March 13, 2012 – February 10, 2015.

6. Appellant's representative, [REDACTED], reported that Portico Healthnet assisted Ms. [REDACTED] with her MNsure application in 2013 and her renewal on July 3, 2014. *Testimony of [REDACTED]; Exhibit B.* On July 3, 2014, Ms. [REDACTED] informed the navigator with Portico that her husband had been living with her since April 2014. Appellant was away in Ecuador for 2 years to complete an immigration process to get his Lawful Permanent Residence (LPR). Portico faxed the renewal and marked that Appellant wanted to apply for coverage. Appellant was given a card in case Ms. [REDACTED] needed assistance with Appellant's MNsure application. *Id.*

7. On September 24, 2014, Ms. [REDACTED] contacted the agency to report the change in Ms. [REDACTED] income and to add Appellant to the case. *Testimony of [REDACTED]; Exhibit B.* The changes were noted but the agency was unable to provide Ms. [REDACTED] with a processing date. The agency informed them that Appellant should be eligible for MinnesotaCare. *Id.*

8. On October 23, 2014, Ms. [REDACTED] contacted the Assisted Resource Center (ARC) to follow up on Appellant's case. A woman named "Summer" informed her that Appellant would have to submit his own application via MNsure. A MNsure paper application was faxed on October 30, 2014. MNsure was accepting paper applications and the information provided to Ms. [REDACTED] was to submit only the application and no verifications. *Testimony of [REDACTED]; Exhibit B.* On the application, Appellant's family (wife and kids) were listed as "non-applicants." *Testimony of [REDACTED].*

9. Appellant is employed at [REDACTED] and is paid bi-weekly. *Testimony of [REDACTED].* Ms. [REDACTED] is unemployed. The family submitted Appellant's September and October paystubs to the agency previously. Appellant had a projected 2014 income of \$19,260. *Id.*

10. On December 1, 2014, Ms. [REDACTED] contacted ARC and was told that Appellant's application was received on October 30, 2014, but was not processed at that time. *Testimony of [REDACTED]; Exhibit B.*

11. On December 22, 2014, Ms. [REDACTED] received a voicemail message from an [REDACTED] County worker. *Testimony of [REDACTED].* The voicemail stated that the agency was unable to process Appellant's case because his wife, Ms. [REDACTED] was already in the system. The agency was unable to upload his case as a household of one; therefore Appellant must be added to Ms. [REDACTED] case. The agency stated that they were unable to add him at this time. *Id.*

12. At the time of the hearing, the Agency had not processed or updated Appellant's case and the issue had not been resolved and no timeframe has been given as to when it can be resolved. *Exhibit 1.*

13. Appellant received his legal permanent resident status in April 2014. His wife and children are citizens and receive Medical Assistance. *Testimony of* [REDACTED]. Appellant and his family are frustrated that he still does not have health insurance coverage five months after they contacted the agency to add Appellant to the case. It has been almost five months since the family requested to add Appellant to the household for the purpose of coverage and four months since Appellant submitted his application. The family is concerned about the individual mandates for health care and about retroactive coverage. Appellant wants health insurance coverage and the agency has given the family no time line. *Id.* When Appellant was denied Medical Assistance due to his status as a LPR under 5 years, his case should have been referred to MinnesotaCare. *Id.*

### CONCLUSIONS OF LAW

1. For Medical Assistance and MinnesotaCare appeals, a person may request a state fair hearing by filing an appeal either: 1) within 30 days of receiving written notice of the action; or 2) within 90 days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the 30 day time limit. *Minn. Stat. § 256.045, subd. 3(h).*

2. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues of Medical Assistance and MinnesotaCare for applications for assistance that are denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid. *Minn. Stat. § 256.045, subd. 3.*

3. This appeal is timely because the Agency has not submitted evidence to show when Appellant's household was provided with proper notice of the Agency's eligibility determination. As such, the time period for Appellant to submit a timely appeal request did not begin to toll.

4. Individual(s) who move into an existing Medical Assistance household are added to the household size and deemed effective the first full month that they live with the existing household. *DHS Health Care Programs Manual (HCPM) 17.20.* Deeming is defined as calculating income and assets totals for an individual to determine his or her eligibility for a health care program. *Id.* at Chapter 18. The new household member does not require an application. *Id.* at 17.20. In this case, Appellant requested that he was added to the family on September 24, 2014. The family is a Medical Assistance family; therefore an application was not needed.

5. Lawful Permanent Residents (LPR) who have resided in the United States for less than five years are not eligible for Medical Assistance but may be eligible for MinnesotaCare. *MN DHS Health Care Eligibility for Noncitizens Chapter 3; DHS HCPM Chapter 11, MinnesotaCare Immigration Status and Eligibility Table.*

6. Effective January 1, 2014, families with children having family income above 133 percent of the federal poverty guidelines and equal to or less than 200 percent of FPL for the applicable family size shall be eligible for MinnesotaCare according to this section.<sup>2</sup> When determining eligibility for MinnesotaCare coverage effective January 1, 2014, "income" is determined by using modified adjusted gross income methodology, as defined in 26 C.F.R. § 1.36B-1.<sup>3</sup> The Appellant's "taxpayer family" consists of himself, his wife, and two minor children. But for the fact that Appellant is a LPR residing in the United States under 5 years, he would qualify for Medical Assistance. Based on his LPR status, his wife and children, as citizens qualify for Medical Assistance. Appellant is eligible for MinnesotaCare.

7. Eligibility for MinnesotaCare must be determined within 30 days after a complete application is received by the department. *Minn. R. 9506.0030, subp. 3*. By statute, MinnesotaCare coverage is effective the first day of the month following the month in which eligibility is approved and the first premium payment has been received. *Minn. Stat. 256L.05, Subd. 3(a)*.

8. I conclude that Appellant qualifies for MinnesotaCare based on his income and his status as an LPR under 5 years. The family added him to the household and requested coverage on September 24, 2014; therefore pending payment of the premium, his health care coverage is retroactive to October 1, 2014. For this reason, Appellant has met his burden of proof by the preponderance of the evidence and the agency must allow him sufficient time to pay his premiums.

### RECOMMENDED ORDER

THE HUMAN SERVICE JUDGE RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services ORDER the Agency to provide Appellant MinnesotaCare retroactive to October 1, 2014 pending payment of his premiums.

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Ngoc Nguyen  
Human Services Judge

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Date

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<sup>2</sup> Pursuant to Minn. Stat. § 256L.04, subd. 1, as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 55.

<sup>3</sup> Minn. Stat. § 256L.01, subd. 5 as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 55.

ORDER

FOR THE COMMISSIONER OF HUMAN SERVICES as to any effect the decision has on Appellant's eligibility for Medical Assistance and/or MinnesotaCare benefits.

\_\_\_\_\_  
Date

cc: \_\_\_\_\_, Appellant  
\_\_\_\_\_, Portico Healthnet  
Teresa Saybe, Minnesota Department of Human Services - 0838

**FURTHER APPEAL RIGHTS**

**This decision is final, unless you take further action.**

If you disagree with this decision, you may:

- Request the decision be reconsidered; or
- Appeal to District Court.

**Right to Reconsideration**

You may make a written request to the Appeals Office to reconsider this decision. 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; however, if you submit additional evidence, you must explain why it was not provided at the time of the hearing. The request must be *in writing*, be made *within 30 days of the date of this decision*, and a *copy of the request must be sent to the other parties*. Send your written request, with your docket number listed, to:

Appeals Office  
Minnesota Department of Human Services  
P.O. Box 64941  
St. Paul, MN 55164-0941  
Fax: (651) 431-7523

### **Appeal to District Court**

You may start an appeal in the district court. This is a separate legal proceeding, and you must start this *within 30 days of the date of this decision* by serving a notice of appeal upon the other parties and the Commissioner. The law that describes this process is Minn. Stat. § 256.045, subd. 7.