



**DECISION OF
MNSURE BOARD
ON APPEAL**

In the Appeal of: [REDACTED]

For: Advance Payment of Premium Tax Credit
MinnesotaCare
Medical Assistance

Agency: MNsure Board
Minnesota Department of Human Services

Docket: 148587

On January 21, 2014 Appeals Examiner Phil Grove held an evidentiary hearing under 42 U.S.C. §18081(f) and Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED] Appellant;
[REDACTED] MNsure 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 correctly determined the amount of the Appellant's eligibility for an advance payment of the premium tax credit as provided in the Affordable Care Act (42 U.S.C. § 18082).

FINDINGS OF FACT

1. On approximately October 5, 2013, the MNsure Board ("Agency") sent the Appellant a written notice of action that the Appellant was eligible for an advance payment of the premium tax credit of \$0 per month. *Exhibit 2*. The Appellant challenged this action by filing an appeal with the Agency on October 29, 2013. *Exhibit 1*.

2. On January 21, 2014, Human Services Judge Phil Grove held an evidentiary hearing via telephone conference. The record, consisting of six exhibits, was closed at the end of the hearing. At the hearing, Appellant did not dispute the implicit determinations that Appellant is ineligible for medical assistance and MinnesotaCare.

3. On or about October 5, 2013, the Appellant sought eligibility for an advance premium tax credit through MNsure's website for a coverage start date of January 1, 2014. *Exhibit 2(c), Attachment A*. On October 5, 2013 the Agency found the Appellant eligible for an advance payment of the premium tax credit of \$0 per month. *Id.* However, as of the date of the hearing, the parties were in agreement that Appellant is in fact eligible for advance payment of a premium tax credit in the amount of \$13.48 per month, and that there were no other issues for appeal.

4. It is undisputed that Appellant is 64 years old, is eligible to apply as a household of two, and has a projected 2014 household income of \$51,840. It is also undisputed that the premium for the applicable benchmark plan in Appellant's case is \$423.88 per month.

CONCLUSIONS OF LAW

1. This appeal is timely under 45 C.F.R §155.520(b).
2. The MNsure Board has the legal authority to review and decide issues in

this appeal regarding Appellant'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. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues in this appeal regarding Appellant's eligibility for Medical Assistance and MinnesotaCare. Minn. Stat. § 256.045, subd. 3.

3. Federal rules and regulations governing Medical Assistance and Exchange appeals require that, if an individual appeals the advance payment of the premium tax credit or cost sharing reduction level, the appeal will also automatically be treated as an appeal of Medical Assistance and MinnesotaCare eligibility. 78 Fed. Reg. 4683 (proposed Jan. 22, 2013) (to be codified at 42 C.F.R. § 431.221(e)); 78 Fed. Reg. 4595 (Jan. 22, 2013)(comments regarding proposed 42 C.F.R. § 431.221(e)); 45 C.F.R. § 155.510(b)(3); 45 C.F.R. § 155.505(b)(1)(i); and 78 Fed. Reg. 54096 (Aug. 30, 2013)(comments regarding 45 C.F.R. § 155.510(b)(3)). Thus, an appeal of the advance payment of the premium tax credit or cost sharing reduction level activates the appellant's hearing rights with respect to the implicit determinations concerning Medical Assistance and MinnesotaCare, and confers jurisdiction on the Commissioner of Human Services to address any disputed issues concerning eligibility for those programs. However, in this case the record reflects that Appellant does not dispute the agency's implicit determination that Appellant is ineligible for Medical Assistance and MinnesotaCare.

4. Federal regulations concerning eligibility for advance payment of a premium tax credit are found at 45 C.F.R. §155.305(f)(1) and 26 C.F.R §1.36B-2. MNSure must determine a tax filer eligible for an advance premium tax credit if he or she is expected to have Modified Adjusted Gross Income (MAGI) between 100% and 400% of federal poverty guidelines during the benefit year for which coverage is requested (unless he or she is a lawfully present noncitizen), and one or more applicants claim a personal exemption deduction on their federal tax return for the benefit year, are eligible for enrollment in a Qualified Health Plan, and are not eligible for minimum essential coverage. 45 C.F.R. §155.305(f).

5. A taxpayer's family means the individuals for whom it taxpayer properly claims a deduction under 26 U.S.C. §151 for the taxable year. 26 C.F.R. §1.36B-1(d). Family size means the number of individuals in the family. *Id.* Family and family size may include individuals who are not subject to or are exempt from the

penalty under 26 U.S.C. § 5000A for failing to maintain minimum essential coverage. *Id.*

6. Household income or means the sum of a taxpayer's modified adjusted gross income plus the aggregate modified adjusted gross income of all other individuals who are included in the taxpayer's family and are required to file a tax return for the taxable year. *26 C.F.R. §1.36B-1(e)(1).*

7. Modified adjusted gross income (MAGI) means adjusted gross income increased by (i) amounts excluded from gross income under 26 U.S.C. §911 [foreign income and housing costs]; (ii) tax exempt interest the taxpayer receives or accrues during the taxable year; and (iii) social security benefits not included in gross income under 26 U.S.C. §86. *26 C.F.R. §1.36B-1(e)(2).*

8. A taxpayer's premium assistance credit amount for a taxable year is the sum of the premium assistance amounts determined under 26 C.F.R. §1.36B-3(d) for all coverage months for individuals in the taxpayer's family. *26 C.F.R. §1.36B-3(a).*

9. The premium assistance amount for a coverage month is the lesser of: (1) the premiums for the month for one or more qualified health plans in which a taxpayer or a member of the taxpayer's family enrolls through the Exchange; or (2) the excess of the adjusted monthly premium for the applicable benchmark plan (second lowest-cost silver plan) over 1/12 of the product of a taxpayer's household income and the applicable percentage for the taxable year. *26 C.F.R. §1.36B-3(d).*

10. The adjusted monthly premium is the premium an insurer would charge for the applicable benchmark plan to cover all members of the taxpayer's coverage family, adjusted only for the age of each member of the coverage family as allowed under section 2701 of the Public Health Service Act (42 U.S.C. 300GG). *26 C.F.R. §1.36B-3(e).* The adjusted monthly premium is determined without regard to any premium discount or rebate under the wellness discount demonstration project under 2705(d) of the Public Health Service Act, and may not include any adjustments for tobacco use. *Id.*

11. The applicable benchmark plan for each coverage month is the second lowest-cost silver plan as described in section 1302(d)(1)(B) of the Affordable Care Act offered through the Exchange for the rating area where the taxpayer resides. *26 C.F.R. §1.36B-3(f).* The applicable benchmark plan provides self-only or family

coverage. *Id.* Self-only coverage is for a taxpayer: (1) who computes tax under 26 U.S.C. §1(c) (meaning unmarried individuals other than surviving spouses and heads of household) and is not allowed a deduction under section 151 for a dependent for the taxable year; (2) who purchases only self-only coverage for one individual; or (3) whose coverage family includes only one individual. 26 C.F.R. §1.36B-3(f)(1)(i). Family coverage is for all other taxpayers. 26 C.F.R. §1.36B-3(f)(1)(ii). The applicable benchmark plan for family coverage is the second lowest cost silver plan that applies to the members of the taxpayer's coverage family (such as a plan covering two adults if the members of a taxpayer's coverage family are two adults). 26 C.F.R. §1.36B-3(f)(2).

12. The applicable percentage multiplied by taxpayer's household income determines the taxpayer's required share of premiums for the benchmark plan. 26 C.F.R. §1.36B-3(g)(1). This required share is subtracted from the adjusted monthly premium for the applicable benchmark plan when computing the premium assistance amount. *Id.* There are several steps to calculate the applicable percentage. First, the percentage that the taxpayer's household income bears to the federal poverty line for the taxpayer's family size needs to be determined. *Id.* Second, the resulting federal poverty line percentage is compared to the income categories described in the table in 26 C.F.R. §1.36B-3(g)(2). *Id.* Third, an applicable percentage within an income category increases on a sliding scale in a linear manner, and is rounded to the nearest one-hundredth of one percent. *Id.*

13. The applicable percentage table is:

Household income percentage of federal poverty line	Initial percentage	Final percentage
Less than 133%	2	2
At least 133% but less than 150%	3	4
At least 150% but less than 200%	4	6.3
At least 200% but less than 250%	6.3	8.05
At least 250% but less than 300%	8.05	9.5
At last 300% but less than 400%	9.5	9.5

26 C.F.R. §1.36B-3(g)(2).

14. The maximum amount of Appellant's Monthly Premium Tax Credit is calculated as follows:

Monthly Premium for Applicable Benchmark Plan		423.88
Annual Household Income		51840
Household Size		2
% of annual Federal Poverty Limit (FPL)	Based on Annual Household Income and Household Size	334.24
Category of % FPL	From Applicable Percentage Table	300-400
Initial Premium % for Category	From Applicable Percentage Table	9.5
Final Premium % for Category	From Applicable Percentage Table	9.5
Premium % Range for Category	Final Premium % minus Initial Premium %	0
Initial % FPL for Category	From Applicable Percentage Table	300
Final % FPL for Category	From Applicable Percentage Table	400
% FPL Range for Category	Final % FPL for Category minus Initial % FPL for Category	100
Incremental % FPL within Category	% of annual FPL minus Initial % FPL for Category	34.24
Ratio of Incremental % FPL to FPL Range for Category	Incremental % FPL within Category divided by % FPL Range for Category	0.3424
Incremental Premium % within Category	Ratio of Incremental % FPL to FPL Range times Premium % Range for Category	0.00
Applicable Premium %	Initial Premium % for Category plus Incremental Premium % within Category	9.50
Monthly Premium Contribution	Annual Household Income times Applicable Premium % (divided by 1200)	410.40
Excess Monthly Premium for Applicable Benchmark Plan	Benchmark Plan Premium minus Monthly Premium Contribution	13.48
Maximum Amount of Monthly Premium Tax Credit	Same as Excess Monthly Premium for Benchmark Plan	13.48

15. The maximum amount of monthly premium tax credit calculated in the above table matches the agency's determination in this case. I conclude that the Agency correctly found the Appellant eligible for an advance payment of the premium tax credit of \$13.48 per month (after initially making the incorrect determination that the advance payment of the premium tax credit should be \$0 per

month.)

16. This decision is effective retroactively to the date of the incorrect eligibility determination at Appellant's option. 45 C.F.R. §155.545(c)(1).

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the Agency's determination that Appellant is eligible for advance payment of a Premium Tax Credit in the amount of \$13.48 per month.
- The Commissioner of Human Services AFFIRM the determination that Appellant is not eligible for Medical Assistance or MinnesotaCare benefits.

/s/ Phil Grove
Phil Grove
Appeals Examiner

February 7, 2014
Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board and the Commissioner of Human Services adopt the Appeals Examiner's findings of fact, conclusions of law and order as each agency's final decision.

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

FOR THE MNSURE BOARD as to any effect the decision has on Appellant's eligibility through MNsure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program.

Date

cc: [REDACTED] Appellant
[REDACTED] MNsure
[REDACTED] Minnesota Department of Human Services -- 0989

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 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:

- **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.

If you disagree with this effect this decision has on your eligibility for **Medical Assistance and/or MinnesotaCare** benefits, you may:

- **Request the Appeals Office 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

- **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 Minnesota Statute § 256.045, subdivision 7.