



**DECISION  
OF AGENCY  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: MinnesotaCare  
Agency: MNsure Board  
Minnesota Department of Human Services  
Docket: 149062

On January 29, 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] Agency 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 Appellant is entitled to an Order that she is eligible for MinnesotaCare if she cancels her private insurance coverage.

## FINDINGS OF FACT

1. Appellant applied for MinnesotaCare on the MNsure web site on December 23, 2013. The site informed her that she was ineligible, and Appellant appealed on December 23, 2013. An evidentiary hearing was conducted by telephone on January 29, 2014. The record, consisting of one exhibit, was closed on that date.

2. There are no material facts in dispute. At the time Appellant applied for MinnesotaCare through the MNsure web site, she was on COBRA coverage through her employer. The COBRA coverage had been cancelled effective the end of December 2013, and Appellant was seeking MinnesotaCare coverage effective January 1, 2014. However, the web site application did not provide a way for Appellant to indicate that although she was currently covered by COBRA coverage, such coverage would no longer be effective on January 1. Consequently, she was denied MinnesotaCare eligibility. Appellant's efforts to contact MNsure to correct the problem did not bear fruit, and Appellant finally purchased private insurance coverage effective on January 1, 2014. Such private insurance coverage was in effect on the date of the hearing and the parties agreed that this likely made Appellant ineligible for MinnesotaCare. However, Appellant would like an order ensuring MinnesotaCare eligibility if she cancels the private coverage.

## CONCLUSIONS OF LAW

1. This appeal is timely under 45 C.F.R. §155.520(b).
2. The MNsure Board lacks jurisdiction over this appeal under Minn. Stat. §62V.05, Subd. 6(a). By rule, MNsure appeals are available for the following actions:
  - (1) initial determinations and redeterminations made by MNsure of individual eligibility to purchase a qualified health plan through MNsure, made in accordance with Code of Federal Regulations, title 45, sections 155.305, (a) and (b); 155.330; and 155.335;
  - (2) initial determinations and redeterminations made by MNsure of eligibility for and level of advanced payment of premium tax credit, and eligibility for and level of cost sharing reductions, made in accordance with Code of Federal Regulations, title 45, sections 155.305 (f) to (g); 155.330;

and 155.335;

(3) initial determinations and redeterminations made by MNsure of employer eligibility to purchase coverage for qualified employees through the Small Business Health Options Program under Code of Federal Regulations, title 45, section 155.710 (a);

(4) initial determinations and redeterminations made by MNsure of employee eligibility to purchase coverage through the Small Business Health Options Program under Code of Federal Regulations, title 45, section 155.710 (e);

(5) initial determinations and redeterminations made by MNsure of individual eligibility for an exemption from the individual responsibility requirement made in accordance with Code of Federal Regulations, title 45, section 155.605;

(6) a failure by MNsure to provide timely notice of an eligibility determination in accordance with Code of Federal Regulations, title 45, sections 155.310 (g); 155.330 (e)(1)(ii); 155.335 (h)(ii); 155.610 (i); and 155.715 (e) and (f);

(7) in response to a notice from MNsure under Code of Federal Regulations, title 45, section 155.310 (h), a determination by MNsure that an employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer does provide coverage but is not affordable coverage with respect to an employee; and

(8) in response to a denial of a request to vacate a dismissal made according to this chapter and in accordance with Code of Federal Regulations, title 45, section 155.530 (d)(2).

Minn. Rule 7700.0105, Subpart 1. In this case, there is no issue under dispute for which an appeal is available. Appellant and MNsure are in agreement that Appellant is likely ineligible for MinnesotaCare at this time because of her private insurance. If she were to cancel this private insurance, the agency representative agrees that it seems likely that she will be eligible for MinnesotaCare. However, a speculative or conditional order to this effect is not available. This appeal should be dismissed.

3. This decision is effective upon signing.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

The MNsure Board and the Commissioner of Human Services DISMISS this appeal for lack of jurisdiction.

/s/ Phil Grove  
Phil Grove  
Appeals Examiner

February 14, 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](http://www.healthcare.gov).
- **Seek judicial review** to the extent it is available by law.

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.