



**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: 149522

On February 5, 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).

Whether the Minnesota Department of Human Services has correctly determined that Appellant is not eligible for medical assistance or MinnesotaCare.

FINDINGS OF FACT

1. On an unknown date, the MNsure Board ("Agency") determined that the Appellant was eligible for an advance payment of the premium tax credit and ineligible for medical assistance or MinnesotaCare. The Appellant challenged this action by filing an appeal with the Agency on January 13, 2014. *Exhibit 1*.

1. On February 5, 2014, Human Services Judge Phil Grove held an evidentiary hearing via telephone conference. The record, consisting of one exhibit, was closed at the end of the hearing. At the hearing, Appellant argued that she and her two sons are eligible for medical assistance.

2. On or about November 1, 2013, the Appellant sought eligibility for insurance affordability programs through MNsure's website for a coverage start date of January 1, 2014. *Exhibit 1*. On an unknown date, the Agency found the Appellant eligible for an advance payment of the premium tax credit. *Id.* The Appellant argues that she and her two sons are all eligible for medical assistance.

3. The Appellant's birth date is [REDACTED], and Appellant is presently 45 years old. *Exhibit 1*. Appellant's zip code is [REDACTED]. *Id.* Appellant's household size is three.

4. Appellant lives with her 19-year-old son and her 15-year-old son. The income to the household consists of Appellant's social security income in the amount of \$1619 per month; Appellant's earned income in the amount of \$509 per month; and the social security income of Appellant's 15-year-old son in the amount of \$1619 per month. Appellant testified that the social security income of neither herself nor her son is taxable, and the agency did not dispute this or offer any contravening evidence at the hearing.

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.

4. 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). It appears that Appellant's 15-year-old son would be considered a "qualifying child" for tax purposes and that Appellant could claim him as a dependent for purposes of 2013 taxes regardless of his social security income. *See Instructions to IRS Form 1040, Line 6c*. Therefore, he is a part of her "household" for determination of medical assistance eligibility. 42 CFR 435.605(f)(1). However, because the 15-year-old's social security income is not taxable¹, he has zero taxable income and is not required to file a tax return. *See Instructions to IRS Form 1040, Chart B (social security income that is not taxable is not included in unearned income; individuals with less than \$1000 in unearned income need not file a return)*. Since the 15-year-old is not required to file a tax return, his income is not included in household income for purposes of determining medical assistance eligibility. 42 CFR 435.605(d)(2)(i).

¹ The 15-year-old's social security income is \$1619 per month or \$19428 per year, and he has no other income. Half of his social security income plus all his other income comes to \$9714 per year. Because this amount is less than his "base amount" of \$25,000 as a single person, the social security income is not taxable and the 15-year-old is not required to file a tax return. *See IRS Publication 17, Part 11, "Social Security and Equivalent Railroad Retirement Benefits," pp. 83-84.*

5. Not counting the income of Appellant's 15-year-old son, the household income consists only of Appellant's social security income of \$1619 per month and Appellant's earned income of \$509 per month. This adds up to a household income of \$25,536 for purposes of determining Appellant's medical assistance eligibility. Since the Federal Poverty Level (FPL) for a household of three is \$19,530, Appellant's income comes to 130.75% of the FPL. Since Appellant's household income is below 133% of the FPL for her household size, Appellant is eligible for medical assistance. Minn. Stat. 256B.055, subd. 4(b). Moreover, since the 19-year-old has zero income, Appellant can claim him as a tax dependent either as a "qualifying child" if he is a student or a "qualifying relative" otherwise. *See IRS Publication 501, Table 5*. Therefore, the 19-year-old is part of Appellant's household for determining medical assistance eligibility and the household income qualifies him for medical assistance in the same manner as Appellant. Minn. Stat. 256B.056, Subd. 4(d). The same analysis applies to Appellant's 15-year-old son, except that he is eligible for medical assistance with household income up to 275% of FPL. Minn. Stat. 256B.056, Subd. 4(e). Therefore, Appellant and both her sons are eligible for medical assistance.

6. Because Appellant and her sons are eligible for medical assistance, they are ineligible for purchase of a Qualified Health Plan and ineligible for advance payment of premium tax credits or cost sharing reductions. 26 USC 5000A(f)(1)(A). The agency's determination that Appellant is eligible for advance payment of a premium tax credit should be reversed. The agency's determination that Appellant and her sons are not eligible for medical assistance should also be reversed.

7. This decision is effective retroactively to January 1, 2014.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board REVERSE its determination that Appellant is eligible for advance payment of a premium tax credit.
- The Commissioner of Human Services REVERSE the determination that Appellant and her sons are ineligible for medical assistance and ORDER that Appellant and her sons be enrolled in the medical assistance program.

/s/Phil Grove
Phil Grove
Appeals Examiner

February 12, 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.