



**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: 149711

On February 25, 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 there is jurisdiction to hear a complaint concerning Appellant's inability, due to system dysfunction, to use the MNsure enrollment system to enroll in health insurance for which Appellant was indisputably eligible.

## FINDINGS OF FACT

1. In December 2013 MNsure (herein Agency) informed Appellant that Appellant was not eligible for medical assistance or MinnesotaCare but was eligible to purchase a qualified health plan. Sometime during the appeal process, Appellant was informed that she is potentially eligible for a premium tax credit but that the advance payment works out to \$0. Appellant does not challenge any of these determinations. It appears that there has been a change in Appellant's income since the time of the initial determination that would make her eligible for MinnesotaCare, and Appellant is in the process of verifying this change. However, there has not yet been a determination based on the reported change.

2. Even though Appellant had been determined eligible to purchase a qualified health plan, she was unable to get back into her account on the MNsure system to select and enroll in a plan. As a consequence, she had no insurance coverage for January or February 2014 and incurred out of pocket costs. The Appellant filed a request for a hearing complaining of these circumstances, which MNsure received on January 22, 2014. On February 25, 2014 I held an evidentiary hearing via telephone conference. I closed the record, consisting of one exhibit,<sup>1</sup> on that date.

3. At the hearing, the parties agreed that there was no dispute concerning the eligibility determinations. The only question is whether there is jurisdiction to address the gap in insurance coverage that resulted from system dysfunction.

## 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;

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<sup>1</sup> The following exhibits were marked into evidence: Memo of [REDACTED] with Appeal Summary, Ex #1.

(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 concerning the eligibility determinations that were made. Appellant simply wishes to pursue a complaint concerning the technical difficulties that MNsure is encountering in implementing its determinations and the resulting delay. While this clearly appears to be a legitimate complaint, the appeal process is limited to the issues designated in the rules and is not a

general forum for this kind of concern. This appeal should be dismissed.

2. 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 December 2013 determinations that Appellant was ineligible for Medical Assistance and MinnesotaCare.

3. This decision is effective immediately, but should in no way affect the Department's future determination of MinnesotaCare eligibility based on Appellant's report that a change in income has occurred since December 2013.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

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

/s/Phil Grove  
Phil Grove  
Appeals Examiner

February 26, 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.

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\_\_\_\_\_  
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).

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.