



**DECISION OF  
MNSURE BOARD  
ON APPEAL**

In the Appeal of: [REDACTED]  
For: Qualified Health Plan  
Medical Assistance  
Agency: MNSure Board  
Minnesota Department of Human Services  
Docket: 149906

On February 4, 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;  
[REDACTED] DHS 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 that the effective date for Appellant's coverage for her Qualified Health Plan cannot be made earlier than March 1, 2014.

## FINDINGS OF FACT

1. On January 27, 2014, the MNsure Board ("Agency") informed Appellant that they would not be able to enroll her in a Qualified Health Plan effective February 1, 2014. The Appellant challenged this action by filing an expedited appeal request with the Agency on January 27, 2014. *Exhibit 2.*

1. On February 4, 2014, Human Services Judge Phil Grove held an evidentiary hearing via telephone conference. The record, consisting of two exhibits,<sup>1</sup> was closed at the end of the hearing.

2. On December 9, 2013 the Appellant sought eligibility for a Qualified Health Plan through MNsure's website for a coverage start date of January 1, 2014. Appellant entered her projected 2014 income as \$42,000, however the web site software apparently did not record the entry and processed Appellant's application as though she had entered an income of \$0. *Testimony of [REDACTED]* Based on an income of \$0, the web site software determined that Appellant was eligible for medical assistance and therefore not eligible for purchase of a Qualified Health Plan. Appellant was unable to correct the income figure on the MNsure site or by contacting the MNsure call center. She was told she had to wait for another agency to assign a case worker for her medical assistance case. Appellant did attempt to contact the MNsure call center multiple times after her medical assistance case was opened but was unable to get through even after waiting on hold for an hour and a half each time. This appeal ensued.

3. As of the date of the hearing, Appellant's medical assistance case had been closed and all parties agreed that the issue of Appellant's eligibility for medical assistance was moot. Moreover, Appellant had succeeded in purchasing a Qualified Health Plan through MNsure on January 31, 2014 with a coverage start date of March 1, 2014. However, Appellant needs health coverage starting

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<sup>1</sup> Case Summary with Attachments A-C, Exhibit 1; Appeal Request, Exhibit 2.

immediately. She therefore urges that the Commissioner issue an order that coverage be effective February 1, 2014. The MNsure representative argued that the deadline for approval, selection and purchase of a Qualified Health Plan effective February 1 would have been January 15, and since Appellant did not obtain her Qualified Health Plan until January 31, there is no authority for making it effective February 1, even where the delay was caused by dysfunction of MNsure's enrollment system. Although the enrollment deadline for coverage effective January 1, 2014 had been waived across the board by MNsure, the MNsure representative testified that there had been no similar waiver of the enrollment deadline for coverage effective February 1, 2014.

### 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 regulations for health insurance exchanges created under the Affordable Care Act state that for a Qualified Health Plan selection received by the exchange from a qualified individual between the sixteenth and last day of the month or any month between January 2014 and March 31, 2014, the exchange must ensure a coverage effective date of the first day of the second following month. 45 CFR §155.410(c)(1)(iii). Because Appellant did not make a QHP selection until January 31, 2014 the coverage effective date must therefore be March 1, 2014. There is no provision for backdating the coverage effective date in cases such as this where Appellant could not make an earlier selection because of general system dysfunction. The federal rules do allow exchanges the option to provide an earlier effective date when agreed to by all participating QHP issuers; however, the MNsure representative testified that MNsure has obtained no such agreement. 45 CFR §155.410(c)(2)(ii). Therefore, I conclude that MNsure has correctly determined that the effective date for Appellant's coverage cannot be

made earlier than March 1, 2014. Unfortunately, Appellant is left with the option of attempting to obtain insurance on the private market to cover her for February 2014, even though the current gap in coverage appears to be the result of MNsure system dysfunction.

15. This decision is effective immediately.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the agency's determination that Appellant is eligible for a Qualified Health Plan with coverage effective March 1, 2014;
- 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](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.