



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: Medical Assistance
MinnesotaCare
Advance Payment of Premium Tax Credit
Cost Sharing Reductions

Agency: Minnesota Department of Human Services
MNsure Board

Docket: 155777

On September 17, 2014, Appeals Examiner Kelly A. Vargo held an evidentiary hearing under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a), and Minnesota Statute §256.045, subdivision 3.

The following people appeared at the hearing:

[REDACTED], Appellant.¹

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.

¹ Both the MNsure and Department of Human Services agencies were provided with a copy of the Notice and Order for Hearing, but no representative from either agency appeared.

STATEMENT OF ISSUES

Whether the Minnesota Department of Human Services (“DHS Agency”) properly determined Appellant’s eligibility for Medical Assistance and MinnesotaCare benefits.

Whether the MNsure Board (“MNsure Agency”) properly determined Appellant’s eligibility for an advance payment of a premium tax credit and cost sharing reductions as provided in the Affordable Care Act.

FINDINGS OF FACT

1. On August 23, 2013, the MNsure eligibility system advised Appellant that she was not eligible for Medical Assistance and MinnesotaCare benefits, that she was eligible for an advance payment of a premium tax credit of \$323, and that she was eligible for 73% cost reduction of a silver level qualified health plan’s total costs. *Exhibits 2 and 3*. Appellant challenged this action by filing an appeal with the MNsure Agency on August 28, 2013. *Exhibit 1*.
2. On September 17, 2014, Appeals Examiner Kelly A. Vargo held an evidentiary hearing via telephone conference. The record, consisting of three exhibits,² was closed on September 24, 2014 to allow time for Appellant to receive and review Agency’s submissions and provide a response. Appellant did not submit a response.
3. The state of Minnesota created MNsure as its marketplace or exchange for individuals, families and small employers to access health insurance and tax credits or assistance to help pay for coverage through the Affordable Care Act. On or about August 21, 2013, Appellant sought eligibility for assistance to help pay for health insurance coverage through MNsure beginning May 1, 2014. *Exhibits 2 and 3*. Appellant expects to jointly file taxes with her husband in 2015 for tax year 2014, and they will claim their two children as dependents. *Id.*
4. It is undisputed that the Appellant and her family are not eligible to enroll in Medical Assistance benefits. *Testimony of Appellant*.
5. Appellant’s birth date is [REDACTED]. *Exhibits 2 and 3*. Her age at application was 57. *Id.* Appellant’s zip code is [REDACTED]. *Id.* Appellant’s age and zip code affect the cost of available health plan premium costs, and in particular, the cost of the second lowest cost silver plan, which is the benchmark plan for determining the amount of premium assistance eligibility.
6. Appellant’s attested total projected annual household income is \$60,573. *Exhibits 2 and 3* This income consists of Appellant's husband’s anticipated modified adjusted gross income (MAGI) of \$43,829.04, which consists of adjusted gross income of \$43,829.04, foreign income and housing costs excluded under 26 U.S.C. § 911 of \$0, tax exempt interest of \$0, and Social

² Appeal Request, Exhibit 1; State Agency Appeals Summary, Exhibit 2(a); APTC Calculation Tool, Exhibit 2(b); Case Summary with Attachments A-C, Exhibit 2(c).

Security benefits that are not included in gross income of \$0. *Id.* Additionally, Appellant's son, [REDACTED], is employed, is expected to be required to file a federal income return, and is a tax dependent of Appellant. *Id.* [REDACTED] anticipated modified adjusted gross income (MAGI) of \$16,744, which consists of adjusted gross income of \$16,744, foreign income and housing costs excluded under 26 U.S.C. § 911 of \$0, tax exempt interest of \$0, and Social Security benefits that are not included in gross income of \$0. *Id.*

7. The MNsure Agency determined that Appellant's household income is 257% of the 2013 federal poverty level. *Exhibit 3.*

8. The MNsure Agency determined that Appellant's applicable percentage is 8.3%. *Exhibit 2.* This applicable percentage was determined by referring to a table in the federal regulations that specifies minimum and maximum percentages according to income level and then determining where Appellant's income fell within this range.

9. The MNsure Agency determined that Appellant's required share of premiums for the benchmark plan, which is the second lowest-cost silver plan available through MNsure, is \$418 monthly. *Exhibit 2(b).* This amount was determined by multiplying Appellant's applicable percentage (8.3) by her household income (\$60,573).

10. The benchmark plan (second lowest-cost silver plan) that covers Appellant and her family that is available where Appellant lives costs \$741 per month. *Exhibit 2.*

11. Appellant contends that her son's income should not be included. *Testimony of Appellant.* Appellant contends that while he may be a dependent for tax reasons his income is used to pay for his college. *Id.* Appellant contends that her son's income changes and because he is now in school his income will be less. *Id.* Appellant contends that she believes her and her family should be eligible for MinnesotaCare and she does not wish to enroll in insurance through the a QHP. *Id.*

APPLICABLE LAW

12. For Medical Assistance and MinnesotaCare appeals, a person may request a state fair hearing by filing an appeal either: 1) within 30 days of receiving written notice of the action; or 2) within 90 days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the 30 day time limit. *Minn. Stat. § 256.045, subd. 3(h); Minn. Stat. § 256L.10.* For MNsure appeals, an appeal must be received within 90 days from the date of the notice of eligibility determination. *45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).*

13. The Commissioner of the Minnesota Department of Human Services has the legal authority to review and decide issues about a household's eligibility for Medical Assistance and MinnesotaCare. *Minn. Stat. § 256.045, subd. 3.* The MNsure Board has the legal authority to review and decide issues about a household'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.

14. Federal regulations governing Medical Assistance and Exchange appeals require that, if an individual appeals a determination of eligibility for the advance payment of the premium tax credit or cost sharing reductions, the appeal will automatically be treated as a request for a fair hearing of the denial of eligibility of Medicaid.³ The reason for this automatically pairing of Medicaid appeals with appeals concerning advance payment of the premium tax credits is to further the goal of providing a streamlined, coordinated appeals process for appellants which avoids the need for the appellant to file multiple appeals with different agencies. *Id.* In Minnesota, Medicaid programs include Medical Assistance and MinnesotaCare.

Medical Assistance

15. The state laws about Medical Assistance are set forth in Minnesota Statutes, Chapter 256B. Effective January 1, 2014, to be eligible for Medical Assistance, a parent or caretaker relative, an adult without children, and a child age 19 to 20, may have an income up to 133% of the federal poverty guidelines for the household size. *Minn. Stat. § 256B.056, subd. 4(b), (c), and (d)*. Effective January 1, 2014, to be eligible for Medical Assistance, child under age 19 may have income up to 275% of the federal poverty guidelines for the household size. *Id. at subd. 4(e)*.

16. The modified adjusted gross income methodology as defined in the Affordable Care Act must be used for certain eligibility categories, including children under age 19 and their parents and relative caretakers as defined in Minnesota Statute § 256B.055, subdivision 3a, children ages 19 to 20 as defined in Minnesota Statute § 256B.055, subdivision 16, pregnant women as defined in Minnesota Statute § 256B.055, subdivision 6, infants as defined in Minnesota Statute §§ 256B.055, subdivision 10, and 256B.057, subdivision 8, and adults without children as defined in Minnesota Statute § 256B.055, subdivision 15. *Minn. Stat. § 256B.056, subd. 1a(b)(1)*.

17. For individuals whose income eligibility is determined using the modified adjusted gross income methodology in Minnesota Statute § 256B.056, subdivision 1a(b)(1), the Commissioner must subtract from individual's modified adjusted gross income an amount equivalent to five percent of the federal poverty guidelines. *Minn. Stat. § 256B.056, subd. 1a(b)(2)*; See also 42 C.F.R. § 435.603(c)(4).

18. The federal regulations about the application of modified adjusted gross income provide that, except in circumstances not applicable here, the agency must determine financial eligibility for Medicaid based on "household income" as defined in 42 C.F.R. § 435.603(d). 42 C.F.R. § 435.603(c). In 42 C.F.R. § 435.603(d), "household income" is defined as, except in

³ 45 C.F.R. § 155.510(b)(3); 78 Fed. Reg. 4598 (proposed Jan. 22, 2013) (comments regarding proposed 42 C.F.R. § 431.221(e)); and 78 Fed. Reg. 54096 (Aug. 30, 2013)(comments regarding 45 C.F.R. § 155.510(b)(3)).

circumstances not applicable here, the sum of the MAGI-based income, as defined in 42 C.F.R. § 435.603(e), of every individual included in the individual's household. 42 C.F.R. § 435.603(d). In 42 C.F.R. § 435.603(e), "MAGI-based income" is defined as income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Internal Revenue Code, with three exceptions: 1) lump sums, which are counted as income only in the month received; 2) scholarships, awards, fellowship grants used for educational and not for living expenses, which are excluded from income; 3) and certain excluded income of American Indians and Alaska Natives. 42 C.F.R. § 435.603(e). Under the federal regulations supporting the Internal Revenue Code, specifically 26 C.F.R. §1.36B-1, "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).

19. The federal regulations about the application of modified adjusted gross income further provide that financial eligibility for Medicaid applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size. 42 C.F.R. § 435.603(h)(1). In determining current monthly or projected annual household income and family size under 42 C.F.R. § 435.603 (h)(1) or (h)(2), the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. 42 C.F.R. § 435.603(h)(3). Such future increase or decrease in income or family size must be verified in the same manner as other income and eligibility factors, in accordance with the income and eligibility verification requirements at 42 C.F.R. §435.940 through §435.965, including by self-attestation if reasonably compatible with other electronic data obtained by the agency in accordance with such sections. *Id.*

MinnesotaCare

20. The state laws about MinnesotaCare are set forth in Minnesota Statutes, Chapter 256L. Effective January 1, 2014, Minnesota Statute § 256L.04, subdivision 1, provides that families with definition of eligible persons includes all individuals and families with no children who have incomes that are above 133 percent and equal to or less than 200 percent of the federal poverty guidelines for the applicable family size.⁴

21. Effective January 1, 2014, for MinnesotaCare eligibility "income" has the meaning given for modified adjusted gross income as defined in Code of Federal Regulations, title 26, section 1.36B-1.5 *Minn. Stat. § 256L.01, subd. 5*. Under 26 C.F.R. §1.36B-1, "modified adjusted gross income" (MAGI) means adjusted gross income increased by: (i) amounts excluded from

⁴ *Laws 2013, chapter 108, article 1, section 42*. The Department of Human Services received federal approval of the changes made to the MinnesotaCare program on December 20, 2013. See http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs16_177299.

⁵ *Laws 2013, chapter 108, article 1, section 30*.

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).

22. The effective date of MinnesotaCare coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. *Minn. Stat. § 256L.05, subd. 3(a).*

23. Effective January 1, 2014, for MinnesotaCare eligibility “family” has the meaning given for family and family size as defined in Code of Federal Regulations, title 26, section 1.36B-1.6 *Minn. Stat. § 256L.01, subd. 3a(a)*. Under 26 C.F.R. §1.36B-1, a “taxpayer's family” means the individuals for whom a taxpayer properly claims a deduction for a personal exemption 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.*

24. Effective January 1, 2014, for MinnesotaCare eligibility, a family or individual must not have access to subsidized health coverage that is affordable and provides minimum value as defined in Code of Federal Regulations, title 26, section 1.36B-2.7 *Minn. Stat. § 256L.07, subd. 2(a)*. This subdivision does not apply to a family or individual who no longer has employer-subsidized coverage due to the employer terminating health care coverage as an employee benefit. *Id.* at subd. 2(b).

25. Additionally, effective January 1, 2014, for MinnesotaCare eligibility, a family or individual must not have minimum essential health coverage, as defined by section 5000A of the Internal Revenue Code.⁸ *Minn. Stat. § 256L.07, subd. 3(a)*. According to section 5000A of the Internal Revenue Code, minimum essential coverage means any of the following: 1) government sponsored coverage; 2) employer sponsored coverage; 3) a health plan offered in the individual market within a State; 4) a grandfathered health plan; or 5) other health benefits coverage. 26 U.S.C. § 5000A(f)(1); *See also* 26 C.F.R. § 1.36B-2(c). Government sponsored programs include coverage under the Medicaid program under title XIX of the Social Security Act. 26 U.S.C. § 5000A(f)(1)(A).

Premium Assistance

26. 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 household income, as defined in 26 C.F.R. 1.36B-1(e), 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 for whom the tax filer expects to claim a personal

⁶ *Laws 2013, chapter 108, article 1, section 29.*

⁷ *Laws 2013, chapter 108, article 1, section 55.*

⁸ *Laws 2013, chapter 108, article 1, section 55.*

exemption deduction on his or her federal tax return for the benefit year are: (a) eligible for enrollment in a Qualified Health Plan through the Exchange as specified in 45 C.F.R. 155.305(a), and (b) are not eligible for minimum essential coverage, with the exception of coverage in the individual market, in accordance with section 26 C.F.R. 1.36B-(a)(2) and (c). 45 C.F.R. §155.305(f).

27. A “taxpayer’s family” means the individuals for whom a 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.*

28. “Household income” 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).

29. “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).

30. 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).

31. 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).

32. 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.*

33. 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).

34. 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.*

35. 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).

Cost-Sharing Reductions

36. Federal regulations concerning eligibility for cost-sharing reductions (CSR) are found at 45 C.F.R. §155.305(g). The MNsure agency must determine an applicant eligible for cost-sharing reductions if the applicant meets the following eligibility requirements:

- (A) The applicant meets the requirements for eligibility for enrollment in a Qualified Health Plan through the Exchange;
- (B) The applicant meets the requirements for advance payments of the premium tax credit; and
- (C) The applicant is expected to have a household income that does not exceed 250

percent of the Federal Poverty Level, for the benefit year for which coverage is requested.

45 C.F.R §155.305(g)(1)(i). MNsure may only provide cost-sharing reductions to an enrollee who is not an Indian if he or she is enrolled through the Exchange in a silver-level Qualified Health Plan, as defined by section 1302(d)(1)(B) of the Affordable Care Act. *45 C.F.R. §155.305(g)(1)(ii).*

37. MNsure must use the following eligibility categories for cost-sharing reductions when making eligibility determinations:

(i) An individual who is expected to have a household income greater than or equal to 100 percent of the FPL and less than or equal to 150 percent of the FPL for the benefit year for which coverage is requested, or for an individual who is eligible for advance payments of the premium tax credit under paragraph (f)(2) of this section, a household income less than 100 percent of the FPL for the benefit year for which coverage is requested;

(ii) An individual is expected to have a household income greater than 150 percent of the FPL and less than or equal to 200 percent of the FPL for the benefit year for which coverage is requested; and

(iii) An individual who is expected to have a household income greater than 200 percent of the FPL and less than or equal to 250 percent of the FPL for the benefit year for which coverage is requested.

45 C.F.R. §155.305(g)(2).

38. Individuals whose household income is more than 200 percent but not more than 250 percent of the poverty line for the family size are eligible for a reduction of the applicable out-of-pocket limit by one-half and the plan's share of the total allowed costs of benefits provided under the plan is 73 percent. *42 U.S.C. § 18071(c)(1)(A)(ii) and (c)(1)(B)(i)(III).*

CONCLUSIONS OF LAW

39. This appeal was started within the allowed time limits under Minnesota Statute § 256.045, subdivision 3(h) and 45 C.F.R §155.520(b).

40. The Commissioner of the Minnesota Department of Human Services has authority to review Appellant's household's eligibility for Medical Assistance and MinnesotaCare under Minnesota Statute § 256.045, subdivision 3, and the MNsure Board has legal authority to review Appellant's household's eligibility for premium assistance and cost sharing under Minnesota Statute § 62V.05, subdivision 6.

41. Even though Appellant did not specifically contest eligibility for Medical Assistance, federal rules and regulations require that a determination be made as to Appellant's eligibility for these programs if Appellant appeals eligibility for either advance payment of the premium tax

credit or cost sharing reduction level. Because Appellant's total household income is above 200% of the federal poverty level, and because Appellant's son is a dependent for tax purposes and is required to file federal tax returns, the DHS Agency correctly determined that Appellant, Appellant's husband, and son, [REDACTED] were not eligible for either Medical Assistance or MinnesotaCare. As such, the determination that Appellant, Appellant's husband, and [REDACTED] were not eligible for either Medical Assistance or MinnesotaCare stands. The decision that [REDACTED], Appellant's minor daughter who is a dependent but does not have any reportable income, may be eligible for Medical Assistance or MinnesotaCare pending proof of income for Appellant and her husband still stands. Appellant and her husband may submit proof of their income to the county.

42. Appellant meets the general requirements to be eligible for premium assistance or advance payment of the premium tax credit as provided in 45 C.F.R. §155.305(f) because:

- (a) Appellant is expected to have a household income, as defined in 26 C.F.R. §1.36B-1(e), of greater than or equal to 100% but not more than 400% of the federal poverty level of benefit year for which coverage is requested;
- (b) Appellant is eligible to enroll in a Qualified Health Plan through MNsure as specified in 45 C.F.R. §155.305(a); and
- (c) Appellant is not already eligible for minimum essential coverage, with the exception of coverage in the individual market, in accordance with 26 C.F.R. §1.36B-(a)(2) and (c).

43. Appellant's household income is 257% of the 2013 federal poverty level, which is \$23,550 for a household size of four persons.

44. Appellant's applicable percentage is 8.3 as provided in 26 C.F.R. §1.36B-3(g)(1). This determination is made as follows. The initial percentage for a taxpayer with household income at least 250% but less than 300% of the federal poverty line is 8.05 and the final percentage is 9.5. The excess of Appellant's federal poverty line percentage (257) over the initial household income percentage in Appellant's range (250) is 7.⁹ The difference between the initial household income percentage in the taxpayer's range and the final household income percentage in the taxpayer's range is 50.¹⁰ The result of dividing the first calculation by the second calculation is .14.¹¹ The difference between the initial premium percentage and the final household income percentage in the taxpayer's range is 1.45.¹² The product of multiplying this difference (1.45) by the result of dividing the first and second calculation (.14) is .203¹³ Adding this product (.203) to the initial premium percentage in the taxpayer's range (8.05) results in Appellant's applicable percentage of 8.3¹⁴

⁹ $(257 - 250 = 7)$

¹⁰ $(300 - 250 = 50)$

¹¹ $(7 \div 50 = .14)$

¹² $(9.5 - 8.05 = 1.45)$

¹³ $(1.45 \times .14 = .203)$

¹⁴ $(8.05 + .203 = 8.3)$

45. As such, Appellant's required contribution toward premiums for the benchmark plan, which is the second lowest-cost silver plan available through MNsure, is \$5,016 annually or \$418 monthly as provided in 26 C.F.R. 1.36B-3(g)(1).¹⁵

46. In this case, the MNsure Agency correctly calculated the size of Appellant's household as four persons for purposes of calculation of the advance premium tax credit. The MNsure Agency also properly calculated the amount of Appellant's attested household income and the applicable percentage (or her required contribution toward the premium cost) for the benchmark plan. Lastly, the preponderant evidence shows that the MNsure Agency also correctly determined that the lesser amount between the premium for the month for the qualified health plan in which Appellant is enrolled through MNsure (Minnesota's Exchange) and the excess of the adjusted monthly premium for the applicable benchmark plan over 1/12 of the product of Appellant's household income and the applicable percentage for the taxable year ($\$60,573 \times 8.3 = \$5,027.56/12 = \$418$) is \$418.¹⁶ Therefore, Appellant is eligible for a premium assistance or advance payment of the premium tax credit because the benchmark plan (\$741) costs more than the amount of her required contribution to the premium for the benchmark plan that covers Appellant only (\$418). In other words, Appellant's expected contribution for coverage is less than the total cost of the benchmark plan, which results in a difference of \$323. Therefore, she is eligible for any premium assistance under 26 C.F.R. §1.36B-3(d).

47. Appellant is eligible for 73% cost reduction of the plan's share of the total allowed costs of benefits due to having household income greater than 200 percent of the FPL and less than or equal to 250 percent of the FPL.

48. The advance payment of the premium tax credit and cost sharing reductions eligibility determinations being appealed stand.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant's household was not eligible for Medical Assistance as of August 23, 2014;
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that Appellant's household was not eligible for MinnesotaCare benefits as of August 23, 2014;
- The MNsure Board AFFIRM the determination of Appellant's household's eligibility for an advance premium tax credit and cost sharing reductions as provided in the Affordable Care Act as of August 23, 2014.

¹⁵ ($\$60573 \times 8.3\% = \$5,027.56$; $\$5,027.56 \div 12 = \418)

Kelly A. Vargo
Appeals Examiner

Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNSure Board and the Commissioner of the Minnesota Department 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
Michael Turpin, MNSure
Kim Carolan, 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.
- **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.