



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
Agency: MNSure Board
Docket: 163179

On June 24, 2015, Appeals Examiner Deborah L. Johnson held an evidentiary hearing under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a).

The following person appeared at the hearing:

[REDACTED], Appellant.

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 properly determined the effective date of the Appellant's household's eligibility for a Qualified Health Plan as provided in the Affordable Care Act.

FINDINGS OF FACT

1. On February 22, 2015 MNsure issued a Health Care Notice that their application for enrollment in a Qualified Health Plan ("QHP") was pending. The appellant submitted an appeal to the state agency on April 30, 2015. On June 24, 2015, Appeals Examiner Deborah L. Johnson held an evidentiary hearing by telephone conference. The record, consisting of the identified exhibits, was closed on July 8, 2015.
2. On February 22, 2015, the appellant applied for health insurance as a household of three. The notice advised the household that it was ineligible for Medical Assistance, MinnesotaCare, an Advanced Premium Tax Credit and/or Cost Sharing Reduction. The notice stated that the household was eligible for a QHP through MNsure provided it could document a qualifying event that would allow the agency to enroll the household in a QHP outside of the open enrollment period. The notice also advised the appellant that once the household had selected a Qualified Health Plan and made its first premium payment it would receive a welcome packet from the selected provider. The agency determined that the appellant met the household requirements for a qualified health plan (QHP). This was not during open enrollment and the appellant and her household were considered for special enrollment. As the household income exceeded 400% of the Federal Poverty Level for a family of three the household needed to document a triggering event. The triggering event was a loss of employer-sponsored insurance on February 28, 2015. As a result, MNsure enrolled the family into a QHP effective February 28, 2015 and submitted the household's completed enrollment to the carrier, Blue Cross Blue Shield, for coverage effective March 1, 2015.
3. The agency acknowledged that the appellant contacted MNsure on multiple occasions between March and April 2015 to inquire as to the status of the household's coverage. MNsure advised her that the enrollment was processing and she would hear from her carrier. The appellant reported to MNsure that she did not receive confirmation until the end of April that Blue Cross Blue Shield was her provider.
4. The household's health insurance through MNsure was effective March 1, 2015. The appellant requested that MNsure change the effective date to May 1, 2015. It is the position of MNsure that it is unable to do so as the appellant's household was enrolled effective March 1, 2015.
5. The appellant and her husband made numerous telephone calls to MNsure and to Blue Cross Blue Shield to ascertain the progress of their application. Each time she talked to MNsure the appellant was told "not yet." The appellant objects to the fact that it took two

months for her to receive verification from Blue Cross Blue Shield that her household was enrolled. The appellant has been billed for premiums due for the months of March and April. The appellant has paid for premiums starting May and going forward. However, to date she has not remitted payment for the months of March and April. It is her position that it is unfair to expect her to pay for those months when she did not know she had been enrolled in a QHP effective March 1, 2015 and she had no notification from the provider until the end of April, 2015. The appellant is requesting that the Appeals Examiner waive the premiums due March 2015 and April 2015 and determine the household effective date as May 1, 2015. *Testimony of Ms. [REDACTED]*

APPLICABLE LAW

1. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minnesota Rule 770.0105, subpart 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination. Minnesota Statutes § 256.045, subd. 3 provides that a person may request a state fair hearing by filing an appeal either: (a) within thirty days of receiving written notice of the action or (b) within ninety days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the thirty day time limit.

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 during the open enrollment period for the benefit year beginning on January 1, 2015, the Exchange must ensure coverage is effective: (a) January 1, 2015, for QHP selections received by the Exchange on or before December 15, 2014; (b) February 1, 2015, for QHP selections received by the Exchange from December 16, 2014, through January 15, 2015; and (c) March 1, 2015, for QHP selections received by the Exchange from January 16, 2015, through February 15, 2015. *45 C.F.R. § 155.410(f)*.

4. For special enrollment, there must be a "triggering event" in order for the agency to consider an application outside of the normal enrollment period. One of the triggering events is a loss of other coverage, which is the situation here. The date of coverage for a triggering event is governed by 45 C.F.R. § 155.420(b)(2)(iv). Under this provision, MNsure must ensure that coverage is effective on the first day of the month following the loss of coverage. Here, the family lost employer coverage on February 28, 2015 and MNsure enrolled the family effective March 1, 2015, in compliance with the federal regulations.

5. Minnesota Rule 7700.0105, subpart 1(A) provides that 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;
- 2) initial determinations and redeterminations made by MNsure of eligibility for and level of advance payment of premium tax credit, and eligibility for and level of cost sharing reductions;
- 3) initial determinations and redeterminations made by MNsure of employer eligibility to purchase coverage for qualified employees through the Small Business Health Options Program;
- 4) initial determinations and redeterminations made by MNsure of employee eligibility to purchase coverage through the Small Business Health Options Program;
- 5) initial determinations and redeterminations made by MNsure of individual eligibility for an exemption from the individual responsibility requirement;
- 6) a failure by MNsure to provide timely notice of an eligibility determination;
- 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.

CONCLUSIONS OF LAW

1. This appeal of MNsure's determination regarding the appellant's enrollment start date in a QHP is timely in that it was filed within 90 days of the date the appellant was notified of her enrollment coverage date. The appellant is not contesting the household's ineligibility for Medical Assistance or MinnesotaCare coverage or the amounts of premium tax credits and cost-sharing reductions.

2. MNsure determined the household eligible for and enrolled the household in a QHP effective February 28, 2015. MNsure forwarded the household's completed enrollment to Blue Cross Blue Shield for coverage effective March 1, 2015. MNsure was obligated by federal law to ensure QHP coverage effective March 1, 2015. Therefore, MNsure acted correctly with regard to the effective date of the Appellant's QHP coverage.

3. The appellant pointed to the seeming incongruity of the situation in that her household could not take full advantage of the coverage in March and April and yet are responsible for premiums for those months. To address this, she is requesting that the Appeals Examiner establish May 1, 2015 as the effective date. However, there is no basis in the regulations to use this date. Aside from the fact that the regulations specify another date on which coverage begins, it is worth exploring the policy reasons for this requirement.

4. I fully appreciate appellant's point that the household could not take full advantage of coverage during March and April for the simple reason that they did not learn they had coverage until after the fact. While understandable, this concern somewhat misses the point of all insurance. One pays premiums each month to guard against the burdens of medical costs that may or may not happen at a particular time, not with the expectation that benefits will equal or exceed premium payments in a given month. Perhaps the household deferred routine preventive care during the time for which they were later provided coverage. However, had they needed emergency medical care, the costs of such care would have been paid under the terms of the policy. In that sense they received exactly what health insurance is intended to provide, a measure of financial security against the risk of unexpected medical costs. Similarly, no system of health insurance would be sustainable if people could limit coverage to those months in which they expected benefits to exceed premiums. Once again, health insurance coverage is a means of allocating or spreading risk over as many people and over as long a time as possible. It is not a kind of investment from which a person expects a gain or return, but rather a way of guarding against the heavy burdens of medical costs. MNsure was correct in establishing March 1, 2015 as the effective date of the households' coverage.

5. Finally, the appellant's complaint in this matter relates to the failure of her selected QHP to provide her with her insurance identification card or otherwise notify her of her ability to use her insurance coverage prior to the end of April 2015. Disputes between the appellant and her insurance provider are not subject to the MNsure appeals process. *Minn. R. 7700.0105, subp. 1(A)*. Therefore, any premium adjustments issues due to the actions of the QHP should be addressed to any dispute resolution procedures available with the insurance provider.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the MNsure Agency's determination that Appellant's household was eligible to enroll in a qualified health plan effective March 1, 2015.

Deborah L. Johnson
Appeals Examiner

Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopt the Appeals Examiner's findings of fact, conclusions of law and order as the agency's final decision.

Date

cc: _____, Appellant
Michael Turpin, MNsure

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.