



**DECISION OF
MNSURE BOARD
ON APPEAL**

In the Appeal of: [REDACTED]
For: Enrollment in a Qualified Health Plan
Agency: MNSure
Docket: 164918

On July 23, 2015 Appeals Examiner Phil Grove held an evidentiary hearing under 42 U.S.C. §18081(f) and Minn. Stat. §62V.05, Subd. 6(a).

The following people appeared at the hearing:

[REDACTED], Appellant
Mubarak Abdi, representative for agency

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

The issue raised in this appeal is whether the agency correctly denied authorization for Appellant to change his QHP selection on grounds that he did not request the change during his special enrollment period.

FINDINGS OF FACT

1. On June 22, 2015 the MNSure agency informed Appellant that it would not authorize a change in his QHP selection. Appellant filed a request challenging this action, which the agency received on June 26, 2015. On July 23, 2015, Appeals Examiner Phil Grove held an evidentiary hearing. The Appeals Examiner closed the record, consisting of the hearing testimony and four exhibits, on that date.

2. There are no material facts in dispute. Appellant applied for a QHP on the MNSure system on April 28, 2015. MNSure determined that Appellant qualified for a special enrollment period that began March 1, 2015 and ended April 30, 2015 for consumers who had not already purchased 2015 coverage and who were subject to a tax penalty. Appellant enrolled in a QHP on April 30, 2015. However, he called MNSure on June 10, 2015 intending to change his QHP selection. He was told (repeatedly but incorrectly) that he could do this, and so he made another QHP selection. However, Appellant was called by a MNSure representative on June 22, 2015 and told that he could not change his QHP plan after all, previous statements to the contrary by MNSure representatives notwithstanding. This appeal ensued.

APPLICABLE LAW

3. 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)*.

4. 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*.

5. Under the applicable federal regulations, MNSure has the authority to designate exceptional circumstances that qualify individuals for a special enrollment period when the individual meets those circumstances. *7 C.F.R. §155.420(d)(9)*. For this type of special enrollment period, MNSure has the authority to define the length of the special enrollment period (up to 60 days) as appropriate based on the circumstances of the special enrollment period *7 C.F.R. §155.420(c)(3)*. Pursuant to this authority, MNSure

created a special enrollment period to run between March 1, 2015 and April 30, 2015 for individuals who had not previously purchased 2015 coverage and were subject to a tax penalty. *Exhibit 3*.

6. Concerning a change of QHPs, the applicable federal regulations state:

[MNSure] may only permit a qualified individual to enroll in a QHP or an enrollee to change QHPs during the initial open enrollment period specified in paragraph (b) of this section, the annual open enrollment period specified in paragraph (e) of this section, or a special enrollment period described in §155.420 of this subpart for which the qualified individual has been determined eligible.

7 C.F.R. §155.410(a)(2).

CONCLUSIONS OF LAW

7. This appeal is timely under 45 C.F.R §155.520(b).

8. The MNSure Board has jurisdiction over this appeal under Minn. Stat. §62V.05, subd. 6(a).

9. Appellant's eligibility to enroll in a QHP on April 30, 2015 resulted from his eligibility for a special enrollment period for individuals subject to a tax penalty. For this type of special enrollment period, MNSure had the authority to designate its length, and MNSure determined that it would run from March 15, 2015 to April 30, 2015. Thus, when Appellant selected a QHP on April 30, 2015 he was on time; but when he sought to change QHPs on June 10, 2015, he was well outside the special enrollment period. The regulations are clear that MNSure can only permit an individual to change QHPs when they request the change before the end of a special enrollment period for which they qualify. Thus, MNSure did not have the authority to allow Appellant to change QHPs on June 10, 2015 or at any time after April 30, 2015. The fact that Appellant was given wrong information repeatedly about this does not permit MNSure to compensate for its errors by allowing a change outside the enrollment period. There is no indication in the record that Appellant relied on the incorrect information to his detriment. MNSure's determination that Appellant cannot change QHPs should be affirmed.

10. This decision is effective upon signature on behalf of the MNSure Board.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNsure Board
AFFIRM the agency's denial of authorization for Appellant to change QHPs.

Philip H. M. Grove
Appeals Examiner

Date

ORDER OF THE MNSURE BOARD

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopts the Appeals Examiner's recommendation as the final decision.

FOR THE MNsure Board:

Date

cc: [REDACTED], Appellant
Michael Turpin, MNsure General Counsel

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.