



**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
Agency: MNSure Board
Docket: 166346

On November 30, 2015, Appeals Examiner Kelly A. Vargo held an evidentiary hearing under 42 United States Code §18081(f) and Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED], Appellant
Amy Jo Hanson, 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 ISSUES

Whether the MNsure Board correctly determined not to enroll the Appellant in a Qualified Health Plan (QHP) because she and her son do not qualify for a special enrollment period and did not enroll in a QHP during the open enrollment period.

FINDINGS OF FACT

1. The MNsure Board determined not to enroll the Appellant in a Qualified Health Plan (QHP) because Appellant and her son failed to enroll in a QHP during open enrollment and Appellant and her son do not qualify for a special enrollment period. *Exhibit 3.* The Appellant filed a request challenging this determination, which was received by MNsure on August 11, 2015. *Exhibit 1.* An evidentiary hearing was scheduled for September 28, 2015 but was continued pursuant to the request of Appellant. An evidentiary hearing was scheduled for November 2, 2015 and November 16, 2015 but both were continued pursuant to the agreement of Appellant to allow time for the agencies to review her issue. On November 30, 2015, Appeals Examiner Kelly A. Vargo held an evidentiary hearing via telephone conference. The judge accepted into evidence three exhibits¹. The record was closed on November 30, 2015.

2. The Appellant applied for affordable health insurance through the MNsure Eligibility System for herself and her adult son, [REDACTED] (age 21) on February 27, 2015. *Exhibits 2 and 3.* On her application, the Appellant attested to monthly wages of \$855.63. *Exhibit 2.* Appellant's projected household yearly income was \$26,844.48 for the year 2015. *Id.*

3. On March 2, 2015 MNsure notified the Appellant that she and her son were not eligible for Medical Assistance or Minnetacare. *Exhibits 2 and 3.* Appellant was notified that she and her son were eligible for a qualified health plan and were eligible to receive \$289.24 in monthly tax credits and were eligible for cost-sharing reductions. *Exhibit 3.* Written notice also requested Appellant submit proof of projected annual income. *Id.* Appellant does not dispute the agency's eligibility decision for herself and her son. *Testimony of Appellant.*

4. On March 25, 2015, written notice was sent to Appellant notifying her that she and her son would be dis-enrolled from MinnesotaCare effective March 31, 2015. *Exhibit 2.*

¹ Exhibit 1- Appellant's Appeal Request; Exhibit 2 – DHS's Appeal Summary and attachments. Exhibit 3- MNsure's Appeal Summary and attachments.

5. On August 4, 2015, Appellant contacted MNsure because she wanted to know the status of her application. *Exhibit 3*. Appellant reported that she lost MinnesotaCare for herself and her son on March 31, 2015. *Id.* MNsure notified Appellant she was outside the 60 day Special Enrollment window. *Testimony of Hanson*.

6. The Appellant contends she is not disputing the eligibility decision by the agency for a Qualified Health Plan. *Testimony of Appellant*. Appellant admits she did not attempt to enroll in a Qualified Health Plan because she was told by her county workers that MNsure needed more information. *Id.* Appellant provided the county agency with the requested documents and assumed the county agency had sent them to MNsure on April 14, 2015. *Id.* Appellant waited until August to contact MNsure because Appellant was uncertain of what to do and thought the county agency had handled everything. *Id.* The Appellant is very frustrated with the system and with the website. *Id.* Appellant contends she kept calling MNsure and could never get through. *Id.* Appellant does not dispute the tax credit or the eligibility determination. *Id.*

7. MNsure has taken no action to intervene with the Appellant's enrollment in a coverage plan. *Exhibit 3 and Testimony of Hanson*. MNsure contends that the agency has no records that Appellant enrolled in a health plan during open enrollment and Appellant has not reported a life triggering event that would determine her and her son eligible for a special enrollment period. *Id.*

APPLICABLE LAW

8. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minn. R. 7700.0105, subp. 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination.

9. 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.

10. Pursuant to 45 C.F.R. 155.400(a), the Health Care Exchange must accept a QHP selection from an applicant who is determined eligible for enrollment in a QHP, and must: (1) notify the issuer of the applicant's selected QHP; and (2) transmit information necessary to enable the QHP issuer to enroll the applicant. The Exchange must: (1) send eligibility and enrollment information to QHP issuers and HHS promptly

and without undue delay; (2) establish a process by which a QHP issuer acknowledges the receipt of such information; and (3) send updated eligibility and enrollment information to HHS promptly and without undue delay, in a manner and timeframe as specified by HHS. *Id.* at (b). The Exchange must also maintain records of all enrollments in QHP issuers through the Exchange and reconcile enrollment information with QHP issuers and HHS no less than on a monthly basis. *Id.* at (c) & (d).

11. Pursuant to 45 C.F.R. 155.410(a)(2) the Exchange may only permit a qualified individual to enroll in a QHP or an enrollee to change QHPs during the initial open enrollment period, the annual open enrollment period, or a special enrollment period for which the qualified individual has been determined eligible. For the benefit year beginning on January 1, 2015, the annual open enrollment period begins on November 15, 2014, and extends through February 15, 2015. *Id.* at (e). 45 C.F.R. 155.420(d) sets forth the special enrollment period criteria. The Exchange must allow a qualified individual or enrollee to enroll in or change from one QHP to another if:

- 1) the qualified individual or his or her dependent loses minimum essential coverage;
- 2) the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care;
- 3) the qualified individual, or his or her dependent, which was not previously a citizen, national, or lawfully present individual gains such status;
- 4) the qualified individual's enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange;
- 5) the enrollee or, his or her dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- 6) the enrollee is determined newly eligible or newly ineligible for advance payments of the premium tax credit or has a change in eligibility for cost-sharing reductions;
- 7) the qualified individual or enrollee, or his or her dependent, gains access to new QHPs as a result of a permanent move;
- 8) the qualified individual is an Indian;
- 9) the qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide; or
- 10) it has been determined by the Exchange that a qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage; was not enrolled in the QHP selected by the qualified individual or enrollee; or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions

as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

12. Minn. R. 7700.0105, subp. 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.

13. A qualified individual or enrollee has 60 days from the date of an event which triggers the special enrollment period to select a QHP unless specifically stated otherwise in 45 C.F.R. § 155.420. *45 C.F.R. § 155.420(c)*.

14. The Appellant is not contesting the determination regarding her or her son's eligibility to enroll in a QHP nor is the Appellant contesting the tax credit amount. Rather, Appellant contends that the agency prevented her from selecting a QHP. In this case, the Appellant and her son lost coverage for MinnesotaCare effective March 31, 2015. Appellant applied for affordable insurance programs on February 27, 2015. On March 2, 2015 Appellant was notified of Appellant and her son's eligibility in a qualified health plan pending the reporting of a triggering event to qualify for special enrollment. Open enrollment ended on February 15, 2015. Appellant did not apply during open enrollment therefore her and her son's ability to enroll in a qualified health plan would be based upon the reporting of a triggering event. Appellant and her son lost coverage with MinnesotaCare effective March 31, 2015 which is a triggering event. However, the Appellant only had 60 days from this date to select and enroll in a qualified health plan. Appellant did not attempt to select a qualified health plan.

15. It should be noted that the agency continued to process the Appellant's application because the agency was not aware of whether the Appellant qualified for a triggering event. Appellant applied within 60 days of her and her son losing coverage with MinnesotaCare but Appellant failed to attempt to enroll in a qualified health plan within 60 days of the termination of MinnesotaCare. Therefore, while the Appellant met the criteria for enrollment in a QHP outside the open enrollment period, she failed to take advantage of that eligibility within 60 days of the triggering event. There is no evidence that the agency prevented the Appellant from applying for a health insurance plan within 60 days of Appellant and her son losing coverage with MinnesotaCare. The evidence shows the Appellant's contention with the agency and the MNsure system resulted from her relying upon the county agency and misunderstanding of the process. Her inability to thoroughly understand the process is not evidence of the agency preventing her from applying for a health insurance plan within 60 days of losing coverage with MinnesotaCare. Appellant's failure to even apply for a health insurance plan within 60 days of the triggering event prevents any further analysis to determine if the Appellant was eligible for any other special enrollment period criteria.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the determination of MNsure to not enroll the Appellant in a Qualified Health Plan.

Kelly A. Vargo
Appeals Examiner

Date

ORDER

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

FOR THE MNSURE BOARD as to any effect the decision has on Appellant's eligibility through MNsire for Qualified Health Plan.

Date

cc: [REDACTED], Appellant
MNsire General Counsel
Teressa Saybe, DHS 0838