



**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED] [REDACTED]
For: Qualified Health Plan
Agency: MNSure Board
Docket: 167877

On November 2, 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] [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 ISSUES

Whether the MNsure Board correctly determined not to enroll the Appellant in a Qualified Health Plan (QHP) because he does 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 he failed to enroll in a QHP during open enrollment and he does not qualify for a special enrollment period. *Exhibit 2*. The Appellant filed a request challenging this determination, which was received by MNsure on September 14, 2015. *Exhibit 1*. On November 2, 2015, Appeals Examiner Kelly A. Vargo held an evidentiary hearing via telephone conference. The judge accepted into evidence two exhibits¹. The record was closed on November 2, 2015.
2. The Appellant applied for affordable health insurance through the MNsure Eligibility System for himself, his wife, and 18 year old son on August 27, 2015. *Exhibit 2*. On his application, the Appellant reported a projected household yearly income of \$49,120 for the year 2015. *Id.*
3. On August 27, 2015 MNsure notifying the Appellant that is son was eligible for Medical Assistance. *Exhibit 2*. Appellant does not dispute the agency's eligibility decision for his son. *Testimony of Appellant*.
4. On August 27, 2015, MNsure sent written notice to the Appellant notifying him that he is eligible for a qualified health plan pending the reporting of a triggering event to qualify for a special enrolment period with \$262.99 per month in tax credits. *Exhibit 2*. Appellant was directed to contact MNsure to determine if he and his wife qualified for a special enrollment period. *Id.* On September 14, 2015, the Appellant reported the Appellant lost his job on June 30, 2015. *Id.* MNsure notified Appellant he was outside the 60 day Special Enrollment window. *Exhibit 2*.
5. The Appellant contends he is not disputing the eligibility decision by the agency for a Qualified Health Plan. *Testimony of Appellant*. Appellant admits he did not attempt to enroll in a Qualified Health Plan until September 14, 2015. *Id.* Appellant admits his employer sponsored insurance ended on June 30, 2015 but he did not apply for insurance until August 27, 2015 because he thought he would be able to find another job within a month. *Id.* Appellant admits that when he attempted to select a Qualified Health

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

Plan he was outside the 60 day window limit. *Id.* The Appellant is very frustrated with the system and with the website. *Id.* Appellant contends that he did not see the requirement that he select a qualified health plan in 60 days because of the layout of the website. *Id.* Appellant does not dispute the tax credit or the eligibility determination. *Id.*

6. MNSure has taken no action to intervene with the Appellant's enrollment in a coverage plan. *Exhibit 2.* 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 him or his spouse for a special enrollment period. *Id.*

APPLICABLE LAW

7. 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.

8. 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.

9. 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).

10. 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.

11. 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.

12. 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)*.

13. The Appellant is not contesting the determination regarding his or his wife's eligibility to enroll in a QHP nor is the Appellant contesting the tax credit amount. Appellant is also not contesting his son's eligibility in Medical Assistance. Rather, Appellant contends that the agency prevented him from selecting a QHP. In this case, the Appellant lost his job on June 30, 2015. Appellant applied for affordable insurance programs on August 27, 2015. On August 27, 2015 Appellant was notified of his and his wife's eligibility in a qualified health plan pending the reporting of a triggering event to qualify for special enrollment. Open enrollment ended in February 2015. Appellant did not apply during open enrollment therefore his ability to enroll in a qualified health plan would be based upon the reporting of a triggering event. Appellant lost his job in June 30, 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 attempted to select a qualified health plan on September 14, 2015 which is more than 60 days after the triggering event.

14. 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 him losing his employment but failed to attempt to enroll in a qualified health plan within 60 days of him losing his employment. Therefore, while the Appellant met the criteria for enrollment in a QHP outside the open enrollment period, he failed to take advantage of that eligibility within 60 days of the triggering event. There is no evidence that the agency prevent the Appellant from applying for a health insurance plan within 60 days of him losing his job.

The evidence shows the Appellant's contention with the agency and the MNsure system resulted from his failure to be able to review information on the website. His inability to thoroughly review the website is not evidence of the agency preventing him from applying for a health insurance plan within 60 days of losing his job. 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 MNsure 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 MNsure for Qualified Health Plan.

Date

cc: [REDACTED] [REDACTED] Appellant
MNsure General Counsel