



**DECISION OF
MNSURE BOARD
ON APPEAL**

In the Appeal of: [REDACTED]
For: Enrollment in a Qualified Health Plan
Agency: MNSure
Docket: 170177

On January 13, 2016 Appeals Examiner Victoria M. Lemberger held an evidentiary hearing under 42 U.S.C. §18081(f) and Minn. Stat. §62V.05, Subd. 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 (“MNsure Agency”) correctly denied a special enrollment period (SEP) to allow the appellant to change her Qualified Health Plan.

FINDINGS OF FACT

1. On September 4, 2015, MNsure advised Appellant that the effective date for her coverage under a Qualified Health Plan was October 1, 2015. *Exhibit 4*. Appellant challenged this action by filing an appeal with the MNsure Agency on December 11, 2015. *Exhibit 1*.

2. On January 13, 2016, Appeals Examiner Victoria M. Lemberger held an evidentiary hearing by telephone conference. The record, consisting of the hearing testimony and four exhibits, was closed at the end of the hearing.¹

3. There are no material facts in dispute. Appellant applied for a Qualified Health Plan on the MNsure eligibility system on September 1, 2015. *Exhibit 2*. On September 25, 2015, the appellant reported that she had lost minimum essential coverage on August 31, 2015. *Exhibits 2 and 3*. She was determined eligible for a special enrollment period due to loss of minimal essential coverage. *Id.* The appellant called MNsure and reported that she was having difficulty enrolling online. *Id.* She told the representative that she would call back if she was unable to manually enroll and that she had selected the Blueprint Gold 1500 Plan. *Id.*

4. On September 28, 2015, the appellant contacted MNsure to be manually enrolled in a plan. *Exhibit 3*. With the assistance of a representative, she was enrolled in the Blueprint Gold 1500 Plan with the coverage date to begin October 1, 2015. On October 9, 2015, the appellant called MNsure’s call center to confirm coverage.

5. On December 3, 2015, the appellant called MNsure to ask about her cost sharing reduction benefit. *Exhibit 3*. The MNsure representative explained that because she had enrolled in a gold plan as opposed to a silver plan, she was not eligible for any cost sharing reductions. *Exhibit 2*. She asked if she could change plans because she is facing a high deductible. *Appellant testimony*. MNsure told her that she was outside of her SEP and was unable to change plans. *Exhibit 2*.

¹Exhibit 1 – Appeal; Exhibit 2 – Agency Memorandum; Exhibit 3 – Case Notes; Exhibit 4 – Notice of Agency Action.

6. The appellant asserts that she was not told that enrollment in a gold plan would render her ineligible for a 73% cost reduction. *Exhibit 1 and appellant testimony.* She would not have picked this plan had she known this. *Id.* She would like either her cost reduction applied to her current plan or in the alternative have her plan switched. *Id.*

CONCLUSIONS OF LAW

1. 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).* Because the appellant was told on December 3, 2015 that she was unable to enroll in an SEP, this appeal is timely.

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 concerning enrollment in qualified health plans (QHPs) are found at 45 C.F.R. §§155.400 – 155.430. 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 described in §155.420 of this subpart for which the qualified individual has been determined eligible. *45 C.F.R. §155.410(a)(2).* 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. *45 C.F.R. §155.400(e).*

4. 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. 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.

5. 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)*. However, the appellant has not alleged a life event that would trigger a new special enrollment period. Here there is no evidence that the appellant was incorrectly enrolled or that there was any error committed by MNsure. Unfortunately, the law does not allow the special enrollment period to be extended, even under exceptional circumstance. For this reason, the agency decision is correct and should be affirmed.

6. This decision is effective immediately.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNSure Board AFFIRM the agency's denial of the appellant's application for eligibility for enrollment in a Qualified Health Plan.

Victoria M. Lemberger
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
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.