



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
MinnesotaCare
Agency: MNsure Board
Minnesota Department of Human Services
Docket: 172062

On February 22, 2016, Appeals Examiner Kelly A. Vargo held an evidentiary hearing under 42 U.S.C. §18081(f) and Minnesota Statute §62V.05, subdivision 6(a).

The following people appeared at the hearing:

[REDACTED], Appellant;
[REDACTED], Appellant's 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 ISSUE

Whether the MNsure Board correctly determined that the effective date for Appellant's coverage for his Qualified Health Plan cannot be made earlier than February 1, 2016.

FINDINGS OF FACT

1. On January 13, 2016, the MNsure Board ("Agency") informed Appellant that he would not be able to enroll in a Qualified Health Plan effective January 1, 2016. The Appellant challenged this action by filing an expedited appeal request with the Agency on January 13, 2016. *Exhibit 1.*

2. On February 22, 2016, Human Services Judge Kelly A. Vargo held an evidentiary hearing via telephone conference. The record, consisting of four exhibits,¹ was held open until February 29, 2016 to allow time for Appellant to submit documents. The record closed on February 29, 2016.

3. On December 10, 2015, the Minnesota Department of Human Services received the Appellant's MinnesotaCare renewal documents. *Exhibit 3.* On December 21, 2015, the Minnesota Department of Human Services updated the Appellant's application and determined he was no longer eligible for MinnesotaCare effective December 31, 2015. *Id.* On that same date, MNsure determined the Appellant was eligible for \$90.64 in advanced premium tax credits and a 73 percent cost sharing reduction. *Id.* On the same day, MNsure determined the Appellant was eligible to enroll in a Qualified Health Plan. *Id.* Appellant contacted MNsure on January 9, 2016 inquiring about his renewal packet and any determination made on his health insurance eligibility. *Testimony of Appellant.* Appellant was notified he was eligible for a Qualified Health Plan and proceeding to ask for assistance in shopping for a Qualified Health Plan. *Exhibit 3 and Testimony of Appellant.* The MNsure representative provided guidance and instruction. *Id.* On January 13, 2016, the Appellant selected a Qualified Health Plan. *Id.* Appellant was notified the effective date for his Qualified Health Plan was February 1, 2016 and could not be January 1, 2016. *Testimony of Appellant and Exhibit 3.* This appeal ensued.

4. As of the date of the hearing, Appellant's MinnesotaCare assistance case had been closed effective December 31, 2015 and all parties agreed that the issue of Appellant's eligibility for MinnesotaCare and Medical assistance was moot. Appellant is not appealing the determination that he is ineligible for either Medical Assistance or

¹ Appeal Request, Exhibit 1; DHS Appeal Summary, Exhibit 2, MNsure Appeal Summary, Exhibit 3, Renewal Notice and post-dated envelope, Exhibit 4.

MinnesotaCare. *Testimony of Appellant.* Moreover, Appellant had succeeded in purchasing a Qualified Health Plan through MNsure on January 13, 2016 with a coverage start date of February 1, 2016. *Id.* However, Appellant needs health coverage starting January 1, 2016 so as to not have a lapse in coverage. *Id.* Appellant contends he attends a mental health facility and needs coverage to attend the facility. *Exhibit 1.* Appellant has been able to attend to his medical needs. *Testimony of Appellant.* The MNsure representative argued that the deadline for approval, selection and purchase of a Qualified Health Plan effective January 1st would have been December 31, 2015 because Appellant qualified for a special enrollment due to his MinnesotaCare coverage ending and since Appellant did not obtain his Qualified Health Plan until January 13, 2016, there is no authority for making it effective January 1st. *Exhibit 3.*

5. Appellant contends that he was not aware of his eligibility in a Qualified Health Plan until he contacted MNsure on January 9, 2016. *Testimony of Appellant.* Appellant contends that since he was just made aware of his eligibility, and had never been on a Qualified Health Plan, he had a difficult selecting a plan and went to seek assistance from Mr. [REDACTED]. *Id.* Mr. [REDACTED] and the Appellant then selected a plan four days later on January 13, 2016. *Testimony of Appellant and [REDACTED]* Appellant contends that he finally received the eligibility notice on February 5, 2016. *Exhibit 4.*

CONCLUSIONS OF LAW

1. This appeal is timely under 45 C.F.R §155.520(b).
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. 45 C.F.R. § 155.420(b)(2)(iv) reports that in a case where a consumer loses minimum essential coverage and if the plan selection is made after the loss of coverage, the Exchange must ensure that coverage is the first day of the following month if selection of the qualified health plan was made between the first and the fifteenth day of any month, or the first day of the second following month if the selection of the qualified health plan was made between the sixteenth and the last day of the month, or at the option of the Exchange. When a person is eligible for a special enrollment period due to loss of minimal essential coverage, and the plan selection is made before the effective date of the

loss of coverage, the exchange is obligated to ensure that coverage is effective on the first date of the month following the loss of coverage. *45 C.F.R. §155.420(b)(2)(iv)*. In cases where enrollment was due to error on the part of the exchange, or where the carrier substantially violated a material provision of its contract, or where other exceptional circumstances exist, the exchange may determine an effective date that is appropriate based on the circumstances of the special enrollment period. *45 C.F.R. §155.420(b)(2)(iii)*.

4. Appellant submitted his MinnesotaCare renewal packet and supporting documents. The agency received the renewal packet on December 10, 2015 but did not process his renewal packet until December 21, 2015. The agency contends an eligibility notice dated December 21, 2015 was mailed to the appellant. However, Appellant credibly testified that he was not made aware of his eligibility to enroll in a Qualified Health Plan until January 9, 2016 when he called to inquire about his eligibility. Appellant provided credible documentation to support his argument. It is evident that Appellant did not receive the December 21, 2015 eligibility notice until February 5, 2016. It is unknown why there was almost a two month delay in the appellant receiving this important notice. It would seem more likely than not that the agency erred in not sending the eligibility notice in a timely fashion. Therefore, Appellant was not granted the ability to select a Qualified Health Plan prior to December 31, 2015 because he was not provided accurate notice. Based upon the Appellant's timely submission of his MinnesotaCare renewal packet to the agency, I find it more probable than not that he would have selected a Qualified Health Plan prior to December 31, 2015. Therefore, the agency's effective date of February 1, 2016 is REVERSED. The correct effective date for Appellant's Qualified Health Plan is January 1, 2016 which I find to be appropriate based on the circumstances of the special enrollment period.

5. This decision is effective January 1, 2016.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board REVERSE the agency's determination and change Appellant's eligibility for a Qualified Health Plan coverage effective January 1, 2016;

Kelly A. Vargo
Appeals Examiner

Date

ORDER

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

Date

cc: [REDACTED], Appellant
MNsure General Counsel
Teresa Saybe, DHS 0838