



**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of:



For:

Medical Assistance/MinnesotaCare/Advanced Premium Tax Credits/Qualified Health Plan/Cost Sharing Reductions

Agency:

Minnesota Department of Human Service
MNsure

Docket:

173015

On April 14, 2016, Appeals Examiner Deborah L. Johnson held an evidentiary hearing under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a), and Minnesota Statute §256.045, subdivision 3.

The following people appeared at the hearing:

, 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

The issue raised in this appeal is:

Whether the Appeals Examiner has the authority to order Medica to reallocate or credit premiums she paid to the insurance carrier while she was eligible for MinnesotaCare.

FINDINGS OF FACT

1. The appellant submitted an appeal to the state agency on February 2, 2016. Human Services Judge Deborah scheduled a hearing for March 23, 2016 that was continued to April 14, 2016. The Judge held the hearing on that date closing the record with the identified agency exhibits.

2. The appellant is not contesting eligibility regarding Medical Assistance or MinnesotaCare.

3. The appellant enrolled in MNsure effective January 2016 because she thought she was no longer eligible for MinnesotaCare as of the end of 2015. She subsequently received a notice that she was still eligible for MinnesotaCare through January 31, 2016. However, she had already paid a premium of \$443.14 to Medica for the month of January 2016. The appellant is currently enrolled in Medica QHP and is requesting that the January premium payment be applied to her February 2016 payment as she was still eligible for MinnesotaCare through January 2016 at the time she paid Medica for January 2016 coverage. *Testimony of Ms. Florez.*

CONCLUSIONS OF LAW

1. Pursuant to 45 C.F.R. §155.520(b)(1) and Minnesota Rule 770.0105, subpart 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination. Minnesota Statutes §256.045, subd. 3 provides that a person may request a state fair hearing by filing an appeal either: (a) within thirty days of receiving written notice of the action or (b) within ninety days of such notice if the appellant can show good cause why the request for an appeal was not submitted within the thirty day time limit.

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.* Federal regulations governing Medical Assistance and Exchange appeals require that, if an individual appeals a determination of eligibility for the advance payment of the premium tax credit or cost sharing reductions, the appeal will automatically be treated as a request for a fair hearing of the denial of eligibility for Medicaid.¹

3. The appellant is not appealing a Medical Assistance or MinnesotaCare action. The appellant is requesting that the Appeals Examiner order Medica to reallocate her January 2016 premium payment to apply to February 2016 or some other subsequent month. The Appeals Examiner has no subject matter jurisdiction over a premium payment reimbursement or adjustment between an appellant and a private plan. *Minn. Stat. §256.045.* Therefore, the appeal should be dismissed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that appellant's household was not eligible for Medical Assistance.
- The Commissioner of the Minnesota Department of Human Services AFFIRM the determination that appellant's household was not eligible for MinnesotaCare.
- The MNsure Board AFFIRM the agency's determination that it cannot order Medica to refund or reapply premiums paid directly to the insurance carrier.

Deborah L. Johnson
Appeals Examiner

Date

ORDER

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

FOR THE COMMISSIONER OF HUMAN SERVICES as to any effect the decision has on Appellant's eligibility for Medical Assistance and/or MinnesotaCare benefits.

¹ 45 C.F.R. §155.510(b)(3); 78 Fed. Reg. 4598 (proposed Jan. 22, 2013)(comments regarding proposed 42 C.F.R. §431.221(e)); and 78 Fed. Reg. 54096 (Aug. 30, 2013) (comments regarding 45 C.F.R §155.510(b)(3)).

FOR THE MNSURE BOARD as to any effect the decision has on 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.

Date

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

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.

If you disagree with this effect this decision has on your eligibility for **Medical Assistance and/or MinnesotaCare** benefits, you may:

- **Request the Appeals Office reconsider this decision.** The request must state the reasons why you believe your appeal should be reconsidered. The request may include legal arguments and may include proposed additional evidence supporting the request; however, if you submit additional evidence, you must explain why it was not provided at the time of the hearing. The request must be *in writing*, be made *within 30 days of the date of this decision*, and a *copy*

of the request must be sent to the other parties. Send your written request, with your docket number listed, to:

Appeals Office
Minnesota Department of Human Services
P.O. Box 64941
St. Paul, MN 55164-0941
Fax: (651) 431-7523

- **Start an appeal in the district court.** This is a separate legal proceeding, and you must start this *within 30 days of the date of this decision* by serving a notice of appeal upon the other parties and the Commissioner. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.