



**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: MinnesotaCare
Advance Premium Tax Credit
Qualified Health Plan

Agency: Minnesota Department of Human Services
MNsurance

Docket: 174506

On April 12, 2016, Human Services Judge Victoria M. Lemberger held an evidentiary hearing under Minn. Stat. § 256.045, subd. 3.

The following people 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 ISSUES

The issue raised in this appeal is:

Whether the Minnesota Department of Human Services (“DHS Agency”) properly determined Appellant’s eligibility for Medical Assistance and MinnesotaCare benefits.

Whether the MNsure Board (“MNsure Agency”) properly determined Appellant’s eligibility for an advance payment of a premium tax credit and cost sharing reductions as provided in the Affordable Care Act.

Whether MNsure and MinnesotaCare correctly declined to backdate appellant’s because it did not receive the renewal application until February 29, 2016.

FINDINGS OF FACT

1. On November 10, 2015, Minnesota Department of Human Services (DHS) sent the Appellant a written notice of action that it was necessary for him to renew his MinnesotaCare. *Exhibit 4, attachment C*. This form was pre-populated and provided instructions to the appellant to review the information and make any necessary changes or corrections and return the form within 30 days. *Id.* On December 24, 2015, the agency mailed a closing notice to the appellant. *Exhibit 4, attachment E*. The notice reminded the appellant that he needed to complete and return the renewal form.

2. On January 8, 2016 the agency sent a second closing notice to the appellant. *Exhibit 4, attachment F*. The notice advised the appellant that the agency had not received the renewal application and because of this, that his coverage would end on January 31, 2016. *Id.* On February 29, 2016, the appellant reapplied for health coverage. *Exhibit 3*.

3. The appellant was found eligible for an advance premium tax credit with an effective date of April 1, 2016. *Exhibit 6*. Appellant filed a request challenging this action, which the appeals office received on March 1, 2016. *Exhibit 1*. On April 12, 2016, I held an evidentiary hearing by telephone conference. I closed the record, consisting of seven exhibits on that date.¹

¹ Exhibit 1 – Appeal; Exhibit 2 – DHS Appeal Summary; Exhibit 3 – DHS Memorandum; Exhibit 4 – DHS Attachments A through H; Exhibit 5 – Appellant Email of April 12, 2016; Exhibit 6 – MNsure Memorandum; Exhibit 7 – MNsure Attachments A and B.

4. On February 29, 2016, the appellant contacted MNsure with questions about how to enroll in a qualified health plan. *Exhibit 6*. The appellant was advised to seek assistance through a certified broker. *Id.* The appellant call back later explaining that he had found the QHP that he wanted but was unable to give the MNsure representative the name. *Id.* Without that information, the MNsure was unable to enroll him in a QHP. *Id.*

5. On March 1, 2016, the appellant selected a QHP online with coverage effective April 1, 2016. *Exhibit 6*. Later that day he contacted MNsure and explained that he had lost MinnesotaCare coverage effective January 31, 2016. *Id.* MNsure determined that the appellant was eligible for a special enrollment period and that his QHP coverage would be effective April 1, 2016. *Id.*

6. The appellant does not dispute the agency's and MNsure's version of events as set forth in the memorandums. *Exhibit 5*. The appellant had not realized that he was not covered by any policy until the end of February. *Id.* Once he realized that he no longer had coverage, he made every attempt to obtain coverage as soon as possible. *Id.* Unfortunately, he spent over eight hours between February 29 and March 1 trying to obtain answers in order to select a QHP. *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). This appeal is timely.

2. The MNsure Board has the legal authority to review and decide issues about a household'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 Appeals Examiner has jurisdiction to decide this issue.

3. The open enrollment period for 2016 began November 1, 2015 and ended January 31, 2016. 45 C.F.R. §155.410(e)(2). Federal regulations determine the effective date of coverage during open enrollment. *Id.* at (f)(2). Applications received by MNsure between the first and fifteenth of the month have an effective date of the first day of the first following month. *Id.* Applications received between the sixteenth and the last day of the month have an effective date of the first day of the second following month. *Id.*

4. After the open enrollment period ends, an otherwise eligible individual may enroll in a QHP only through a special enrollment period (SEP). 45 C.F.R. § 155.420(c)(3). An applicant qualifies for a SEP if he or she has experienced a qualifying life event, including involuntarily losing health coverage, gaining or losing a tax dependent, MNsure error, or moving to a different county. *Id.* In this case, the appellant lost his MinnesotaCare coverage and the agency correctly found that he was entitled to a special enrollment period.

5. In a case where a consumer loses minimum essential coverage, if the plan selection is made before or on the day of the loss of coverage, the Exchange must ensure that the coverage effective date is on the first day of the month following the loss of coverage. *45 C.F.R. §155.420(b)(2)*.

6. Appellant's loss of coverage triggered a special enrollment period. Effective dates for open enrollment and special enrollment periods are governed by different subsections of the Federal regulations. When a consumer, selects a plan on or before the day of the loss of coverage, the appropriate effective date for the QHP is the first day of the month following the loss of coverage. Because Appellant selected a plan on March 1, 2016 and reported an imminent loss of coverage, the appropriate effective date is April 1, 2016. Unfortunately, the law does not allow for any exceptions unless the delay can be attributed to a problem on the part of MNsure. Here there is no evidence that there was any problem on the part of MNsure. For these reasons, I recommend that MNsure's decision be affirmed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNsure Board affirm the determination that the Appellant's QHP effective date be effective April 1, 2016.

Victoria M. Lemberger
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 household'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
Teressa Saybe, DHS, 0838
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 action.

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:

- **Request the appeal be reinstated.** This dismissal may be vacated and the appeal reinstated if you make a written request showing good cause why the Human Services Judge/Appeals Examiner should do this. Examples of good cause include a personal injury, death or serious illness in your family, an emergency or obligation that prevented you or a witness from attending the hearing, lack of notice, excusable neglect or mistake, or other compelling reasons beyond your control. The request must be *in writing*, be made *within 30 days of the date of this decision* and sent to: *Appeals Office, Minnesota Department of Human Services, P.O. Box 64941, St. Paul, MN 55164-0941*. You may also fax the request to (651) 431-7523. The written request must state the reasons why you believe your appeal should be reinstated, and *a copy of the request must be sent to the other parties*. To ensure timely processing of your request, please include the name of the Human Services Judge/Appeals Examiner assigned to your appeal, along with the docket number for your appeal.
- **Start an appeal in the district court.** This is a separate legal proceeding that you must start *within 30 days of the date of this decision*. You start this proceeding by serving a written copy of a notice of appeal upon MNsure and any other adverse party of record, and filing the original notice and proof of service with the court administrator of the county district court. The law that describes this process is Minnesota Statute § 62V.05, subdivision 6(e)-(i).

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

- **Request the appeal be reinstated.** This dismissal may be vacated and the appeal reinstated if you make a written request showing good cause why the Human Services Judge/Appeals Examiner should do this. Examples of good cause include a personal injury, death or serious illness in your family, an emergency or

obligation that prevented you or a witness from attending the hearing, lack of notice, excusable neglect or mistake, or other compelling reasons beyond your control. The request must be *in writing*, be made *within 10 working days of the date of this decision* and sent to *Appeals Office, Minnesota Department of Human Services, P.O. Box 64941, St. Paul, MN 55164-0941* or faxed to *(651) 431-7523*. The written request must state the reasons why you believe your appeal should be reinstated, and *a copy of the request must be sent to the other parties*. To ensure timely processing of your request, please include the name of the Human Services Judge/Appeals Examiner assigned to your appeal, along with the docket number for your appeal.

- **Request the appeal be reconsidered.** 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. The request must be *in writing*, be made *within 30 days of the date of this decision* and send to: *Appeals Office, Minnesota Department of Human Services, P.O. Box 64941, St. Paul, MN 55164-0941*. You may also fax the request to *(651) 431-7523*. *A copy of the request must be sent to the other parties*. To ensure timely processing of your request, please include the name of the Human Services Judge/Appeals Examiner assigned to your appeal, along with the docket number for your appeal.
- **Start an appeal in the district court.** This is a separate legal proceeding that you must start *within 30 days of the date of this decision*. You start this proceeding by serving a written copy of a notice of appeal upon the Commissioner and any other adverse party of record, and filing the original notice and proof of service with the court administrator of the county district court. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.