



Minnesota Department of **Human Services**

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**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:

174836

On April 20, 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 terminate the appellant's coverage in HealthPartners Gold for the month of January 2016.

## FINDINGS OF FACT

1. The appellant submitted an appeal to the state agency on March 7, 2016. Human Services Judge Deborah L. Johnson held a hearing on April 20, 2016. She closed the record on that date including the identified agency exhibits.
2. In 2015, the appellant enrolled in HealthPartners Gold Qualified Health Plan (QHP) with an Advance Premium Tax Credit of \$36.00 per month.
3. In October 2015, MNsure sent the appellant information about open enrollment. The appellant did not reapply or enroll in a new QHP as of December 31, 2015. Thus, she was continued in her current QHP of HealthPartners Gold for 2016.
4. The appellant completed a new application on January 8, 2016 and enrolled in HealthPartners Silver QHP. This coverage was effective February 1, 2016. MNsure terminated the appellant's participation in HealthPartners Gold QHP effective January 31, 2016. MNsure sent the appellant a notice regarding this change on January 8, 2016.
5. On March 7, 2016 the appellant contacted MNsure, requesting the agency to terminate her coverage with HealthPartners Gold effective January 1, 2016. She requested reimbursement for the premium she paid to HealthPartners Gold for the month of January 2016. The agency responded that this would not be possible. The agency was following the "14-day rule." This rule requires that an enrollee must provide reasonable notice. Reasonable notice is notice that is made at least fourteen days prior to the requested termination date. On January 8, 2016, the appellant requested that her HealthPartners Gold be terminated January 1, 2016. Thus, she did not meet this requirement.
6. The appellant is not contesting any eligibility issues related to Medical Assistance or MinnesotaCare.
7. Ms. Everson reported that she attempted to contact MNsure numerous times in December 2015 to request that her coverage with HealthPartners Gold be terminated but she could not get through by telephone. Her premium for January 2016 through HealthPartners Gold was \$285.17. Her current premium through HealthPartners Silver is \$238.00. She switched from Gold to Silver due to the premium difference. The appellant is requesting at least a partial if not a whole refund of the premium she paid for HealthPartners Gold coverage for the month of January 2016. She is also requesting that

the MNSure close her HealthPartners Gold coverage effective January 1, 2016. *Testimony of Ms. [REDACTED]*

### 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.<sup>1</sup>

3. The appellant is not appealing a Medical Assistance or MinnesotaCare action. The appellant is requesting that the Appeals Examiner terminate her coverage in HealthPartners Gold effective January 1, 2016. She is also requesting a premium refund for that month. The appellant testified that she tried numerous times to get through to MNSure. Unfortunately, MNSure does not have a documented request to close the coverage until January 8, 2016. Under these circumstances, she has not provided the reasonable notice required by federal law in to terminate the coverage effective January 1, 2016. *45 C.F.R. §155.430(a) and (d)*. Additionally, the Appeals Examiner has no jurisdiction over HealthPartners Gold to order it to refund any part of the appellant's premium.

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<sup>1</sup> 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)).

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 terminate the appellant from HealthPartners Gold effective January 1, 2016.

\_\_\_\_\_  
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.

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](http://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.

