



**DECISION OF
MNSURE BOARD
ON APPEAL**

In the Appeal of: █ and █
For: Enrollment in a Qualified Health Plan
Agency: MNSure
Docket: 175219

On May 3, 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:

█, 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”) properly determined the effective date and termination date for Appellant’s enrollment in a Qualified Health Plan.

FINDINGS OF FACT

1. On January 31, 2016, the appellant re-applied for health coverage as a family of two. *Exhibit 2*. She was found eligible and MNsure followed up with a written notice on January 31, 2016 that the appellant was eligible for a qualified health plan (QHP) with \$563.17 per month of an advanced premium tax credit. *Id.*

2. On March 10, 2016, the appellant called requesting additional information about QHP that she enrolled in. *Exhibit 2*. The MNsure representative advised her that she was not enrolled in a plan and that she had no life event to qualify for a special enrollment period. *Id.* Appellant challenged this action by filing an appeal with the MNsure Agency on March 15, 2016. *Exhibit 1*.

2. On May 3, 2016, Appeals Examiner Victoria M. Lemberger held an evidentiary hearing by telephone conference. The record, consisting of the hearing testimony and two exhibits, was closed at the end of the hearing.¹

3. The appellant believed that she had successfully enrolled in a QHP on January 31, 2016 despite numerous technical difficulties. *Appellant testimony*. After she learned that she qualified for a plan, she went right back into the program to select a plan but received the error message: “Applicant named does not match signature.” *Id.* She went back to the home page and tried several more times. *Id.* She received the same error message. *Id.* The last time she tried, she pushed “enter” and the computer took her back to the home page. When this happened, she thought her choice went through before the close of open enrollment. *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 an agreement with the Department of Human Services to hear and decide appeals involving premium assistance. *Minn. Stat. § 62V.05, subd. 6*. Therefore, the Commissioner has jurisdiction over this appeal.

¹ Exhibit 1 – Appeal; Exhibit 2 – Agency Memorandum and Attachment A.

3. In this case there is no dispute or issue raised by either party relating to Medical Assistance or MinnesotaCare eligibility.

4. 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, 2016, the annual open enrollment period ended on January 31, 2016. *45 C.F.R. §155.400(e)*.

5. 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)*. In this case, while the appellant has not alleged a life event that would trigger a new special enrollment period. However, it is clear that the non-enrollment of the appellant in the QHP was the result of a technical difficulties that were out of her control. The error message that “applicant named does not match signature” was incorrect as far as the evidence established. Therefore, I conclude that this is an error which gives rise to a special enrollment period.

6. It is appropriate and equitable in this instance for MNSure to ensure coverage. 45 CFR §155.420(d) specifically allows MNSure to “take such action as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.” But for MNSure’s technical errors, the appellant very likely would have been enrolled in a QHP and the premium billings would have been correctly mailed. For these reasons, appellant should be allowed another 60 day special enrollment period beginning the date of this decision. Upon enrollment in a qualified health plan, MNSure is order to provide the appellant with the option of enrollment retroactive to March 1, 2016² if the appellant elects retroactive coverage in those months by contacting the MNSure Office at mnsure.mnsureappealsindexing@state.mn.us.

² This date was selected because had the enrollment proceeded correctly, it would have been the first day of coverage.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNsure Board REVERSE the agency's denial of the appellant's application 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] and [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.