



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]
For: Qualified Health Plan
Medical Assistance
MinnesotaCare
Agency: MNsure Board
Minnesota Department of Human Services
Docket: 155066

On August 28, 2014, Appeals Examiner Diane Gnotta 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:

[REDACTED], Appellant
[REDACTED], Appellant's Representative,
[REDACTED], MNsure Navigator and Appellant's Witness.

Based on the evidence in the record and considering the arguments of the parties, the appeals examiner recommends the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUES

Whether the MNsure Board correctly determined that appellant was eligible for a qualified health plan effective August 1, 2014.

Whether the Minnesota Department of Human Services correctly terminated appellant's Medical Assistance benefits effective July 1, 2014.

FINDINGS OF FACT

1. Appellant was erroneously enrolled in medical assistance through the MNsure Exchange from March 1, 2014 to June 30, 2014 due to a system error. *Exhibits 1 and 2.* Appellant was terminated from medical assistance effective July 1, 2014 without notice, resulting in a health insurance coverage gap for July 2014. *Id.*

2. On July 3, 2014, appellant enrolled through the MNsure Exchange in a Qualified Health Plan, Preferred One, which should have provided appellant with coverage effective August 1, 2014. *Exhibit 2; Testimony of Appellant's Representative.* However, the MNsure Exchange failed to timely transmit appellant's enrollment information to Preferred One, and appellant did not have health coverage during August 2014. *Exhibit A; Testimony of Appellant's Representative.*

3. On August 4, 2014, appellant filed his hearing request. *Exhibit A.* On August 28, 2014, the hearing was held by telephone conference. The record closed on August 28, 2014, and contains three exhibits. After the close of the hearing record, the MNsure Exchange sent an email to the appeals examiner and appellant's representative, dated August 29, 2014, which stated that MNsure has now requested appellant's enrollment in Preferred One to be expedited. The August 29, 2014 email from MNsure has not been included in the hearing record since the hearing record had already closed.

4. Appellant applied for health coverage as a single individual through the MNsure Exchange on March 30, 2014. *Exhibits 1 and 2.* Appellant attested to annual income of \$14,200, but became erroneously enrolled in medical assistance effective March 1, 2014 due to a system error. *Id.*

5. Appellant's application pended income verification to verify eligibility, and on May 29, 2014 Ramsey County subsequently received income verification from appellant in the form of six paystubs: paystub dated June 21, 2014 - gross income of \$742.18; paystub dated May 23, 2014 - gross income of \$1,036.23; May 9, 2014 paystub - gross income of \$1,065.52; paystub dated April 11, 2014 - gross income of \$894.52; paystub dated December 20, 2014 - gross income of \$681.80; paystub dated November 8, 2013 - gross income of \$781.21. *Exhibit 2.*

6. On June 25, 2014, Ramsey County reviewed appellant's income verification and determined that appellant had \$1,050.87 bi-weekly income, with projected annual income of

\$27,322.75. *Exhibit 2.*

7. When appellant's income was verified, MNsure determined that appellant was no longer eligible for medical assistance because appellant's annual income of \$27,322 exceeded the \$15,282 Federal Poverty Level for a household of one. *Exhibits 1 and 2.* Appellant was also found to be ineligible for MinnesotaCare because his annual income exceeded the 200% Federal Poverty Level for a household size of one (\$22,980) under that government health insurance program. *Exhibit 2.*

8. MNsure terminated appellant's medical assistance effective July 1, 2014. *Exhibits 1 and 2.*

9. MNsure approved appellant for an Advanced Premium Tax Credit (APTC) of \$52 per month effective July 1, 2014. *Exhibit 1.* The APTC is not an issue under appeal in this case. *Testimony of Appellant's Representative.*

10. Appellant was unable to enroll in a Qualified Health Plan by June 15, 2014 in order to receive a July 1, 2014 effective date of coverage. *Testimony of Appellant's Representative.*

11. On July 3, 2014, appellant enrolled in a Qualified Health Plan, Preferred One, and his MNsure Navigator was informed by MNsure that appellant's coverage would be effective July 1, 2014 through December 31, 2014. *Testimony of Appellant's Witness.*

12. Appellant was directed by MNsure to pay a July 2014 premium of \$117.29 to Preferred One, which appellant remitted as directed. *Testimony of Appellant's Witness.*

13. Appellant incurred health care expenses during July 2014 of over \$700, which included a physical examination and lab tests. *Testimony of Appellant.*

14. Appellant's enrollment in the Preferred One plan did not occur effective July 1, 2014 or effective August 1, 2014 because Preferred One has not received any enrollment information from MNsure, and appellant has been without health coverage since July 1, 2014. *Testimony of Appellant's Representative.*

15. Appellant seeks extended medical assistance coverage to August 1, 2014, with application of his \$117.29 Preferred One premium for August 2014 coverage. *Testimony of Appellant's Representative.*

CONCLUSIONS OF LAW

1. Pursuant to 45 C.F.R. § 155.520(b)(1) and Minn. R. 7700.0105, subp. 2(D) an appeal must be received within 90 days from the date of the notice of eligibility determination. This appeal is timely in that it was filed within 90 days of when appellant learned his medical assistance had been terminated.

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. Minimum essential coverage is defined in 26 C.F.R. § 136B-2(c) and 26 U.S.C. § 5000A(f)(1) as coverage which is: 1) government sponsored; 2) employer sponsored; 3) a health plan offered in the individual market within a State; 4) a grandfathered health plan; or 5) other health benefits coverage. The term "eligible employer-sponsored plan" means, with respect to any employee, a group health plan or group health insurance coverage offered by an employer to the employee which is either a governmental plan (within the meaning of section 2791(d)(8) of the Public Health Service Act), or any other plan or coverage offered in the small or large group market within a State and includes a grandfathered health plan described in paragraph (1)(D) offered in a group market. *26 U.S.C. § 5000A(f)(2)*.

4. Effective January 1, 2014, to be eligible for Medical Assistance a parent or caretaker relative and children, ages 19 through 20, may have an income up to 133 percent of the federal poverty level (FPL) for the household size. *Minn. Stat. § 256B.056, subd. 4(b) & 4(d)*. The modified adjusted gross income methodology as defined in the Affordable Care Act must be used when determining Medical Assistance eligibility categories based on: (i) children under age 19 and their parents and relative caretakers; (ii) children ages 19 to 20; (iii) pregnant women; (iv) infants; and (v) adults without children. *Id. at subd. 1a(b)(1)*. As of January 1, 2014 for individuals whose income eligibility for Medical Assistance is determined using the modified adjusted gross income methodology, an amount equivalent to five percent of the federal poverty guidelines is subtracted from the individual's modified adjusted gross income. *Id. at subd. 1a(b)(2)*.

5. Effective January 1, 2014, families with children with family income above 133 percent of the federal poverty guidelines and equal to or less than 200 percent of FPL for the applicable family size shall be eligible for MinnesotaCare according to this section. *Minn. Stat.*

§ 256L.04, subd. 1 as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 55. When determining eligibility for MinnesotaCare coverage effective January 1, 2014, "income" is determined by using modified adjusted gross income methodology, as defined in 26 C.F.R. § 1.36B-1. Minn. Stat. § 256L.01, subd. 5 as amended in the Minnesota Session Laws, Chapter 108, Article 1, Section 55.

6. Pursuant to 45 C.F.R. 155.405(a) the Health Care Exchange must use a single streamlined application to determine eligibility and to collect information necessary for: (1) enrollment in a QHP; (2) advance payments of the premium tax credit; (3) cost-sharing reductions; and (4) Medicaid, CHIP, or the BHP, where applicable. The Exchange must accept the single streamlined application from an application filer and provide the tools to file an application (i) via an Internet Web site; (ii) by telephone through a call center; (iii) by mail; and (iv) in person, with reasonable accommodations for those with disabilities, as defined by the Americans with Disabilities Act. *Id.* at (c). In Minnesota people may apply for Medical Assistance (MA), MinnesotaCare and Advanced Premium Tax Credit (APTC) using the MNsure online application or the paper MNsure Application for Health Coverage and Help Paying Costs. IAPM Chapter 200.15.05.

7. The Exchange must determine an applicant eligible for enrollment in a QHP through the Exchange if he or she meets the following requirements: (1) is a citizen or national of the United States, or is a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought; (2) is not incarcerated, other than incarceration pending the disposition of charges; and (3) meets the applicable residency standard. 45 C.F.R. 155.305(a). Once an applicant has been determined eligible for enrollment in a QHP, the Exchange must accept a QHP selection from an applicant and must (1) notify the issuer of the applicant's selected QHP; and (2) transmit information necessary to enable the QHP issuer to enroll the applicant. 45 C.F.R. 155.400(a).

8. 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. The initial open enrollment period begins October 1, 2013 and extends through March 31, 2014. *Id.* at (b). For the benefit year beginning on January 1, 2015, the annual open enrollment period begins on November 15, 2014, and extends through February 15, 2015. *Id.* at (e). 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.

9. For a QHP selection received by the Exchange from a qualified individual between the first and fifteenth day of any subsequent month during the initial open enrollment period, the Exchange must ensure a coverage effective date of the first day of the following month. *45 C.F.R. § 155.410(c)(1)(ii)*. For a QHP selection received by the Exchange between the sixteenth and last day of the month for any month between January 2014 and March 31, 2014 the Exchange must ensure a coverage effective date of the first day of the second following month. *Id.* at (c)(1)(iii). The federal rules do allow exchanges the option to provide an earlier effective date when agreed to by all participating QHP issuers. *Id.* at (c)(2)(ii).

10. MNsure appeals are available for "a failure by MNsure to provide timely notice of an eligibility determination in accordance with Code of Federal Regulations, title 45, sections 155.310 (g) [timely notice of eligibility determination upon application for coverage]; 155.330 (e)(1)(ii)[notification of eligibility upon redetermination during a benefit year]; 155.335 (h)(ii)[notification after annual redetermination]; 155.610 (i)[notification of eligibility determination for exemptions]; and 155.715 (e) and (f)[notification of employer and employee eligibility for SHOP]". Minn. Rule 7700.0105, Subp. 1(6).

11. Pursuant to the Minnesota Health Care Programs policy, clients must receive written notice of decisions affecting their cases. *Minnesota Department of Human Services, Health Care Programs Manual (HCPM), Chapter 26 (Notices)*. Written notice to a client of medical assistance case closure is a required notice under the medical assistance program. *Id.* Written notices must include the following information: the action taken; which household members the action affects; effective date of action; the reason for the action; the legal authority for the action; the right to appeal; and instructions for filing an appeal. *Id.*

12. In the present case, the evidence shows that appellant applied for health coverage through the MNsure Exchange as a single individual on March 30, 2014 and MNsure erroneously enrolled appellant in medical assistance coverage effective March 1, 2014 through June 30, 2014. Although appellant was erroneously enrolled in medical assistance coverage effective March 1, 2014, the evidence further shows that the medical assistance program failed to provide appellant with any written notice of his medical assistance case closure before terminating appellant's medical assistance benefits effective July 1, 2014. The evidence shows that although appellant attempted to enroll in a Qualified Health Plan effective July 3, 2014, MNsure failed to timely transmit appellant's enrollment to his selected Qualified Health Plan, Preferred One, and appellant has been without health insurance coverage since July 1, 2014. The evidence further shows that appellant has incurred health care expenses during July 2014. Although MNsure states that the effective date of appellant's Preferred One coverage is August 1, 2014, this would leave appellant without any health coverage for July 2014. Because medical assistance failed to provide appellant with the required, written notice of his medical assistance termination before terminating medical assistance coverage effective July 1, 2014, the appeals examiner finds that appellant's medical assistance coverage was improperly terminated by the medical assistance program. As a result, the appeals examiner orders that appellant's medical assistance coverage be extended through July 31, 2014. Because appellant's extended medical assistance coverage to August 1, 2014 makes appellant ineligible for a Qualified Health Plan for the month of July 2014, appellant's first premium payment of \$117.29 should be applied to his August 1, 2014 Preferred One coverage. MNsure should also promptly correct its enrollment transmittal error to ensure appellant's coverage under Preferred One is effective August 1, 2014.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The issue of correcting MNsure's transmittal error of appellant's coverage under Preferred One effective August 1, 2014 be **REMANDED** to the MNsure Board for immediate action to ensure appellant is promptly enrolled in Preferred One coverage effective August 1, 2014.
- The Commissioner of the Minnesota Department of Human Services **REVERSE** the termination of appellant's medical assistance coverage effective July 1, 2014 and **ORDER** the medical assistance program to extend medical assistance coverage to appellant through July 31, 2014.

Diane Gnotta
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.

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
Michael Turpin, MNSure
Teresa Saybe, Minnesota Department of Human Services - 0989

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.

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.