

1.1 **MNsure**1.2 **Adopted Exempt Permanent Rules Relating to MNsure Appeals**1.3 **7700.0100 ADMINISTRATIVE REVIEW OF MNSURE ELIGIBILITY**
1.4 **DETERMINATIONS.**

1.5 Subpart 1. **Applicability.** Parts 7700.0100 to 7700.0105 govern the administration of
1.6 MNsure eligibility appeals. Parts 7700.0100 to 7700.0105 must be read in conjunction with
1.7 the federal Affordable Care Act, Public Law 111-148; Code of Federal Regulations, title
1.8 45, part 155; and Minnesota Statutes, chapter 62V; and sections 256.045 and 256.0451.

1.9 Subp. 2. **Applicability to medical assistance and MinnesotaCare.** Although
1.10 MNsure offers a unique single marketplace for consumers to compare several
1.11 health insurance coverage options, including coverage under medical assistance and
1.12 MinnesotaCare, appeals rights and processes for medical assistance and MinnesotaCare
1.13 are found in applicable federal or state statute or rule, including, but not limited to, parts
1.14 9505.0130, 9505.5105, 9505.0545, and 9506.0070, and Minnesota Statutes, sections
1.15 256.045, 256.0451, and 256L.10. Nothing in these rules should be construed to supersede,
1.16 abridge, or in any way limit the appeal rights of appellants contesting issues covered or not
1.17 covered under these rules that are available under applicable federal or state statute or rule,
1.18 including, but not limited to, parts 9505.0130, 9505.5105, 9505.0545, and 9506.0070, and
1.19 Minnesota Statutes, sections 256.045, 256.0451, and 256L.10. However, nothing in these
1.20 rules prevent any MNsure consumer from filing appeals through MNsure.

1.21 Subp. 3. **Regulatory investigations.** Nothing in these rules limits or supersedes the
1.22 ability of the commissioners of commerce and health to conduct investigations or facilitate
1.23 appeals as authorized by laws administered by the Departments of Commerce and Health.

1.24 **7700.0101 DEFINITIONS.**

1.25 Subpart 1. **Scope.** As used in parts 7700.0100 to 7700.0105, the terms defined in
1.26 this part have the meanings given them.

2.1 Subp. 2. **Agency.** "Agency" means the entity that lawfully made the eligibility
2.2 determination being contested, ~~which.~~ Agency includes MNsure, the Department of
2.3 ~~Human Services, and the county human services agency,~~ and, where applicable, any entity
2.4 involved under a contract, subcontract, grant, or subgrant with MNsure, ~~the Department of~~
2.5 ~~Human Services, or with a county agency,~~ that provides or operates programs or services
2.6 in for which appeals are governed available. Agency does not include the Minnesota
2.7 Department of Commerce or the Minnesota Department of Health.

2.8 Subp. 3. **Appeal.** "Appeal" means a challenge to or dispute of an initial determination
2.9 or redetermination made by MNsure enumerated under part 7700.0105, subpart 1, item A.

2.10 Subp. ~~3~~ 4. **Appeal record.** "Appeal record" means all relevant eligibility records
2.11 pertaining to the contested issues, including eligibility records filed in the proceeding, the
2.12 appeal decision, all papers and requests filed in the proceeding, and if a hearing is held, the
2.13 recording of the hearing testimony or an official report containing the substance of what
2.14 happened at the hearing and any exhibits introduced at the hearing.

2.15 Subp. ~~4~~ 5. **Appeals examiner.** "Appeals examiner" means a person appointed to
2.16 conduct hearings under this part by the MNsure board and includes human services judges
2.17 of the Department of Human Services and administrative law judges of the Office of
2.18 Administrative Hearings, when acting under a delegation of authority from the MNsure
2.19 board ~~or its delegate.~~

2.20 Subp. 6. **Appellant.** "Appellant" means the applicant or enrollee, the employer,
2.21 or small business employer or employee submitting an appeal. Appellant includes the
2.22 appellant's attorney or representative. An appellant who is not a business owner may file
2.23 and appeal on his or her own behalf or on behalf of the appellant's household.

2.24 Subp. 7. **Business day.** "Business day" means any day other than a Saturday,
2.25 Sunday, or legal holiday as defined in Minnesota Statutes, section 645.44.

3.1 Subp. 8. **Business hours.** "Business hours" means the hours between 8:30 a.m. and
3.2 4:30 p.m., Central Standard Time, on business days.

3.3 Subp. 5 ~~9~~. **Chief appeals examiner.** "Chief appeals examiner" means the chief
3.4 human services judge of the Department of Human Services and the chief administrative
3.5 law judge of the Office of Administrative Hearings, when acting under a delegation of
3.6 authority from the MNsure board ~~or its delegate.~~

3.7 Subp. 10. **De novo review.** "De novo review" means a review of an appeal without
3.8 deference to prior decisions in the case and can include making new findings of fact
3.9 based on the appeal record.

3.10 Subp. 11. **Eligibility.** "Eligibility" means meeting the stipulated requirements for
3.11 participation in a program or access to a service or product.

3.12 Subp. 6 ~~12~~. **MNsure board or board.** "MNsure board" or "board" means the entity
3.13 established in Minnesota Statutes, chapter 62V, as a board under Minnesota Statutes,
3.14 section 15.012, and ~~regardless of whether it is followed by the phrase or its delegate~~
3.15 should be understood to include any individual or entity to whom the board has delegated
3.16 a specific power or authority either directly or through an interagency agreement when
3.17 that individual or entity is exercising the delegation.

3.18 Subp. 7 ~~13~~. **Party or parties.** "Party" or "parties" means the ~~persons~~ appellants and
3.19 agencies that are involved in an appeal and who have the legal right to make claims and
3.20 defenses, offer proof, and examine and cross-examine witnesses during the appeal.

3.21 Subp. 8 ~~14~~. **Person.** "Person" means ~~an individual or small business employer who,~~
3.22 ~~on behalf of themselves, their household, or their small business, is appealing, disputing, or~~
3.23 ~~challenging an action, a decision, or a failure to act, by MNsure or an agency in the human~~
3.24 ~~services system. When a person involved in a proceeding under this chapter is represented~~
3.25 ~~by an attorney or by an authorized representative, person also means the person's attorney~~

4.1 ~~or authorized representative. Any notice sent to the person involved in the hearing must~~
 4.2 ~~also be sent to the person's attorney or authorized representative~~ a natural person.

4.3 Subp. 9 15. Preponderance of the evidence. "Preponderance of the evidence"
 4.4 means, in light of the record as a whole, the evidence leads the appeals examiner to believe
 4.5 that the finding of fact is more likely to be true than not true.

4.6 Subp. 16. Representative. "Representative" means a person who is empowered by
 4.7 the party to support, speak for, or act on behalf of the party. Representative includes legal
 4.8 counsel, relative, friend, or other spokesperson or authorized representative under Code of
 4.9 Federal Regulations, title 45, section 155.227.

4.10 Subp. 17. Vacate. "Vacate" means to set aside a previous action.

4.11 **7700.0105 MNSURE ELIGIBILITY APPEALS.**

4.12 Subpart 1. **Eligibility.**

4.13 A. MNSure appeals are available for the following actions:

4.14 (1) initial determinations and redeterminations made by MNSure of
 4.15 individual eligibility, including eligibility in a Qualified Health Plan, to purchase a
 4.16 qualified health plan through MNSure, made in accordance with Code of Federal
 4.17 Regulations, title 45, sections 155.305, (a) and (b); 155.330; and 155.335;

4.18 (2) initial determinations and redeterminations made by MNSure of
 4.19 eligibility for and level of advance payment of premium tax credit, and eligibility for and
 4.20 level of cost sharing reductions, made in accordance with 78 Fed. Reg. 4712 (proposed
 4.21 January 22, 2013) (to be codified at Code of Federal Regulations, title 45, section sections
 4.22 155.305 (a)-(h)) (f) to (g); 78 Fed. Reg. 4715 (proposed January 22, 2013) (to be codified
 4.23 at Code of Federal Regulations, title 45, section 155.330); and 78 Fed. Reg. 4721
 4.24 (proposed January 22, 2013) (to be codified at Code of Federal Regulations, title 45,
 4.25 section 155.535) 155.330; and 155.335;

5.1 ~~(2)~~ (3) initial determinations and redeterminations made by MNsure of
5.2 employee employer eligibility in to purchase coverage for qualified employees through
5.3 the Small Business Health Options Program under Code of Federal Regulations, title 45,
5.4 section ~~155.715 (e)~~ 155.710 (a);

5.5 ~~(3)~~ (4) initial determinations and redeterminations made by MNsure of
5.6 employee eligibility in to purchase coverage through the Small Business Health Options
5.7 Program under Code of Federal Regulations, title 45, section ~~155.715 (f)~~ 155.710 (e);

5.8 ~~(4)~~ (5) initial determinations and redeterminations made by MNsure of
5.9 individual eligibility for an exemption from the individual responsibility requirement made
5.10 in accordance with federal guidance on exemptions pursuant to section 1311(d)(4)(H)
5.11 of the Patient Protection and Affordable Care Act Code of Federal Regulations, title
5.12 45, section 155.605;

5.13 ~~(5)~~ (6) a failure by MNsure to provide timely notice of an eligibility
5.14 determination in accordance with ~~78 Fed. Reg. 4712 (proposed January 22, 2013) (to be~~
5.15 ~~codified at Code of Federal Regulations, title 45, section sections 155.310 (g), 78 Fed.~~
5.16 ~~Reg. 4715 (proposed January 22, 2013) (to be codified at Code of Federal Regulations,~~
5.17 ~~title 45, section; 155.330 (e)(1)(ii), 78 Fed. Reg. 4716 (proposed January 22, 2013) (to~~
5.18 ~~be codified at Code of Federal Regulations, title 45, section; 155.335 (h)(ii), or Code of~~
5.19 ~~Federal Regulations, title 45, section; 155.610 (i); and 155.715 (e)-(f)) (e) and (f);~~

5.20 ~~(6)~~ (7) in response to a notice from MNsure under ~~78 Fed. Reg. 4712~~
5.21 ~~(proposed January 22, 2013) (to be codified at Code of Federal Regulations, title 45,~~
5.22 ~~section 155.310 (h)), a determination by MNsure that an employer does not provide~~
5.23 ~~minimum essential coverage through an employer-sponsored plan or that the employer~~
5.24 ~~does provide coverage but is not affordable coverage with respect to an employee; and~~

6.1 ~~(7) medical assistance determinations of eligibility, level of benefits,~~
6.2 ~~services, or claims, or determinations that any such claim was not acted upon with~~
6.3 ~~reasonable promptness.~~

6.4 (8) in response to a denial of a request to vacate a dismissal made according
6.5 to this chapter and in accordance with Code of Federal Regulations, title 45, section
6.6 155.530 (d)(2).

6.7 B. ~~With the exception of the appeals described in item A, subitem (7), appeals~~
6.8 ~~are subject to the hearing processes in this part. The appeals described in item A, subitem~~
6.9 ~~(7), are subject to the hearing processes detailed at Minnesota Statutes, sections 256.045~~
6.10 ~~and 256.0451. If an individual has been denied eligibility for medical assistance under~~
6.11 Code of Federal Regulations, title 45, section 155.302 (b), an appeal of a determination of
6.12 eligibility for advanced payments of the premium tax credit or cost-sharing reduction must
6.13 also be treated as an appeal of medical assistance determination of eligibility.

6.14 Subp. 2. **Filing an appeal request.**

6.15 A. ~~A person may file an appeal request in one of the following ways: To initiate~~
6.16 an appeal, an appellant must file the appeal with MNsure as follows:

6.17 (1) by mail;

6.18 (2) by telephone;

6.19 (3) by Internet; and

6.20 (4) in person.

6.21 B. MNsure must provide the necessary contact information for each method of
6.22 filing an appeal with each eligibility determination and also through the MNsure Web site.

6.23 C. The agency must assist any potential appellant in filing an appeal when
6.24 assistance is requested.

7.1 ~~C. D.~~ An appeal must be received by MNsure within 90 days from the date of
7.2 the notice of eligibility determination. ~~The date on which the notice is received means~~
7.3 There is a rebuttable presumption that the date of the notice of eligibility determination
7.4 is five business days after later than the date printed on the notice, unless. The person
7.5 ~~demonstrates~~ may rebut this presumption by presenting evidence or testimony that they
7.6 ~~did not receive~~ received the notice ~~within the five-day period~~ five business days after the
7.7 date printed on the notice. An appeal received more than 90 days ~~from~~ after the receipt
7.8 date of the eligibility notice will be dismissed. ~~MNsure appeals pertaining to the medical~~
7.9 ~~assistance program and regulated by Minnesota Statutes, sections 256.045 and 256.0451,~~
7.10 ~~are subject to the 30-day filing deadlines provided therein.~~ If the deadline for filing an
7.11 appeal falls on a day that is not a business day, the filing deadline is the next business day.

7.12 ~~D. E.~~ Appeal request forms will be available to persons through the Internet, by
7.13 in-person request, ~~by a request by mail,~~ and by telephone. ~~An appeal request must contain~~
7.14 ~~all of~~ The following information is requested, but not required, in an appeal:

7.15 (1) name;

7.16 (2) MNsure ~~identifier~~ username;

7.17 (3) date of birth;

7.18 (4) address, including either an e-mail address, if available, or a mailing
7.19 or physical address;

7.20 (5) MNsure programs involved in the appeal, for which a list must be
7.21 provided on the appeal request form;

7.22 (6) reason for the appeal; and

7.23 (7) in appeals of redeterminations of eligibility, whether the appellant
7.24 intends to continue ~~benefits at the same rate as before~~ at the level of eligibility and benefits
7.25 before the redetermination being appealed until the appeal decision.

8.1 F. Appeals shall be accepted regardless of whether the requested information is
8.2 provided on the form or the information is incomplete. However, failure by an appellant to
8.3 provide all of the requested information may prevent resolution of the appeal or delivery
8.4 of effective notice.

8.5 ~~E. G. For appeal requests submitted after business hours through the Internet~~
8.6 ~~or by telephone, The date of official receipt of appeals submitted after business hours,~~
8.7 whether filed through the Internet or by telephone, is the next business day.

8.8 **Subp. 3. Notices and communications.**

8.9 A. The parties to an appeal have the right to the following timely notices and
8.10 communications:

8.11 (1) acknowledgement of receipt of the appeal request and a scheduling
8.12 order, including information regarding the appellant's eligibility pending appeal and an
8.13 explanation that any advance payments of the premium tax credit paid on behalf of the
8.14 tax filer pending appeal are subject to reconciliation; and

8.15 (2) the decision and order of the MNsure board.

8.16 B. Any notice sent to the appellant must also be sent to the appellant's attorney
8.17 or representative.

8.18 ~~B. C.~~ An appeals examiner shall not have ex parte contact on substantive issues
8.19 with the agency ~~or with any person, the appellant, or witness~~ any person involved in a
8.20 hearing an appeal. No agency employee shall review, interfere with, change, or attempt
8.21 to influence the recommended decision of the appeals examiner in any ~~hearing~~ appeal,
8.22 except through the procedures allowed herein. The limitations in this subpart do not affect
8.23 the board's authority to review or make final decisions.

8.24 **Subp. 4. Rescheduling.**

9.1 A. Requests to reschedule a hearing must be made in person, by telephone,
9.2 through the Internet, or mailed and postmarked to the appeals ~~office~~ examiner at least five
9.3 days in advance of the regularly scheduled hearing date. ~~A copy of the request must~~
9.4 ~~also be provided to the other party. The rescheduling request may be made orally or in~~
9.5 ~~writing. The rescheduling request may be made orally or in writing. The requesting party~~
9.6 must provide the other party a copy of a written request or must otherwise notify the
9.7 other party of the request.

9.8 B. Any rescheduling of a hearing with less than five days' advance notice will
9.9 be at the discretion of the appeals examiner and granted only when the rescheduling does
9.10 not prejudice any party to the rescheduling.

9.11 C. Unless a determination is made by the appeals ~~office~~ examiner that a request
9.12 to reschedule a hearing is made for the purpose of delay, a hearing must be rescheduled by
9.13 the appeals ~~office~~ examiner for good cause as determined by the appeals ~~office~~ examiner.
9.14 Good cause includes the following:

- 9.15 (1) to accommodate a witness;
- 9.16 (2) to obtain necessary evidence, preparation, or representation;
- 9.17 (3) to review, evaluate, and respond to new evidence;
- 9.18 (4) to permit negotiations of resolution between the parties;
- 9.19 (5) to permit the agency to reconsider;
- 9.20 (6) to permit actions not previously taken;
- 9.21 (7) to accommodate a conflict of previously scheduled appointments;
- 9.22 (8) to accommodate a physical or mental illness; or
- 9.23 (9) where an interpreter, translator, or other service necessary to
9.24 accommodate a person with a disability is needed but not available; or

10.1 (9) (10) any other compelling reasons beyond the control of the party that
10.2 prevents attendance at the originally scheduled time.

10.3 D. ~~A hearing may be rescheduled only once except in the case of an emergency.~~
10.4 If requested by the appeals office examiner, a written statement confirming the reasons
10.5 for the rescheduling request must be provided to the appeals office examiner by the
10.6 requesting party.

10.7 Subp. 5. **Telephone, videoconference, or in-person hearing.**

10.8 A. A hearing may be conducted by telephone, videoconference, or in person.
10.9 An in-person appeals hearing will only be held at the discretion of the appeals examiner, or
10.10 if the person asserts that either the person or a witness has a physical or mental disability
10.11 that would impair the person's ability to fully participate in a hearing held by interactive
10.12 video technology. To have the hearing conducted by videoconference or in person, a
10.13 person must make a specific request for that type of hearing.

10.14 B. When an in-person hearing is granted, the appeals examiner shall conduct
10.15 the hearing in the county where the person involved resides, unless an alternate location is
10.16 mutually agreed upon before the hearing.

10.17 C. Where federal law or regulation does not require a telephone,
10.18 videoconference, or in-person hearing and allows for a review of documentary evidence
10.19 through a desk review, a telephone, videoconference, or in-person hearing will only be
10.20 provided when the appeals examiner determines that such a hearing would materially
10.21 assist in resolving the issues presented by the appeal.

10.22 Subp. 6. **Emergency expedited appeals.**

10.23 A. ~~A person~~ An appellant has a right to request an emergency expedited appeal
10.24 when there is an immediate need for health services because a standard appeal could
10.25 seriously jeopardize the appellant's life or health or ability to attain, maintain, or regain

11.1 maximum function. ~~A person~~ An appellant must specify that an emergency expedited
11.2 appeal is being requested when submitting the initial appeal request.

11.3 B. If an emergency develops during a pending appeal such that there has
11.4 developed an immediate need for health services because a standard appeal could
11.5 seriously jeopardize the appellant's life or health or ability to attain, maintain, or regain
11.6 maximum function, an appellant may request an expedited appeal ~~may be requested~~
11.7 ~~from the appeals examiner.~~

11.8 C. If a request for an expedited appeal is denied, the appellant will be notified
11.9 according to the process and time period required under the applicable federal ~~regulations~~
11.10 law.

11.11 D. If a request for an expedited appeal is accepted, the appeals ~~office~~ examiner
11.12 will issue a decision according to the process and time period required under the applicable
11.13 federal ~~regulations~~ law.

11.14 Subp. 7. **Interpreter and translation services.**

11.15 A. Any necessary interpreter or translation services must be provided at no
11.16 cost upon request by a person or at the discretion of the appeals examiner. If it appears
11.17 to the appeals examiner that necessary interpreter or translation services are needed but
11.18 not available for the scheduled hearing, the hearing shall be rescheduled to the next
11.19 available date when the appropriate services can be provided. Appeals must be accessible
11.20 to appellants who have limited English proficiency, appellants who require interpreter
11.21 and translation services, and appellants with disabilities. An appeals examiner has a
11.22 duty to inquire whether any person involved in the hearing needs the services of an
11.23 interpreter, translator, or reasonable accommodations to accommodate a disability in order
11.24 to participate in or to understand the appeal process.

11.25 B. Necessary interpreter services, translation services, or reasonable
11.26 accommodations must be provided at no cost to the person involved in the appeal.

12.1 C. If an appellant requests interpreter services, translation services, or reasonable
12.2 accommodations or it appears to the appeals examiner that necessary interpreter or
12.3 translation services are needed but not available for the scheduled hearing, the hearing shall
12.4 be rescheduled to the next available date when the appropriate services can be provided.

12.5 **Subp. 8. Access to data.**

12.6 A. Subject to the requirements of all applicable state and federal laws regarding
12.7 privacy, confidentiality, and disclosure, and of personally identifiable information, the
12.8 ~~persons~~ appellants and agencies involved in an appeals hearing must be allowed to access
12.9 the appeal record upon request at a convenient place and time before and during the
12.10 appeals hearing. The Copies of the appeal record, including an electronic copy of the
12.11 recorded hearing, must be provided at no cost and, upon request, must be mailed or sent
12.12 by electronic transmission to the party or the party's representative.

12.13 B. ~~A person~~ An appellant involved in an appeals hearing may enforce the right
12.14 of access to data and copies of the case file by making a request to the appeals examiner.
12.15 The appeals examiner shall make an appropriate order enforcing the ~~person's rights under~~
12.16 ~~the Minnesota Government Data Practices Act~~ appellant's right of access, including but
12.17 not limited to ordering access to files, data, and documents possessed by the agency;
12.18 continuing or rescheduling an appeal hearing to allow adequate time for access to data;
12.19 or prohibiting use by the agency of files, data, or documents that have been generated,
12.20 collected, stored, or disseminated in violation of the requirements of ~~the Minnesota~~
12.21 ~~Government Data Practices Act~~ state or federal law, or when the documents have not been
12.22 provided to the ~~person~~ appellant involved in the appeal.

12.23 **Subp. 9. Data practices.**

12.24 A. Data on individuals, as defined in Minnesota Statutes, section 13.02,
12.25 subdivision 5, will be collected about persons and appellants throughout the appeals
12.26 process. ~~During this process, evidence and testimony will be collected for~~ The purpose

13.1 of ~~deciding an individual's rights under Minnesota and federal law~~ this data collection is
13.2 to conduct an appeal. A party to an appeal is not required to supply data for an appeal.
13.3 However, deciding which evidence and testimony to submit may have an impact on the
13.4 outcome of the appeal decision. Certain other government officials may have access to
13.5 information provided throughout the appeals process if this is allowed by statute law or
13.6 pursuant to a valid court order.

13.7 B. When ~~the~~ an appeal proceeds beyond the MNsure appeals process to judicial
13.8 review, the appeal record will be public unless the court with jurisdiction over the appeal
13.9 issues a protective order is issued. When the appeal proceeds outside of the MNsure
13.10 appeals process to the United States Department of Health and Human Services, the record
13.11 will be classified according to federal law governing the collection of data on individuals.

13.12 Subp. 10. **Appeal summary.** The agency ~~involved in an appeal~~ must prepare an
13.13 appeal summary for each appeal hearing. The appeal summary shall be delivered to ~~the~~
13.14 ~~person who is involved in the appeal~~ each party and the MNsure ~~Appeals Office~~ appeals
13.15 examiner at least three ~~working~~ business days before the date of the appeal hearing.
13.16 The appeals examiner shall confirm that the appeal summary is delivered to the ~~person~~
13.17 party involved in the appeal as required under this subpart. ~~The person involved in the~~
13.18 ~~appeal hearing should~~ Each party shall be provided, through the appeal summary or other
13.19 reasonable methods, appropriate information about the procedures for the appeal hearing
13.20 and an adequate opportunity to prepare. The contents of the appeal summary must be
13.21 adequate to inform ~~the person involved in the appeal~~ each party of the evidence on which
13.22 the agency relies and the legal basis for the agency's action or determination.

13.23 Subp. 11. **Representation during appeal.** ~~A person~~ An appellant may personally
13.24 appear in any appeal hearing and may be represented by an attorney or ~~a duly authorized~~
13.25 representative. A partnership may be represented by any of its members, an attorney, or
13.26 other ~~duly authorized~~ representative. A corporation or association may be represented by

14.1 an officer, an attorney, or other ~~duly authorized~~ representative. In ~~eases~~ a case involving
14.2 an unrepresented persons appellant, the appeals examiner shall examine witnesses and
14.3 receive exhibits for the purpose of identifying and developing in the appeal record relevant
14.4 facts necessary for making an informed and fair decision. An unrepresented ~~person~~
14.5 appellant shall be provided an adequate opportunity to respond to testimony or other
14.6 evidence presented by the agency at the appeal hearing. The appeals examiner shall ensure
14.7 that an unrepresented ~~person~~ appellant has a full and reasonable opportunity at the appeal
14.8 hearing to establish a record for appeal. An agency may be represented by an employee or
14.9 an attorney, including an attorney employed by the agency as authorized by law.

14.10 Subp. 12. **Dismissals.**

14.11 A. The appeals ~~entity~~ examiner must dismiss an appeal if the appellant:

14.12 (1) withdraws the ~~appeals request~~ appeal orally or in writing;

14.13 (2) fails to appear at a scheduled appeal hearing or prehearing conference
14.14 and good cause is not shown;

14.15 (3) fails to submit a valid appeal ~~request~~; or

14.16 (4) dies while the appeal is pending.

14.17 B. If an appeal is dismissed, the appeals ~~entity~~ examiner must provide timely
14.18 notice to the parties, which must include the reason for dismissal, an explanation of the
14.19 dismissal's effect on the appellant's eligibility, and an explanation of how the appellant
14.20 may show good cause why the dismissal should be vacated.

14.21 C. The appeals ~~entity may~~ examiner must vacate a dismissal if the appellant
14.22 makes a written request within 30 days of the date of the notice of dismissal showing good
14.23 cause why the dismissal should be vacated. There is a rebuttable presumption that the
14.24 date of the notice of dismissal is five business days later than the date printed on the
14.25 notice. The person may rebut this presumption by presenting evidence or testimony that

15.1 they received the notice later than five business days after the date printed on the notice.

15.2 Good cause can be shown when there is:

15.3 (1) a death or serious illness in the person's family;

15.4 (2) a personal injury or physical or mental illness that reasonably prevents
15.5 ~~the person~~ an appellant or witness from attending the hearing;

15.6 (3) an emergency, crisis, including a mental health crisis, or unforeseen
15.7 event that reasonably prevents ~~the person~~ an appellant or witness from attending the
15.8 hearing;

15.9 (4) an obligation or responsibility of ~~the person~~ an appellant or witness
15.10 which a reasonable person, in the conduct of one's affairs, could reasonably determine
15.11 takes precedence over attending the hearing;

15.12 (5) lack of or failure to receive timely notice of the hearing in the preferred
15.13 language of ~~the person~~ an appellant involved in the hearing; ~~or~~

15.14 (6) excusable neglect, excusable inadvertence, or excusable mistake, ~~or~~
15.15 ~~other good cause~~ as determined by the appeals examiner; or

15.16 (7) any other compelling reason beyond the control of the party as
15.17 determined by the appeals examiner.

15.18 Subp. 13. **Prehearing conferences.**

15.19 A. The appeals examiner, at the examiner's discretion, prior to an appeal hearing
15.20 may hold a prehearing conference to further the interests of justice or efficiency. The
15.21 ~~person involved in the appeal, or that person's representative,~~ parties must participate in
15.22 any prehearing conference held. ~~A person involved in an appeal hearing or the agency~~
15.23 party may request a prehearing conference. The prehearing conference may be conducted
15.24 by telephone, in writing, or in person. The prehearing conference may address the
15.25 following issues:

- 16.1 (1) disputes regarding access to files, evidence, subpoenas, or testimony;
- 16.2 (2) the time required for the hearing or any need for expedited procedures
16.3 or decision;
- 16.4 (3) identification or clarification of legal or other issues that may arise
16.5 at the hearing;
- 16.6 (4) identification of and possible agreement to factual issues; and
- 16.7 (5) scheduling and any other matter that will aid in the proper and fair
16.8 functioning of the hearing.

16.9 B. The appeals examiner shall make a record or otherwise contemporaneously
16.10 summarize the prehearing conference in writing, which shall be sent to:

- 16.11 (1) ~~the person involved in the hearing parties; and~~
- 16.12 (2) ~~the person's party's attorney or authorized representative; and,~~
- 16.13 (3) ~~the agency.~~

16.14 Subp. 14. **Disqualification of appeals examiner.**

16.15 A. The chief appeals examiner shall remove an appeals examiner ~~must be~~
16.16 ~~removed~~ from any case where the appeals examiner believes that presiding over the case
16.17 would create the appearance of unfairness or impropriety. No appeals examiner may hear
16.18 any case where any of the parties to the appeal are related to the appeals examiner by blood
16.19 or marriage. An appeals examiner must not hear any case if the appeals examiner has a
16.20 financial or personal interest in the outcome. An appeals examiner having knowledge of
16.21 such a relationship or interest must immediately notify the chief appeals examiner and be
16.22 removed from the case.

16.23 B. A party may move for the removal of an appeals examiner by written
16.24 application of the party together with a statement of the basis for removal. Upon the

17.1 motion of the party, the chief appeals examiner must decide whether the appeals examiner
17.2 may hear the particular case.

17.3 **Subp. 15. Status of eligibility and benefits pending appeal.**

17.4 A. In appeals involving a redetermination of a person's an appellant's eligibility
17.5 for a certain benefit, the person appellant shall continue to receive those benefits for
17.6 which the person was previously determined eligible pending appeal, unless the person
17.7 specifically requests not to continue to receive that benefit pending appeal at the level of
17.8 eligibility and benefits before the redetermination being appealed only if the appellant
17.9 affirmatively elects to receive them during the appeal.

17.10 B. The appeal type, as specified in subpart 1, item A, determines what eligibility
17.11 and benefits are available to be continued pending appeal. The availability of a continuation
17.12 of eligibility and benefits is only available for appellants under subpart 1, item A, subitems
17.13 (1) and (2). If appealing eligibility for advanced payments of premium tax credits and/or
17.14 cost-sharing reductions, at issue is the amount of the advance payments of premium tax
17.15 credits and/or cost-sharing reductions; and if appealing the eligibility to purchase a QHP
17.16 through MNsure, at issue is the eligibility to purchase a QHP through MNsure.

17.17 C. Where an appellant continues at the level of eligibility before the
17.18 redetermination being appealed and the appeal decision upholds the redetermination being
17.19 appealed, the appellant is subject to reconciliation and repayment of any overpayment.

17.20 **Subp. 16. Commencement and conduct of hearing.**

17.21 A. The appeals examiner shall begin each hearing by describing the process to
17.22 be followed in the hearing, including the swearing in of witnesses, how testimony and
17.23 evidence are presented, the order of examining and cross-examining witnesses, and the
17.24 opportunity for an opening statement and a closing statement. The appeals examiner shall
17.25 identify for the ~~participants~~ parties the issues to be addressed at the hearing and shall
17.26 explain to the ~~participants~~ parties the burden of proof that applies to the ~~person involved~~

18.1 appellant and the agency. The appeals examiner shall confirm, prior to proceeding with the
18.2 hearing, that the ~~state agency~~ appeal summary, if prepared, has been properly completed
18.3 and provided to the ~~person involved in the hearing~~ parties, and that the ~~person has~~ parties
18.4 have been provided documents and an opportunity to review the ~~ease file~~ appeal record,
18.5 as provided in this part.

18.6 B. The appeals examiner shall act in a fair and impartial manner at all times.
18.7 At the beginning of the appeal hearing, the agency must designate one person as
18.8 a representative who shall be responsible for presenting the agency's evidence and
18.9 questioning any witnesses. The appeals examiner shall make sure that ~~the person and the~~
18.10 agency both the agency and the appellant are provided sufficient time to present testimony
18.11 and evidence, to confront and cross-examine all adverse witnesses, and to make any
18.12 relevant statement at the hearing. All testimony in the hearing will be taken under oath
18.13 or affirmation. The appeals examiner shall make reasonable efforts to explain the appeal
18.14 hearing process to ~~persons who are not represented~~ unrepresented appellants and shall
18.15 ensure that the hearing is conducted fairly and efficiently. Upon the reasonable request of
18.16 the ~~person~~ appellant or the agency ~~involved~~ or at the discretion of the appeals examiner, the
18.17 appeals examiner shall direct witnesses to remain outside the hearing room, except during
18.18 individual testimony, when the appeals examiner determines that such action is appropriate
18.19 to ensure a fair and impartial hearing. The appeals examiner shall not terminate the
18.20 hearing before affording the ~~person~~ appellant and the agency a complete opportunity to
18.21 submit all admissible evidence and reasonable opportunity for oral or written statement. In
18.22 the event that an appeal hearing extends beyond the time allotted, the appeal hearing shall
18.23 be continued from day to day until completion. Appeal hearings that have been continued
18.24 shall be timely scheduled to minimize delay in the disposition of the appeal.

18.25 C. The appeal hearing shall be a de novo review and shall address the
18.26 correctness and legality of the agency's action and shall not be limited simply to a review
18.27 of the propriety of the agency's action. The ~~person involved~~ appellant may raise and

19.1 present evidence on all legal claims or defenses arising under state or federal law as a
19.2 basis for ~~appealing or disputing an agency action~~ the appeal, excluding any constitutional
19.3 claims that are beyond the jurisdiction of the appeal hearing. The appeals examiner may
19.4 take official notice of adjudicative facts.

19.5 D. The burden of persuasion is governed by specific state or federal law and
19.6 regulations that apply to the subject of the hearing. Unless otherwise required by specific
19.7 state or federal laws that apply to the subject of the appeal, the ~~person filing the appeal~~
19.8 appellant carries the burden to persuade the appeals examiner that a claim is true and must
19.9 demonstrate such by a preponderance of the evidence.

19.10 E. The appeals examiner shall accept all evidence, except evidence privileged
19.11 by law, that is commonly accepted by reasonable people in the conduct of their affairs
19.12 as having probative value on the issues to be addressed at the appeal hearing. ~~In cases~~
19.13 ~~involving medical issues such as a diagnosis, a physician's report, or a review team's~~
19.14 ~~decision, the appeals examiner shall consider whether it is necessary to have a medical~~
19.15 ~~assessment other than that of the individual making the original decision included in the~~
19.16 ~~record of the appeal. When necessary, the appeals examiner shall require an additional~~
19.17 ~~assessment be obtained at agency expense and made part of the hearing record. The~~
19.18 appeals examiner shall ensure for all cases that the appeal record is sufficiently complete
19.19 to make a fair and accurate decision.

19.20 F. The agency must present its evidence prior to or at the appeal hearing. The
19.21 agency shall not be permitted to submit evidence after the hearing except by agreement at
19.22 the hearing between the ~~person involved~~ appellant, the agency, and the appeals examiner.
19.23 If evidence is submitted after the appeal hearing, based on an agreement, the ~~person~~
19.24 ~~involved~~ appellant and the agency must be allowed sufficient opportunity to respond to the
19.25 evidence. When determined necessary by the appeals examiner, the appeal record shall

20.1 remain open to permit ~~a person~~ an appellant to submit additional evidence on the issues
20.2 presented at the appeal hearing.

20.3 **Subp. 17. Orders of the MNsure board ~~or its delegate~~.**

20.4 A. A timely, written decision must be issued in every appeal. Each decision must
20.5 contain a clear ruling on the issues presented in the appeal hearing and contain a ruling
20.6 only on questions directly presented by the appeal and the arguments raised in the appeal.

20.7 B. A written decision must be issued within 90 days of the date the ~~person~~
20.8 ~~involved requested the appeal~~ appeal is received, as administratively feasible, unless a
20.9 shorter time is required by law.

20.10 C. The decision must contain both findings of fact and conclusions of law,
20.11 clearly separated and identified. The findings of fact must be based on the entire appeal
20.12 record. Each finding of fact made by the appeals examiner shall be supported by a
20.13 preponderance of the evidence unless a different standard is required ~~under the regulations~~
20.14 ~~of a particular program~~ by law. The legal claims or arguments of a participant do not
20.15 constitute either a finding of fact or a conclusion of law, except to the extent the appeals
20.16 examiner explicitly adopts an argument as a finding of fact or conclusion of law.

20.17 D. The decision shall contain at least the following:

20.18 (1) a listing of the date and place of the appeal hearing and the ~~participants~~
20.19 parties and persons appearing at the appeal hearing;

20.20 (2) a clear and precise statement of the issues, including the dispute ~~under~~
20.21 ~~consideration~~ that is the subject of the appeal and the specific points that must be resolved
20.22 in order to decide the case;

20.23 (3) a listing of ~~the material, including exhibits, records, and reports,~~ each of
20.24 the materials constituting the appeal record that were placed into evidence at the appeal
20.25 hearing, and upon which the appeal hearing decision is based;

21.1 (4) the findings of fact based upon the entire appeal ~~hearing~~ record. The
21.2 findings of fact must be adequate to inform the ~~participants and any interested person in~~
21.3 parties and the public of the basis of the decision. If the evidence is in conflict on an issue
21.4 that must be resolved, the findings of fact must state the reasoning used in resolving
21.5 the conflict;

21.6 (5) conclusions of law that address the legal authority for the appeal hearing
21.7 and the ruling, and which give appropriate attention to the claims of the ~~participants to~~
21.8 the appeal hearing parties;

21.9 (6) a clear and precise statement of the decision made resolving the dispute
21.10 ~~under consideration in the appeal hearing~~ that is the subject of the appeal, including the
21.11 effective date of the decision; and

21.12 (7) written notice of any existing right to appeal, ~~and of the actions required~~
21.13 ~~and the time limits for taking appropriate action to appeal~~ including taking an appeal to the
21.14 United States Department of Health and Human Services and identifying the time frame
21.15 for an appeal and that the decision is final unless appealed.

21.16 E. The appeals examiner shall not independently investigate facts or otherwise
21.17 rely on information not presented at the appeal hearing. The appeals examiner may not
21.18 contact other agency personnel, except as provided in subpart 16. The appeals examiner's
21.19 recommended decision must be based exclusively on the testimony and evidence
21.20 presented at the appeal hearing, legal arguments presented, and the appeals examiner's
21.21 research and knowledge of the law.

21.22 F. The MNsure board ~~or its delegated representative~~ shall review the
21.23 recommended decision and accept or refuse to accept the decision. The MNsure board ~~or~~
21.24 ~~delegate~~ may accept the recommended order of an appeals examiner and issue the order
21.25 to the parties. ~~The MNsure board or delegate~~ may refuse to accept the decision. Upon
21.26 refusal, the MNsure board ~~or delegate~~ shall notify the parties of ~~that fact and~~ the refusal,

22.1 state the reasons, and shall allow each party ten days to submit additional written argument
22.2 on the matter. After the expiration of the ten-day period, the MNsure board or delegate
22.3 shall issue an order on the matter to the parties. Refusal of the MNsure board or delegate
22.4 to accept a decision must not delay the 90-day time limit to issue a decision.

22.5 Subp. 18. **Public access to hearings and decisions.** Appeal decisions must be
22.6 maintained in a manner so that the public has ready access to previous decisions on
22.7 particular topics, subject to appropriate procedures for safeguarding names, personal
22.8 identifying information, and other data protected by compliance with applicable state
22.9 and federal laws regarding the privacy, confidentiality, and disclosure, and of personally
22.10 identifiable information. Appeal hearings conducted under this part are not open to the
22.11 public due to the not public classification of the information provided for inclusion in
22.12 the appeal record.

22.13 Subp. 19. **Administrative review.**

22.14 A. Administrative review by the United States Department of Health and
22.15 Human Services may be available for parties aggrieved by an order of the MNsure board.

22.16 B. An appeal under this part must be filed with the United States Department of
22.17 Health and Human Services and MNsure within 30 days of the date of the appeal decision
22.18 according to the process ~~and time period~~ required under the applicable federal regulations.

22.19 Subp. 20. **Judicial review.** An appellant may seek judicial review to the extent it
22.20 is available by law.