

1.1 **MNsure**1.2 **Proposed 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 **7700.0101 DEFINITIONS.**

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

1.12 Subp. 2. **Agency.** "Agency" means the entity that lawfully made the eligibility
1.13 determination being contested, which includes MNsure, the Department of Human
1.14 Services, and the county human services agency, and, where applicable, any entity
1.15 involved under a contract, subcontract, grant, or subgrant with MNsure, the Department of
1.16 Human Services, or with a county agency, that provides or operates programs or services
1.17 in which appeals are governed.

1.18 Subp. 3. **Appeal record.** "Appeal record" means all relevant eligibility records, the
1.19 appeal decision, all papers and requests filed in the proceeding, and if a hearing is held, the
1.20 recording of the hearing testimony or an official report containing the substance of what
1.21 happened at the hearing and any exhibits introduced at the hearing.

1.22 Subp. 4. **Appeals examiner.** "Appeals examiner" means a person appointed to
1.23 conduct hearings under this part by the MNsure board and includes human services judges
1.24 of the Department of Human Services and administrative law judges of the Office of
1.25 Administrative Hearings, when acting under a delegation of authority from the MNsure
1.26 board or its delegate.

2.1 Subp. 5. **Chief appeals examiner.** "Chief appeals examiner" means the chief
2.2 human services judge of the Department of Human Services and the chief administrative
2.3 law judge of the Office of Administrative Hearings, when acting under a delegation of
2.4 authority from the MNsure board or its delegate.

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

2.11 Subp. 7. **Party or parties.** "Party" or "parties" means the persons and agencies that
2.12 are involved in an appeal and who have the legal right to make claims and defenses, offer
2.13 proof, and examine and cross-examine witnesses during the appeal.

2.14 Subp. 8. **Person.** "Person" means an individual or small business employer who, on
2.15 behalf of themselves, their household, or their small business, is appealing, disputing, or
2.16 challenging an action, a decision, or a failure to act, by MNsure or an agency in the human
2.17 services system. When a person involved in a proceeding under this chapter is represented
2.18 by an attorney or by an authorized representative, person also means the person's attorney
2.19 or authorized representative. Any notice sent to the person involved in the hearing must
2.20 also be sent to the person's attorney or authorized representative.

2.21 Subp. 9. **Preponderance of the evidence.** "Preponderance of the evidence" means,
2.22 in light of the record as a whole, the evidence leads the appeals examiner to believe that
2.23 the finding of fact is more likely to be true than not true.

2.24 **7700.0105 MNSURE ELIGIBILITY APPEALS.**

2.25 Subpart 1. **Eligibility.**

3.1 A. MNsure appeals are available for the following actions:

3.2 (1) initial determinations and redeterminations of individual eligibility,
3.3 including eligibility in a Qualified Health Plan, eligibility for and level of Advance
3.4 Premium Tax Credit, and eligibility for and level of Cost Sharing Reductions, made in
3.5 accordance with 78 Fed. Reg. 4712 (proposed January 22, 2013) (to be codified at Code
3.6 of Federal Regulations, title 45, section 155.305(a)-(h)); 78 Fed. Reg. 4715 (proposed
3.7 January 22, 2013) (to be codified at Code of Federal Regulations, title 45, section
3.8 155.330); and 78 Fed. Reg. 4721 (proposed January 22, 2013) (to be codified at Code of
3.9 Federal Regulations, title 45, section 155.535);

3.10 (2) determinations of employer eligibility in the Small Business Health
3.11 Options Program under Code of Federal Regulations, title 45, section 155.715(e);

3.12 (3) determinations of employer eligibility in the Small Business Health
3.13 Options Program under Code of Federal Regulations, title 45, section 155.715(f);

3.14 (4) determinations of individual eligibility for an exemption made in
3.15 accordance with federal guidance on exemptions pursuant to section 1311(d)(4)(H) of the
3.16 Patient Protection and Affordable Care Act;

3.17 (5) a failure by MNsure to provide timely notice of an eligibility
3.18 determination in accordance with 78 Fed. Reg. 4712 (proposed January 22, 2013) (to be
3.19 codified at Code of Federal Regulations, title 45, section 155.310(g), 78 Fed. Reg. 4715
3.20 (proposed January 22, 2013) (to be codified at Code of Federal Regulations, title 45,
3.21 section 155.330(e)(1)(ii), 78 Fed. Reg. 4716 (proposed January 22, 2013) (to be codified
3.22 at Code of Federal Regulations, title 45, section 155.335(h)(ii), or Code of Federal
3.23 Regulations, title 45, section 155.715(e)-(f));

3.24 (6) in response to a notice under 78 Fed. Reg. 4712 (proposed January
3.25 22, 2013) (to be codified at Code of Federal Regulations, title 45, section 155.310(h)),
3.26 a determination that an employer does not provide minimum coverage through an

4.1 employer-sponsored plan or that the employer does provide coverage but is not affordable
4.2 coverage with respect to an employee; and

4.3 (7) medical assistance determinations of eligibility, level of benefits,
4.4 services, or claims, or determinations that any such claim was not acted upon with
4.5 reasonable promptness.

4.6 B. With the exception of the appeals described in item A, subitem (7), appeals
4.7 are subject to the hearing processes in this part. The appeals described in item A, subitem
4.8 (7), are subject to the hearing processes detailed at Minnesota Statutes, sections 256.045
4.9 and 256.0451.

4.10 Subp. 2. Filing an appeal request.

4.11 A. A person may file an appeal request in one of the following ways:

4.12 (1) by mail;

4.13 (2) by telephone;

4.14 (3) by Internet; and

4.15 (4) in person.

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

4.18 C. An appeal must be received by MNsure within 90 days from the date of the
4.19 notice of eligibility determination. The date on which the notice is received means five
4.20 days after the date on the notice, unless the person demonstrates that they did not receive
4.21 the notice within the five-day period. An appeal received more than 90 days from the
4.22 receipt of eligibility notice will be dismissed. MNsure appeals pertaining to the medical
4.23 assistance program and regulated by Minnesota Statutes, sections 256.045 and 256.0451,
4.24 are subject to the 30-day filing deadlines provided therein.

5.1 D. Appeal request forms will be available to persons through the Internet, by
5.2 in-person request, by a request by mail, and by telephone. An appeal request must contain
5.3 all of the following information:

5.4 (1) name;

5.5 (2) MNsure identifier;

5.6 (3) date of birth;

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

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

5.11 (6) reason for the appeal; and

5.12 (7) in appeals of redeterminations, whether the appellant intends to
5.13 continue benefits at the same rate as before until the appeal decision.

5.14 E. For appeal requests submitted after business hours through the Internet or by
5.15 telephone, the date of official receipt is the next business day.

5.16 Subp. 3. Notices and communications.

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

5.19 (1) acknowledgement of appeal request and scheduling order; and

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

5.21 B. An appeals examiner shall not have ex parte contact on substantive issues
5.22 with the agency or with any person or witness in a hearing appeal. No agency employee
5.23 shall review, interfere with, change, or attempt to influence the recommended decision
5.24 of the appeals examiner in any hearing appeal, except through the procedures allowed

6.1 herein. The limitations in this subpart do not affect the board's authority to review or
6.2 make final decisions.

6.3 Subp. 4. Rescheduling.

6.4 A. Requests to reschedule a hearing must be made in person, by telephone,
6.5 through the Internet, or mailed and postmarked to the appeals office at least five days in
6.6 advance of the regularly scheduled hearing date. A copy of the request must also be
6.7 provided to the other party. The rescheduling request may be made orally or in writing.

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

6.11 C. Unless a determination is made by the appeals office that a request to
6.12 reschedule a hearing is made for the purpose of delay, a hearing must be rescheduled by
6.13 the appeals office for good cause as determined by the appeals office. Good cause includes
6.14 the following:

6.15 (1) to accommodate a witness;

6.16 (2) to obtain necessary evidence, preparation, or representation;

6.17 (3) to review, evaluate, and respond to new evidence;

6.18 (4) to permit negotiations of resolution between the parties;

6.19 (5) to permit the agency to reconsider;

6.20 (6) to permit actions not previously taken;

6.21 (7) to accommodate a conflict of previously scheduled appointments;

6.22 (8) to accommodate illness; or

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

7.1 D. A hearing may be rescheduled only once except in the case of an emergency.
7.2 If requested by the appeals office, a written statement confirming the reasons for the
7.3 rescheduling request must be provided to the appeals office by the requesting party.

7.4 Subp. 5. Telephone, videoconference, or in-person hearing.

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

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

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

7.19 Subp. 6. Emergency expedited appeals.

7.20 A. A person has a right to request an emergency expedited appeal when there
7.21 is an immediate need for health services because a standard appeal could seriously
7.22 jeopardize the appellant's life or health or ability to attain, maintain, or regain maximum
7.23 function. A person must specify that an emergency expedited appeal is being requested
7.24 when submitting the initial appeal request.

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

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

8.7 D. If a request for an expedited appeal is accepted, the appeals office will
8.8 issue a decision according to the process and time period required under the applicable
8.9 federal regulations.

8.10 Subp. 7. **Interpreter and translation services.** Any necessary interpreter or
8.11 translation services must be provided at no cost upon request by a person or at the discretion
8.12 of the appeals examiner. If it appears to the appeals examiner that necessary interpreter or
8.13 translation services are needed but not available for the scheduled hearing, the hearing shall
8.14 be rescheduled to the next available date when the appropriate services can be provided.

8.15 Subp. 8. **Access to data.**

8.16 A. Subject to the requirements of all applicable state and federal laws regarding
8.17 privacy, confidentiality, disclosure, and personally identifiable information, the persons
8.18 and agencies involved in an appeals hearing must be allowed to access the appeal record
8.19 upon request at a convenient place and time before and during the appeals hearing. The
8.20 copies must be provided at no cost and, upon request, must be mailed or sent by electronic
8.21 transmission to the party or the party's representative.

8.22 B. A person involved in an appeals hearing may enforce the right of access
8.23 to data and copies of the case file by making a request to the appeals examiner. The
8.24 appeals examiner shall make an appropriate order enforcing the person's rights under the
8.25 Minnesota Government Data Practices Act, including but not limited to ordering access to
8.26 files, data, and documents; continuing or rescheduling an appeal hearing to allow adequate

9.1 time for access to data; or prohibiting use by the agency of files, data, or documents that
9.2 have been generated, collected, stored, or disseminated in violation of the requirements
9.3 of the Minnesota Government Data Practices Act, or when the documents have not been
9.4 provided to the person involved in the appeal.

9.5 Subp. 9. **Data practices.** Data on individuals will be collected throughout the appeals
9.6 process. During this process, evidence and testimony will be collected for the purpose of
9.7 deciding an individual's rights under Minnesota and federal law. A party to an appeal is not
9.8 required to supply data for an appeal. However, deciding which evidence and testimony
9.9 to submit may have an impact on the outcome of the appeal decision. Certain other
9.10 government officials may have access to information provided throughout the appeals
9.11 process if this is allowed by statute or pursuant to a valid court order. When the appeal
9.12 proceeds beyond the MNsure appeals process to judicial review, the appeal record will be
9.13 public unless a protective order is issued. When the appeal proceeds outside of the MNsure
9.14 appeals process to the United States Department of Health and Human Services, the record
9.15 will be classified according to federal law governing the collection of data on individuals.

9.16 Subp. 10. **Appeal summary.** The agency involved in an appeal must prepare an
9.17 appeal summary for each appeal hearing. The appeal summary shall be delivered to the
9.18 person who is involved in the appeal and the MNsure Appeals Office at least three working
9.19 days before the date of the appeal hearing. The appeals examiner shall confirm that the
9.20 appeal summary is delivered to the person involved in the appeal as required under this
9.21 subpart. The person involved in the appeal hearing should be provided, through the appeal
9.22 summary or other reasonable methods, appropriate information about the procedures for
9.23 the appeal hearing and an adequate opportunity to prepare. The contents of the appeal
9.24 summary must be adequate to inform the person involved in the appeal of the evidence on
9.25 which the agency relies and the legal basis for the agency's action or determination.

10.1 Subp. 11. **Representation during appeal.** A person may personally appear in any
10.2 appeal hearing and may be represented by an attorney or a duly authorized representative.
10.3 A partnership may be represented by any of its members, an attorney, or other duly
10.4 authorized representative. A corporation or association may be represented by an officer,
10.5 an attorney, or other duly authorized representative. In cases involving unrepresented
10.6 persons, the appeals examiner shall examine witnesses and receive exhibits for the purpose
10.7 of identifying and developing in the appeal record relevant facts necessary for making
10.8 an informed and fair decision. An unrepresented person shall be provided an adequate
10.9 opportunity to respond to testimony or other evidence presented by the agency at the
10.10 appeal hearing. The appeals examiner shall ensure that an unrepresented person has a full
10.11 and reasonable opportunity at the appeal hearing to establish a record for appeal.

10.12 Subp. 12. **Dismissals.**

10.13 A. The appeals entity must dismiss an appeal if the appellant:

10.14 (1) withdraws the appeals request in writing;

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

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

10.18 (4) dies while the appeal is pending.

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

10.23 C. The appeals entity may vacate a dismissal if the appellant makes a written
10.24 request within 30 days of the date of the notice of dismissal showing good cause why the
10.25 dismissal should be vacated. Good cause can be shown when there is:

- 11.1 (1) a death or serious illness in the person's family;
- 11.2 (2) a personal injury or illness that reasonably prevents the person from
11.3 attending the hearing;
- 11.4 (3) an emergency, crisis, or unforeseen event that reasonably prevents the
11.5 person from attending the hearing;
- 11.6 (4) an obligation or responsibility of the person which a reasonable
11.7 person, in the conduct of one's affairs, could reasonably determine takes precedence
11.8 over attending the hearing;
- 11.9 (5) lack of or failure to receive timely notice of the hearing in the preferred
11.10 language of the person involved in the hearing; or
- 11.11 (6) excusable neglect, excusable inadvertence, excusable mistake, or other
11.12 good cause as determined by the appeals examiner.

11.13 Subp. 13. Prehearing conferences.

11.14 A. The appeals examiner, at the examiner's discretion, prior to an appeal
11.15 hearing may hold a prehearing conference to further the interests of justice or efficiency.
11.16 The person involved in the appeal, or that person's representative, must participate in
11.17 any prehearing conference held. A person involved in an appeal hearing or the agency
11.18 may request a prehearing conference. The prehearing conference may be conducted by
11.19 telephone or in person. The prehearing conference may address the following:

- 11.20 (1) disputes regarding access to files, evidence, subpoenas, or testimony;
- 11.21 (2) the time required for the hearing or any need for expedited procedures
11.22 or decision;
- 11.23 (3) identification or clarification of legal or other issues that may arise
11.24 at the hearing;

12.1 (4) identification of and possible agreement to factual issues; and

12.2 (5) scheduling and any other matter that will aid in the proper and fair
12.3 functioning of the hearing.

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

12.6 (1) the person involved in the hearing;

12.7 (2) the person's attorney or authorized representative; and

12.8 (3) the agency.

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

12.10 A. An appeals examiner must be removed from any case where the appeals
12.11 examiner believes that presiding over the case would create the appearance of unfairness
12.12 or impropriety. No appeals examiner may hear any case where any of the parties to the
12.13 appeal are related to the appeals examiner by blood or marriage. An appeals examiner
12.14 must not hear any case if the appeals examiner has a financial or personal interest in the
12.15 outcome. An appeals examiner having knowledge of such a relationship or interest must
12.16 immediately be removed from the case.

12.17 B. A party may move for the removal of an appeals examiner by written
12.18 application of the party together with a statement of the basis for removal. Upon the
12.19 motion of the party, the chief appeals examiner must decide whether the appeals examiner
12.20 may hear the particular case.

12.21 Subp. 15. **Status of benefits pending appeal.** In appeals involving a redetermination
12.22 of a person's eligibility for a certain benefit, the person shall continue to receive those
12.23 benefits for which the person was previously determined eligible pending appeal, unless
12.24 the person specifically requests not to continue to receive that benefit pending appeal.

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

13.1 A. The appeals examiner shall begin each hearing by describing the process to
13.2 be followed in the hearing, including the swearing in of witnesses, how testimony and
13.3 evidence are presented, the order of examining and cross-examining witnesses, and the
13.4 opportunity for an opening statement and a closing statement. The appeals examiner shall
13.5 identify for the participants the issues to be addressed at the hearing and shall explain to
13.6 the participants the burden of proof that applies to the person involved and the agency.
13.7 The appeals examiner shall confirm, prior to proceeding with the hearing, that the state
13.8 agency appeal summary, if prepared, has been properly completed and provided to the
13.9 person involved in the hearing, and that the person has been provided documents and an
13.10 opportunity to review the case file, as provided in this part.

13.11 B. The appeals examiner shall act in a fair and impartial manner at all times.
13.12 At the beginning of the appeal hearing, the agency must designate one person as
13.13 a representative who shall be responsible for presenting the agency's evidence and
13.14 questioning any witnesses. The appeals examiner shall make sure that the person and the
13.15 agency are provided sufficient time to present testimony and evidence, to confront and
13.16 cross-examine all adverse witnesses, and to make any relevant statement at the hearing.
13.17 All testimony in the hearing will be taken under oath or affirmation. The appeals examiner
13.18 shall make reasonable efforts to explain the appeal hearing process to persons who are not
13.19 represented and shall ensure that the hearing is conducted fairly and efficiently. Upon the
13.20 reasonable request of the person or the agency involved or at the discretion of the appeals
13.21 examiner, the appeals examiner shall direct witnesses to remain outside the hearing room,
13.22 except during individual testimony, when the appeals examiner determines that such
13.23 action is appropriate to ensure a fair and impartial hearing. The appeals examiner shall not
13.24 terminate the hearing before affording the person and the agency a complete opportunity
13.25 to submit all admissible evidence and reasonable opportunity for oral or written statement.
13.26 In the event that an appeal hearing extends beyond the time allotted, the appeal hearing

14.1 shall be continued from day to day until completion. Appeal hearings that have been
14.2 continued shall be timely scheduled to minimize delay in the disposition of the appeal.

14.3 C. The appeal hearing shall address the correctness and legality of the agency's
14.4 action and shall not be limited simply to a review of the propriety of the agency's action.
14.5 The person involved may raise and present evidence on all legal claims or defenses arising
14.6 under state or federal law as a basis for appealing or disputing an agency action, excluding
14.7 any constitutional claims that are beyond the jurisdiction of the appeal hearing. The
14.8 appeals examiner may take official notice of adjudicative facts.

14.9 D. The burden of persuasion is governed by specific state or federal law
14.10 and regulations that apply to the subject of the hearing. Unless otherwise required by
14.11 specific state or federal laws that apply to the subject of the appeal, the person filing the
14.12 appeal carries the burden to persuade the appeals examiner that a claim is true and must
14.13 demonstrate such by a preponderance of the evidence.

14.14 E. The appeals examiner shall accept all evidence, except evidence privileged
14.15 by law, that is commonly accepted by reasonable people in the conduct of their affairs
14.16 as having probative value on the issues to be addressed at the appeal hearing. In cases
14.17 involving medical issues such as a diagnosis, a physician's report, or a review team's
14.18 decision, the appeals examiner shall consider whether it is necessary to have a medical
14.19 assessment other than that of the individual making the original decision included in the
14.20 record of the appeal. When necessary, the appeals examiner shall require an additional
14.21 assessment be obtained at agency expense and made part of the hearing record. The
14.22 appeals examiner shall ensure for all cases that the record is sufficiently complete to
14.23 make a fair and accurate decision.

14.24 F. The agency must present its evidence prior to or at the appeal hearing. The
14.25 agency shall not be permitted to submit evidence after the hearing except by agreement
14.26 at the hearing between the person involved, the agency, and the appeals examiner. If

15.1 evidence is submitted after the appeal hearing, based on an agreement, the person involved
15.2 and the agency must be allowed sufficient opportunity to respond to the evidence. When
15.3 determined necessary by the appeals examiner, the record shall remain open to permit a
15.4 person to submit additional evidence on the issues presented at the appeal hearing.

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

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

15.9 B. A written decision must be issued within 90 days of the date the person
15.10 involved requested the appeal unless a shorter time is required by law.

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

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

15.19 (1) a listing of the date and place of the appeal hearing and the participants
15.20 at the appeal hearing;

15.21 (2) a clear and precise statement of the issues, including the dispute under
15.22 consideration and the specific points that must be resolved in order to decide the case;

15.23 (3) a listing of the material, including exhibits, records, and reports, placed
15.24 into evidence at the appeal hearing, and upon which the appeal hearing decision is based;

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

16.5 (5) conclusions of law that address the legal authority for the appeal hearing
16.6 and the ruling, and which give appropriate attention to the claims of the participants to
16.7 the appeal hearing;

16.8 (6) a clear and precise statement of the decision made resolving the dispute
16.9 under consideration in the appeal hearing; and

16.10 (7) written notice of any existing right to appeal, and of the actions required
16.11 and the time limits for taking appropriate action to appeal.

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

16.18 F. The MNsure board or its delegated representative shall review the
16.19 recommended decision and accept or refuse to accept the decision. The MNsure board or
16.20 delegate may accept the recommended order of an appeals examiner and issue the order
16.21 to the parties. The MNsure board or delegate may refuse to accept the decision. Upon
16.22 refusal, the MNsure board or delegate shall notify the parties of that fact and state the
16.23 reasons and shall allow each party ten days to submit additional written argument on the
16.24 matter. After the expiration of the ten-day period, the MNsure board or delegate shall
16.25 issue an order on the matter to the parties. Refusal of the MNsure board or delegate to
16.26 accept a decision must not delay the 90-day time limit to issue a decision.

17.1 Subp. 18. **Public access to hearings and decisions.** Appeal decisions must be
17.2 maintained in a manner so that the public has ready access to previous decisions on
17.3 particular topics, subject to appropriate procedures for safeguarding names, personal
17.4 identifying information, and other data protected by applicable state and federal laws
17.5 regarding privacy, confidentiality, disclosure, and personally identifiable information.
17.6 Appeal hearings conducted under this part are not open to the public due to the not public
17.7 classification of the information provided for inclusion in the appeal record.

17.8 Subp. 19. **Administrative review.**

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

17.11 B. An appeal under this part must be filed with the United States Department
17.12 of Health and Human Services and MNsure according to the process and time period
17.13 required under the applicable federal regulations.