

1.1 **MNsurre**

1.2 **Proposed Expedited Permanent Rules Relating to MNsure Eligibility Appeals**

1.3 **7700.0101 DEFINITIONS.**

1.4 [For text of subps 1 to 8, see M.R.]

1.5 Subp. 8a. Case file. "Case file" means the information, documents, and data, in
1.6 whatever form, which have been generated, collected, stored, or disseminated by the
1.7 agency in connection with the person and the program or service involved.

1.8 [For text of subps 9 to 17, see M.R.]

1.9 **7700.0105 MNSURE ELIGIBILITY APPEALS.**

1.10 **Subpart 1. Eligibility.**

1.11 **A. MNsure appeals are available for the following actions:**

1.12 [For text of subitems (1) to (5), see M.R.]

1.13 (6) a failure by MNsure to provide timely notice of an eligibility
1.14 determination in accordance with Code of Federal Regulations, title 45, sections 155.310
1.15 (g); 155.330 (e)(1)(ii); 155.335 (h)(ii); 155.610 (i); and 155.715 (e) and (f); and

1.16 (7) in response to a notice from MNsure under Code of Federal Regulations,
1.17 title 45, section 155.310 (h), a determination by MNsure that an employer does not provide
1.18 minimum essential coverage through an employer-sponsored plan or that the employer
1.19 does provide coverage but is not affordable coverage with respect to an employee; and

1.20 ~~(8) in response to a denial of a request to vacate a dismissal made according~~
1.21 ~~to this chapter and in accordance with Code of Federal Regulations, title 45, section~~
1.22 ~~155.530 (d)(2).~~

1.23 [For text of item B, see M.R.]

1.24 **Subp. 2. Filing an appeal.**



2.1 A. To initiate an appeal, an appellant must file the appeal with MNsure as follows:

2.2 (1) by mail;

2.3 (2) by telephone;

2.4 (3) by Internet; ~~and~~ or

2.5 (4) in person.

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

2.9 [For text of items C to G, see M.R.]

2.10 [For text of subp 3, see M.R.]

2.11 Subp. 4. **Rescheduling.**

2.12 A. Requests to reschedule a hearing must be made in person, by telephone,
2.13 through the Internet, or ~~mailed and postmarked~~ by mail to the appeals examiner at least
2.14 ~~five days in advance of the regularly scheduled hearing date.~~ The rescheduling request
2.15 may be made orally or in writing. The requesting party must provide the other party a
2.16 copy of a written request or must otherwise notify the other party of the request if the
2.17 request is made orally.

2.18 B. ~~Any rescheduling of a hearing with less than five days' advance notice will~~
2.19 ~~be at the discretion of the appeals examiner and granted only when the rescheduling does~~
2.20 ~~not prejudice any party to the rescheduling.~~ Requests to reschedule a hearing with less
2.21 than five calendar days' advance notice of the scheduled hearing date requires one attempt
2.22 by the requesting party to contact the other party to notify them of the forthcoming request
2.23 and to provide an opportunity to express disagreement, if any. Requests to reschedule a
2.24 hearing with less than 24 hours' advance notice of the scheduled hearing date is at the

3.1 discretion of the appeals examiner upon considering the potential prejudicial effect or
3.2 burden to the appellant.

3.3 C. Unless a determination is formally made in writing by the appeals examiner
3.4 that a request to reschedule a hearing is made for the purpose of delay or where a party has
3.5 expressed disagreement, as provided for in item B, and the reason for the disagreement
3.6 outweighs the need for the rescheduling, a hearing must be rescheduled by the appeals
3.7 examiner for good cause as determined by the appeals examiner. Good cause includes
3.8 the following:

3.9 [For text of subitems (1) to (10), see M.R.]

3.10 [For text of item D, see M.R.]

3.11 Subp. 4a. **Resolution offers.** The agency, in its discretion, may offer the appellant
3.12 consideration to compromise or resolve the appeal. If such an offer is made, the appellant
3.13 must communicate to MNsure the appellant's acceptance or denial, including plan
3.14 enrollment selection, where applicable, within 14 calendar days from the day the offer is
3.15 made or the offer expires.

3.16 [For text of subp 5, see M.R.]

3.17 **Subp. 6. Emergency expedited appeals.**

3.18 A. An appellant has a right to request an emergency expedited appeal when
3.19 there is an immediate need for health services because a standard appeal could seriously
3.20 jeopardize the appellant's life or health or ability to attain, maintain, or regain maximum
3.21 function. An appellant must specify that an emergency expedited appeal is being requested
3.22 when submitting the initial appeal. If an emergency develops during a pending appeal
3.23 such that there has developed an immediate need for health services because a standard
3.24 appeal could seriously jeopardize the appellant's life or health or ability to attain, maintain,
3.25 or regain maximum function, an appellant may request an expedited appeal.

4.1 B. ~~If an emergency develops during a pending appeal such that there has~~
4.2 ~~developed an immediate need for health services because a standard appeal could seriously~~
4.3 ~~jeopardize the appellant's life or health or ability to attain, maintain, or regain maximum~~
4.4 ~~function, an appellant may request an expedited appeal. An appeals examiner must grant~~
4.5 ~~an emergency expedited appeal if an appellant has any of the following conditions or~~
4.6 ~~circumstances:~~

- 4.7 (1) pregnancy and postpartum care;
4.8 (2) newborn baby;
4.9 (3) prescriptions for chronic illnesses;
4.10 (4) dialysis;
4.11 (5) cancer treatment;
4.12 (6) broken bones needing immediate treatment;
4.13 (7) prescription refills necessitating physician visit;
4.14 (8) outpatient treatment currently being received;
4.15 (9) prescriptions for mental health conditions;
4.16 (10) nonelective surgery;
4.17 (11) heart disease;
4.18 (12) severe mood and brain disorders (e.g., schizophrenia, bipolar
4.19 disorder); or
4.20 (13) other similar conditions or circumstances.

4.21 [For text of items C and D, see M.R.]

4.22 [For text of subp 7, see M.R.]

4.23 Subp. 8. **Access to data.**

5.1 A. Subject to the requirements of all applicable state and federal laws regarding
5.2 privacy, confidentiality, and disclosure of personally identifiable information, the
5.3 appellants and agencies involved in an appeals hearing must be allowed to access the
5.4 appeal record upon request at a convenient place and time before and during the appeals
5.5 hearing. Upon request, copies of the appeal record, including an electronic copy of the
5.6 recorded hearing, must be provided at no cost and, upon request, must be mailed or sent
5.7 by electronic transmission to the party or the party's representative.

5.8 [For text of item B, see M.R.]

5.9 [For text of subps 9 to 13, see M.R.]

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

5.11 [For text of item A, see M.R.]

5.12 B. A party may move for the removal of an appeals examiner by written
5.13 application of the party together with a statement of the basis for removal. Upon the
5.14 motion of the party, the chief appeals examiner must decide whether the appeals examiner
5.15 may hear the particular case. Removal of an appeals examiner under this item is at the
5.16 discretion of the chief appeals examiner.

5.17 [For text of subp 15, see M.R.]

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

5.19 [For text of items A to E, see M.R.]

5.20 F. The agency must present its evidence prior to or at the appeal hearing. The
5.21 agency parties shall not be permitted to submit evidence after the hearing except:

5.22 (1) by agreement at the hearing between the appellant, the agency, and the
5.23 appeals examiner;

5.24 (2) in response to new evidence; or

6.1 (3) when determined necessary by the appeals examiner to receive evidence
6.2 needed to sufficiently complete the appeal record and make a fair and accurate decision.

6.3 If a party submits evidence ~~is submitted~~ after the appeal hearing, ~~based on an~~
6.4 ~~agreement, the appellant and the agency~~ other party must be allowed sufficient opportunity
6.5 to respond to the evidence. ~~When determined necessary by the appeals examiner, the~~
6.6 ~~appeal record shall remain open to permit an appellant to submit additional evidence on~~
6.7 ~~the issues presented at the appeal hearing.~~

6.8 Subp. 17. **Orders of the MNsure board.**

6.9 [For text of items A to D, see M.R.]

6.10 E. The appeals examiner shall not independently investigate facts or otherwise
6.11 rely on information not presented at the appeal hearing. However, if the appeals examiner
6.12 needs further clarification from the parties, the appeals examiner may request clarification
6.13 from the parties at any time until a decision is issued. The appeals examiner may not
6.14 contact other agency personnel, except as provided in subpart 16. The appeals examiner's
6.15 recommended decision must be based exclusively on the testimony and evidence ~~presented~~
6.16 ~~at the appeal hearing~~ made part of the appeals record, legal arguments presented, and the
6.17 appeals examiner's research and knowledge of the law.

6.18 [For text of item F, see M.R.]

6.19 G. Orders of the MNsure board shall be implemented either:

6.20 (1) prospectively on the first day of the month following the notice of
6.21 appeal decision; or

6.22 (2) retroactively to the date ordered by the appeals examiner, at the option
6.23 of the appellant.

7.1 An appellant shall communicate to the agency the appellant's plan enrollment
7.2 selection within 60 calendar days from the notice of the appeal decision or the enrollment
7.3 opportunity expires.

7.4 [For text of subp 18, see M.R.]

7.5 Subp. 18a. **Reconsideration.**

7.6 A. A party aggrieved by an order of the MNsure board may appeal under
7.7 subpart 19 or 20, as applicable, or request reconsideration by the MNsure board within 30
7.8 days after the date the MNsure board issues the order. The MNsure board may reconsider
7.9 an order upon request of any party or on the MNsure board's own motion. A request
7.10 for reconsideration does not stay implementation of the MNsure board's order. The
7.11 party seeking reconsideration has the burden to demonstrate why the matter should be
7.12 reconsidered. The request for reconsideration may include legal argument and proposed
7.13 additional evidence supporting the request, but this information is not required. If
7.14 proposed additional evidence is submitted, the party must explain why the proposed
7.15 additional evidence was not provided at the time of the hearing. If reconsideration is
7.16 granted, the other parties must be sent a copy of all material submitted in support of the
7.17 request for reconsideration and must be given ten days to respond. Upon reconsideration,
7.18 the MNsure board may issue an amended order or an order affirming the original order.

7.19 B. Any order of the MNsure board issued under this subpart shall be final
7.20 upon the parties unless an appeal is made in the manner provided under subpart 19 or 20,
7.21 as applicable. Any order of the MNsure board is binding on the parties and must be
7.22 implemented until the order is reversed.

7.23 C. A vendor, contractor, health insurance carrier, or other MNsure stakeholder
7.24 is not a party and may not request a hearing or seek judicial review of an order issued
7.25 under this part unless the vendor, contractor, health insurance carrier, or other MNsure
7.26 stakeholder is assisting an appellant as a representative.

8.1

[For text of subp 19, see M.R.]

8.2

Subp. 20. **Judicial review.** An appellant may seek judicial review to the extent it is

8.3

available under Minnesota Statutes, section 62V.05, subdivision 6, paragraphs (e) to (i),

8.4

or as otherwise allowed by law.

Office of the Revisor of Statutes

Administrative Rules

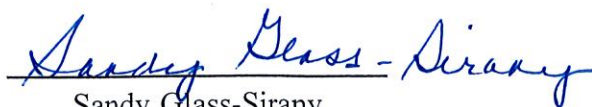


TITLE: Proposed Expedited Permanent Rules Relating to MNsure Eligibility Appeals

AGENCY: MNsure

MINNESOTA RULES: Chapter 7700

The attached rules are approved as to form



Sandy Glass-Sirany
Senior Assistant Revisor