DECISION
OF AGENCY
ON APPEAL

In the Appeal of: [redacted]

For: Qualified Health Plan

Agency: MNsure Board

Docket: 168640

On November 30, 2015, Appeals Examiner Kelly A. Vargo 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.

Based on the evidence in the record and considering the arguments of the parties, I recommend the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUES

Whether the MNsure properly terminated Appellant's enrollment in a Qualified Health Plan effective December 1, 2015.

FINDINGS OF FACT

1. On September 21, 2015, Appellant applied as a family of two for a Qualified Health Plan (QHP) through the MNsure online system. *Exhibit 2.* MNsure determined Appellant and his spouse were eligible to enroll in a Qualified Health Plan through a special enrollment period. *Id.* Appellant selected a QHP for himself and his wife on September 21, 2015. *Id.* Appellant's QHP coverage start was October 1, 2015. *Id.* On November 23, 2015, Appellant called MNsure to cancel/terminate his and his wife's QHP. *Id.* On that date, MNsure terminated Appellant and his wife's QHP coverage effective December 1, 2015. *Id.* On October 23, 2015, Appellant filed an appeal when he discovered that his wife's doctor was not in network. *Exhibit 1.*

2. On November 30, 2015, Appeals Examiner Kelly A. Vargo held an evidentiary hearing by telephone conference. The record, consisting of the hearing testimony and two exhibits[1], was closed on November 30, 2015.

3. On September 21, 2015, Appellant and his wife enrolled in a QHP, Blue Cross Blue Shield (BCBS) for coverage to take effective October 1, 2015. *Exhibit 2 and Testimony of Appellant.* Appellant's employment had ended which resulted in him applying for a Qualified Health Plan on September 21, 2015. *Testimony of Appellant.* MNsure determined that Appellant qualified for a special enrollment period and that Appellant's coverage for himself and his wife would begin October 1, 2015. *Exhibit 2.* At the time of the application, Appellant's wife was pregnant and they wanted to make sure that her doctor was in-network. *Testimony of Appellant.*

4. On October 23, 2015, Appellant contacted his wife's doctor to discuss whether the doctor was in-network. *Id.* Appellant discovered the doctor was not in-network. *Id.* On October 23, 2015, Appellant contacted MNsure reporting that he wished to change qualified health plans. *Id.* Appellant was advised the agency was unable to do that and to file an appeal. *Id.* On November 23, 2015, Appellant notified MNsure that he understands that he is unable to change qualified health plans and now wishes to terminate coverage for both himself and his wife as they plan to stay with Appellant's COBRA plan. *Exhibit 2 and Testimony of Appellant.* Appellant now requests that his and his wife's QHP be terminated retroactively to October 1, 2015. *Testimony of Appellant.*

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[1] Exhibit 1 – Appeal Request; Exhibit 2 – Agency's Appeal Summary and attachments.

APPLICABLE LAW

1. MNsure appeals, an appeal must be received within 90 days from the date of the notice of eligibility determination. *45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).*

2. The MNsure Board has the legal authority to review and decide issues about a household'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.

3. When a person is eligible for a special enrollment period due to loss of minimal essential coverage, and the plan selection is made before the effective date of the loss of coverage, the exchange is obligated to ensure that coverage is effective on the first date of the month following the loss of coverage. *45 C.F.R. §155.420(b)(2)(iv).* In cases where enrollment was due to error on the part of the exchange, or where the carrier substantially violated a material provision of its contract, or where other exceptional circumstances exist, the exchange may determine an effective date that is appropriate based on the circumstances of the special enrollment period. *45 C.F.R. §155.420(b)(2)(iii).*

4. When a person who has enrolled in a Qualified Health Plan elects to terminate coverage, the termination date is the date specified by the enrollee, if the enrollee provides reasonable notice. *45 C.F.R. §155.430(d)(2).* "Reasonable notice" is defined as at least fourteen days before the requested effective date of termination. *45 C.F.R. §155.430(d)(1)(i).* If reasonable notice is not provided, then the termination date is fourteen days after termination is requested by the enrollee. *45 C.F.R. §155.430(d)(2)(ii).*

CONCLUSIONS OF LAW

1. This appeal was started within the allowed time limits under Minnesota Statute § 256.045, subdivision 3(h) and 45 C.F.R §155.520(b). The MNsure Board has legal authority to review Appellant's challenge of its determination of the effective date of termination of his QHP under Minnesota Statute § 62V.05, subdivision 6.

2. Appellant enrolled in a QHP on September 21, 2015 for coverage beginning October 1, 2015, after MNsure determined Appellant to be eligible for a special enrollment period based on loss of minimal essential coverage. There was no error on the part of MNsure in enrolling Appellant in a QHP effective October 1, 2015.

3. Appellant requested to change qualified health plans on October 23, 2015 and was correctly informed by MNsure that the agency was unable to comply with that request and to file an appeal. Subsequently, on November 23, 2015 Appellant requested that MNsure terminate the QHP retroactive to October 1, 2015. MNsure correctly determined that the termination date could not be October 1, 2015 because there was not reasonable notice (14 days) for the termination. MNsure then determined the termination date be December 1, 2015. MNsure properly terminated Appellant and his wife's QHP the beginning of the following month. November 23, 2015 is not reasonable notice to terminate retroactive to November 1, 2015 because the month was over but for one week. Additionally, the evidence shows Appellant originally requested to change his and his wife's QHP on October 23, 2015. Appellant's request to change a QHP does not equate to terminating his QHP. MNsure properly answered his request. It is not the agency's responsibility to provide further investigation into other potential requests or to assume what other requests the Appellant may be needing. Therefore, the agency was not aware of Appellant's request to terminate his QHP until November 23, 2015 and not October 23, 2015 as Appellant contends. Thus, I conclude that MNsure's determination that Appellant's QHP coverage was terminated effective December 1, 2015 should be affirmed.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNsure Board AFFIRM the determination that the termination date was December 1, 2015.

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Kelly A. Vargo
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.

_____ _____

Date

cc: [redacted] Appellant
MNsure General Counsel