In the Appeal of:  

For:  Qualified Health Plan (QHP)  

Agency:  MNsure Board  

Docket:  177892  

On July 13, 2016, Appeals Examiner Christopher Cimafranca held an evidentiary hearing under 42 United States Code §18081(f) and Minnesota Statutes, §62V.05, subdivision 6(a).

The following person appeared at the hearing:

, 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 ISSUE

Whether the MNsure Board correctly determined the effective date of the Appellant’s health plan coverage.

FINDINGS OF FACT

1. On May 16, 2016, the Appellant filed an appeal. Exhibit 2. The Appellant is requesting that the health plan coverage effective date be moved to May 1, 2016 due to a delay in the processing of the enrollment. Testimony of Appellant.

2. On July 13, 2016, Appeals Examiner Christopher Cimafranca held an evidentiary hearing by telephone conference. The evidentiary hearing was rescheduled once for the benefit of the Appellant. The record was closed at the conclusion of the hearing, consisting of two exhibits.¹

3. On February 24, 2016, the Appellant applied for health coverage on the Minnesota Eligibility Technology System (METS). Exhibit 1; Testimony of Appellant.

4. On February 29, 2016, the Appellant lost minimum essential coverage. Exhibit 1; Testimony of Appellant.

5. On March 10, 2016, the Appellant selected a qualified health plan (QHP). Testimony of Appellant. MNsure (herein Agency) determined that the Appellant’s Qualified Health Plan (QHP) was effective on April 1, 2016. Exhibit 1.

6. On April 6, 2016, an Agency worker explained the enrollment processing times to the Appellant. Exhibit 1.

7. On or about April 12, 2016, UCare, the QHP issuer, mailed the Appellant a bill for the first-month premium. Exhibit 1. The Appellant received the bill around April 18, 2016. Testimony of Appellant.

8. On May 1, 2016, UCare canceled the Appellant’s coverage because it did not receive the first premium payment from the Appellant by the due date. Exhibit 1. The Appellant received the cancellation notice. Testimony of Appellant.

9. On May 13, 2016, the Appellant made the initial premium payment. Exhibit 1; Testimony of Appellant. UCare then reinstated the Appellant’s coverage and issued the Appellant’s insurance card on May 21, 2016. Exhibit 1.

¹ MNsure Appeals Memorandum with attachments, Exhibit 1; Appeal Request, Exhibit 2.
CONCLUSIONS OF LAW

1. This appeal was started within the allowed time limits under 45 C.F.R. §155.520(b).

2. The MNsure Board has legal authority to review Appellant’s eligibility for enrollment in a qualified health plan under Minn. Stat. § 62V.05, sub. 6. The MNsure Board has an agreement with the Minnesota Department of Human Services to hear and decide appeals involving MNsure eligibility decision.

3. Federal regulations concerning enrollment in qualified health plans (QHPs) are found at 45 C.F.R. §§155.400 – 155.430. The Exchange may only permit a qualified individual to enroll in a QHP or an enrollee to change QHPs during the initial open enrollment period, the annual open enrollment period, or a special enrollment period described in §155.420 of this subpart for which the qualified individual has been determined eligible. 45 C.F.R. §155.400(a)(2).

Special Enrollment Period

4. 45 C.F.R. §155.420(d) provides in part that the Exchange must allow a qualified individual or enrollee, and, when specified below, his or her dependent, to enroll in or change from one QHP to another via a special enrollment period if one of the following triggering events occur:

1) The qualified individual or his or her dependent either:

   (i) Loses minimum essential coverage. The date of the loss of coverage is the last day the consumer would have coverage under his or her previous plan or coverage.

   …

4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange. In such cases, the Exchange may take such action as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction;
Special Effective Dates

5. 45 C.F.R. § 155.420(b)(2)(iv) says that if a consumer loses coverage as described in paragraph (d)(1) or (d)(6)(iii) of this section, gains access to a new QHP as described in paragraph (d)(7) of this section, becomes newly eligible for enrollment in a QHP through the Exchange in accordance with §155.305(a)(2) as described in paragraph (d)(3) of this section, or becomes newly eligible for advance payments of the premium tax credit in conjunction with a permanent move as described in paragraph (d)(6)(iv) of this section, if the plan selection is made on or before the day of the triggering event, the Exchange must ensure that the coverage effective date is on the first day of the month following the date of the triggering event. If the plan selection is made after the date of the triggering event, the Exchange must ensure that coverage is effective in accordance with paragraph (b) (1) of this section or on the first day of the following month, at the option of the Exchange. 45 C.F.R. §155.420(b)(2)(iv).

6. 45 C.F.R. § 155.420(b)(2)(iii) says that in the case of a qualified individual or enrollee eligible for a special enrollment period as described in paragraphs (d)(4), (d)(5), (d)(9), or (d)(10) of this section, the Exchange must ensure that coverage is effective on an appropriate date based on the circumstances of the special enrollment period.

Regular Effective Dates

7. According to 45 C.F.R. § 155.420(b)(1), except as specified in paragraphs (b)(2) and (3) of this section, for a QHP selection received by the Exchange from a qualified individual—

(i) Between the first and the fifteenth day of any month, the Exchange must ensure a coverage effective date of the first day of the following month; and
(ii) Between the sixteenth and the last day of any month, the Exchange must ensure a coverage effective date of the first day of the second following month. 45 C.F.R. § 155.420(b)(1).

8. It is understandable that the Appellant does not want to pay the April 2016 premium given the delay in the processing of the enrollment. However, it is the nature of insurance that individuals pay the monthly premiums for coverage, regardless of whether the individual in fact used the coverage. There is insufficient evidence in the record showing that the enrollment on March 10, 2016 was due to an Agency error or that the coverage effective date of April 1, 2016 is contrary to the law. Therefore, I must recommend affirming the Agency’s determination that the Appellant’s QHP is effective on April 1, 2016.
RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT the MNsure Board AFFIRM the Agency’s determination that the Appellant’s health plan coverage is effective on April 1, 2016.

Christopher Cimafranca              Date
Appeals Examiner

ORDER OF THE MNSURE BOARD

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNsure Board adopts the Appeals Examiner’s recommendation as the final decision.

FOR THE MNsure Board:

_________________________________________________  ____________________
                                           Date
FURTHER APPEAL RIGHTS

This decision is final, unless you take further action.

Appellants who disagree with this decision should consider seeking legal counsel to identify further legal action.

If you disagree with this decision, you may:

- **Request the appeal be reconsidered.** The request must state the reasons why you believe your appeal should be reconsidered. The request may include legal arguments and may include proposed additional evidence supporting the request. The request must be **in writing** and be made **within 30 days of the date of this decision**. The request may be sent to Appeals Division, Minnesota Department of Human Services, P.O. Box 64941, St. Paul, MN 55164-0941. You may also fax the request to (651) 431-7523. **A copy of the request must be sent to the other parties.** To ensure timely processing of your request, please include the name of the Appeals Examiner/Human Services Judge assigned to your appeal, along with the docket number for your appeal.

- **Start an appeal in the district court.** This is a separate legal proceeding that you must start **within 30 days of the date of this decision**. You start this proceeding by serving a written copy of a notice of appeal upon the Commissioner of the Department of Human Services (if appealing the decision regarding Medical Assistance or MinnesotaCare) and/or the MNsure Board (if appealing a program offered through MNsure) and any other adverse party of record, and filing the original notice and proof of service with the court administrator of the county district court. The law that describes this process is Minnesota Statute § 62V.05, subdivision 6(e)-(i) and Minnesota Statute § 256.045, subdivision 7.

In addition, if you disagree with the effect this decision has on your eligibility for **Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program**, you may also:

- **Appeal to the United States Department of Health and Human Services (DHHS)** under 42 U.S.C. § 18081(f) and 45 C.F.R. § 155.520(c). An appeal request may be made to DHHS **within 30 days of the date of this decision** by downloading the appeals form for Minnesota from the appeals landing page on www.healthcare.gov and following the instruction on the landing page for submitting an appeal.

cc: [redacted], Appellant
    MNsure General Counsel