

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11143

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 28, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 01/28/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated February 5, 2020.
- Exhibit 3: The Appellant's Online Appeal request received on February 5, 2020.
- Exhibit 4: Health Connector Special Enrollment Period Decision denial dated January 28, 2020.
- Exhibit 5: 2020 Eligibility Results with an Application Summary dated January 28, 2020.
- Exhibit 6: Agent Portal Printout of Eligibility and Enrollment.
- Exhibit 7: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated February 5, 2020.
- Exhibit 8: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 28, 2020, the Health Connector determined the Appellant was eligible for ConnectorCare Plan type 2B with Advanced Premium Tax Credits (APTC) (Exhibit 5).
2. On January 28, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 3, 4).
3. On February 5, 2020, the Appellant filed an appeal (Exhibit 3).
4. On February 5, 2020, the Health Connector Appeals Unit granted the Appellant an Administrative SEP (Exhibit 2).
5. On February 5, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan type 2B. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 5, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the February 5, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 7).
6. As of April 1, 2020, the Appellant failed to respond to the March 13, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 8).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's January 28, 2020 decision to deny the Appellant's request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a ConnectorCare Plan type 2B (Exhibits 3, 6). The Health Connector issued a notice to the Appellant on February 5,

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 7). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 8). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a ConnectorCare Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11166

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 29, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 01/21/20, Health Connector terminated the Appellant's eligibility for ConnectorCare after the Appellant failed to verify their residency in a timely manner.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 10, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form received on February 7, 2020.
- Exhibit 5: Health Connector Eligibility Termination with an Application Summary dated January 21, 2020.
- Exhibit 6: Documents faxed to the Health Connector Appeals Unit by the Appellant on February 14, 2020.
- Exhibit 7: 2020 Eligibility Results, with an Application Summary dated October 18, 2019.
- Exhibit 8: Health Connector Eligibility Termination notice dated January 21, 2020.
- Exhibit 9: Health Connector Request for Information dated October 18, 2019.
- Exhibit 10: An Application Summary dated January 30, 2020.
- Exhibit 11: Agent Portal Printout of Eligibility and Enrollment.

- Exhibit 12: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated February 14, 2020.
- Exhibit 13: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 21, 2020, the Health Connector terminated the Appellant's ConnectorCare effective January 31, 2020. The decision came after the Appellant failed to verify their residency (Exhibits 3, 5, 9).
2. On February 7, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in proof of Massachusetts residency (Exhibit 3).
4. The Appellant submitted proof of residency on February 14, 2020 (Exhibit 6).
5. Health Connector determined that the Appellant was eligible for ConnectorCare Plan Type 1 with Advance Premium Tax Credits (APTC) effective March 1, 2020 (Exhibits 3, 10, 11).
6. On February 14, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare Plan Type 1 with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 7, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the February 14, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 12).
7. As of April 1, 2020, the Appellant failed to respond to the February 14, 2020 letter.
8. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 13).
9. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

In this case the issue underlying the appeal was the Health Connector's January 21, 2020 action to terminate the Appellant's ConnectorCare effective January 31, 2020 based on their failure to verify their residency in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3, 4, 6). These efforts led to the Appellant being determined eligible for ConnectorCare plan type 1 for the period beginning March 1, 2020 (Exhibits 3, 10, 11). The Health Connector issued a notice to the Appellant on February 14, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 12). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 13). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11175

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 29, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 01/20/20, Health Connector determined that the Appellant was eligible for Health Connector Plans with no financial assistance. The decision came after the Appellant failed to verify their income in a timely manner.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 11, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Appeal request received on February 10, 2020.
- Exhibit 5: Health Connector Eligibility Approval notice with an Application Summary dated January 20, 2020.
- Exhibit 6: An Application Summary dated February 10, 2020.
- Exhibit 7: My Workspace printout of documents submitted by the Appellant on February 7, 2020.
- Exhibit 8: Agent Portal Printout of Eligibility and Enrollment.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated February 14, 2020.

Exhibit 10: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 20, 2020, the Health Connector determined the Appellant eligible for Health Connector plans with no financial assistance. The decision came after the Appellant failed to verify their income (Exhibits 3, 5).
2. On February 10, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in proof of income (Exhibit 3).
4. The Appellant submitted proof of income on February 7, 2020 (Exhibit 7).
5. Health Connector determined that the Appellant was eligible for MassHealth effective January 28, 2020 (Exhibits 3, 6, 8).
6. On February 14, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for MassHealth. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 10, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the February 14, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
7. As of April 1, 2020, the Appellant failed to respond to the February 14, 2020 letter.
8. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
9. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

In this case the issue underlying the appeal was the Health Connector's January 20, 2020 determination that the Appellant was eligible for Health Connector plans with no financial assistance based on their failure to verify their income in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3, 4, 7). These efforts led to the Appellant being determined eligible for MassHealth for the period beginning January 28, 2020 (Exhibits 3, 6, 8). The Health Connector issued a notice to the Appellant on February 14, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 9). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 10). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for MassHealth obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11192

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 29, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 01/30/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 13, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Outreach Email to the Appellant dated February 13, 2020.
- Exhibit 5: Health Connector Outreach Email to the Appellant dated March 3, 2020.
- Exhibit 6: The Appellant's Hearing Request form received on February 12, 2020.
- Exhibit 7: Health Connector Special Enrollment Period Decision Denial dated January 30, 2020.
- Exhibit 8: An Application Summary dated October 3, 2019.
- Exhibit 9: 2019 Eligibility Results with an Application Summary dated August 25, 2019.
- Exhibit 10: 2019 Eligibility Results with an Application Summary dated May 21, 2019.
- Exhibit 11: Health Connector's Request for Information dated March 21, 2019.
- Exhibit 12: My Workspace Printout of documents received on February 5, 2020.

- Exhibit 13: 2020 Eligibility Results with an Application Summary dated February 27, 2020.
Exhibit 14: Agent Portal Printout of Eligibility and Enrollment.
Exhibit 15: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 10, 2020.
Exhibit 16: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 30, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 3, 7).
2. On February 12, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to update their application and income information (Exhibits 3, 4, 5).
4. On February 13, 2020, the Health Connector Appeals Unit granted the Appellant and Administrative SEP (Exhibit 4).
5. The Appellant submitted updated income information to the Health Connector on February 5, 2020 (Exhibit 12).
6. On February 27, the Health Connector determined the Appellant was eligible for ConnectorCare Plan type 3B with Advanced Premium Tax Credits (APTC) (Exhibit 13).
7. The Appellant enrolled in ConnectorCare effective April 1, 2020 (Exhibit 14).
8. On March 10, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan type 3B. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 12, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 10, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 15).
9. As of April 1, 2020, the Appellant failed to respond to the March 10, 2020 letter.
10. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 16).
11. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

1.01(7)(g)3 provide that “[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2.” That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector’s January 30, 2020 decision to deny the Appellant’s request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 4, 5). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a ConnectorCare Plan type 3B (Exhibits 13, 14). The Health Connector issued a notice to the Appellant on March 10, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 15). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 16). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant’s request for a SEP to enroll in a ConnectorCare Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you

must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11238

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 29, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 01/24/20, Health Connector determined that the Appellant was eligible for Health Connector Plans with no financial assistance. The decision came after the Appellant's income was incorrectly calculated.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 20, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form, with attachments, received on February 19, 2020.
- Exhibit 5: Health Connector Eligibility Approval notice dated January 24, 2020.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated January 24, 2020.
- Exhibit 7: 2020 Eligibility Results with an Application Summary dated February 24, 2020.
- Exhibit 8: 2020 Eligibility Results with an Application Summary dated January 8, 2020.
- Exhibit 9: Health Connector Agent Portal printout of income changes reported.
- Exhibit 10: My Workspace printout of documents submitted by the Appellant on December 30, 2019.
- Exhibit 11: Agent Portal Printout of Eligibility and Enrollment.

- Exhibit 12: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated February 25, 2020.
- Exhibit 13: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 20, 2020, the Health Connector determined the Appellant eligible for Health Connector plans with no financial assistance. The decision came after the Appellant submitted documentation of their income (Exhibits 3, 5, 6, 10).
2. On February 19, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted Customer Service on behalf of the Appellant and determined that the Appellant's bi-weekly income was incorrectly entered as weekly income (Exhibits 3, 6, 10).
4. On February 24, 2020 Health Connector determined that the Appellant was eligible for ConnectorCare Plan type 3B with Advance Premium Tax Credits (Exhibits 3, 7).
5. On February 25, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare Plan type 3B. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 19, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the February 25, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 12).
6. As of April 1, 2020, the Appellant failed to respond to the February 14, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 13).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's January 24, 2020 determination that the Appellant was eligible for Health Connector plans with no financial assistance based on income verification incorrectly calculated due to a Health Connector processing error. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3, 4, 7). These efforts led to the Appellant being determined eligible for ConnectorCare Plan type 3B on February 24, 2020 (Exhibits 3, 7, 11). The Health Connector issued a notice to the Appellant on February 25, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 12). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 13). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11247

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 27, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/10/20, Health Connector terminated the Appellant's eligibility for ConnectorCare after the Appellant failed to verify their income and residency in a timely manner.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 24, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form, with attachments, received on February 21, 2020.
- Exhibit 5: Documents submitted by the Appellant to the Appeals Unit on March 2, 2020.
- Exhibit 6: 2020 Eligibility Results, with an Application Summary dated March 6, 2020.
- Exhibit 7: Health Connector Eligibility Termination notice with an Application Summary dated February 10, 2020.
- Exhibit 8: 2019 Eligibility Results with an Application Summary dated November 6, 2019.
- Exhibit 9: Health Connector Eligibility Termination notice dated February 10, 2020.
- Exhibit 10: An Agent Portal printout of eligibility and enrollment.

- Exhibit 11: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 13, 2020.
- Exhibit 12: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On February 10, 2020, the Health Connector terminated the Appellant's Health ConnectorCare effective February 29, 2020. The decision came after the Appellant failed to verify their residency and income (Exhibits 3, 7, 9).
2. On February 21, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in proof of income and Massachusetts residency (Exhibits 2,3).
4. The Appellant submitted proof of income on February 24, 2020 (Exhibit 4).
5. The Appellant submitted proof of residency on March 2, 2020 (Exhibit 5).
6. On March 6, 2020, the Appellant was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits (APTC) (Exhibits 6, 10).
7. On March 13, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for Health Connector Plans with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 21, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 13, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 11).
8. As of April 1, 2020, the Appellant failed to respond to the March 13, 2020 letter.
9. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 12).
10. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 10, 2020 action to terminate the Appellant's ConnectorCare plan type 2B effective February 29, 2020 based on their failure to verify their income and residency in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3, 4, 5). These efforts led to the Appellant being determined eligible for ConnectorCare plan type 2B on March 6, 2020 (Exhibits 8, 9). The Health Connector issued a notice to the Appellant on March 13, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 11). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 12). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare Plan type 2B with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11260

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 27, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/10/20, Health Connector terminated the Appellant's eligibility for ConnectorCare plan type 2A after the Appellant failed to verify their residency in a timely manner.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated February 25, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Appeal Request received on February 24, 2020.
- Exhibit 5: Health Connector Eligibility Termination notice dated February 10, 2020.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated February 18, 2020.
- Exhibit 7: Health Connector Request for Information dated November 6, 2019.
- Exhibit 8: My Workspace printout of documents received on February 15, 2020.
- Exhibit 9: My Workspace printout of documents received on February 11, 2020.
- Exhibit 10: My Workspace printout of documents received on February 21, 2020.
- Exhibit 11: 2020 Eligibility Results with an Application Summary dated February 26, 2020.
- Exhibit 12: Agent Portal printout of eligibility and enrollment.

- Exhibit 13: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 9, 2020.
- Exhibit 14: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On February 10, 2020, the Health Connector terminated the Appellant's ConnectorCare Plan type 2A effective February 29, 2020. The decision came after the Appellant failed to verify their residency (Exhibits 3, 5, 7).
2. On February 24, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in proof of Massachusetts residency (Exhibit 3).
4. The Appellant submitted proof of residency on February 21, 2020 (Exhibit 10).
5. On February 26, 2020, the Appellant was determined eligible for ConnectorCare Plan type 3A with Advance Premium Tax Credits (APTC) (Exhibits 11, 12).
6. On March 9, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for Health Connector Plans with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 24, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 9, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 13).
7. As of April 1, 2020, the Appellant failed to respond to the March 9, 2020 letter.
8. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 15).
9. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 10, 2020 action to terminate the Appellant's ConnectorCare effective February 29, 2020 based on their failure to verify their residency in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 10). These efforts led to the Appellant being determined eligible for ConnectorCare Plan on February 26, 2020 (Exhibits 11, 12). The Health Connector issued a notice to the Appellant on March 9, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 13). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 14). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11261

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 29, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 01/30/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 27, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form received on February 21, 2020.
- Exhibit 5: Health Connector Special Enrollment Period Decision Denial dated January 30, 2020.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated October 9, 2019.
- Exhibit 7: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated February 27, 2020.
- Exhibit 8: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On October 9, 2019, the Health Connector determined the Appellant was eligible for ConnectorCare Plan type 2B with Advanced Premium Tax Credits (APTC) (Exhibit 6).
2. On January 30, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 3, 5).
3. On February 21, 2020, the Appellant filed an appeal (Exhibit 4).
4. On March 3, 2020, the Health Connector Appeals Unit granted the Appellant an Administrative SEP (Exhibit 3).
5. On February 27, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan type 2B. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 21, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the February 27, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 7).
6. As of April 1, 2020, the Appellant failed to respond to the March 10, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 8).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's January 30, 2020 decision to deny the Appellant's request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 4). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a ConnectorCare Plan type 2B (Exhibits 3, 6). The Health Connector issued a notice to the Appellant on February 27

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 7). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 8). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a ConnectorCare Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11287

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 27, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/19/20, Health Connector terminated the Appellant's eligibility for ConnectorCare after the Appellant failed to verify their residency in a timely manner.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 26, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online hearing request received on February 26, 2020.
- Exhibit 5: Health Connector Eligibility Termination notice with an Application Summary dated February 19, 2020.
- Exhibit 6: My Workspace printout of documents received on February 27, 2020.
- Exhibit 7: My Workspace printout of documents received on February 24, 2020.
- Exhibit 8: 2020 Eligibility Results, with an Application Summary dated February 28, 2020.
- Exhibit 9: An Agent Portal printout of eligibility and enrollment.

- Exhibit 10: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 9, 2020.
- Exhibit 11: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On February 19, 2020, the Health Connector terminated the Appellant's Health ConnectorCare effective February 29, 2020. The decision came after the Appellant failed to verify their residency (Exhibits 3, 5).
2. On February 26, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in proof of Massachusetts residency (Exhibits 2,3).
4. The Appellant submitted proof of residency on February 27, 2020 (Exhibits 3, 6, 7).
5. On February 28, 2020, the Appellant was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits (APTC) (Exhibits 3, 8).
6. On March 9, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for Health Connector Plans with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 26, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 9, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 10).
7. As of April 1, 2020, the Appellant failed to respond to the March 9, 2020 letter.
8. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 11).
9. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

In this case the issue underlying the appeal was the Health Connector's February 10, 2020 action to terminate the Appellant's ConnectorCare plan type 2B effective February 29, 2020 based on their failure to verify their residency in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3). These efforts led to the Appellant being determined eligible for ConnectorCare plan type 2B on February 28, 2020 (Exhibits 8, 9). The Health Connector issued a notice to the Appellant on March 9, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 10). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 11). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11318

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 27, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/10/20, Health Connector terminated the Appellant's eligibility for Health Connector Plans after the Appellant failed to verify their residency in a timely manner.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated March 2, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form received on February 28, 2020.
- Exhibit 5: Health Connector Eligibility Termination notice with an Application Summary dated February 10, 2020.
- Exhibit 6: Health Connector Request for Information dated February 6, 2020.
- Exhibit 7: 2020 Eligibility Results effective February 2, 2020.
- Exhibit 8: 2019 Eligibility Results with an Application Summary dated November 6, 2019.
- Exhibit 9: Health Connector Request for Information dated November 4, 2019.
- Exhibit 10: My Workspace printout of documents received on February 25, 2020.
- Exhibit 11: An Agent Portal printout of address verification.

- Exhibit 12: 2020 Eligibility Results with an Application Summary dated February 27, 2020.
- Exhibit 13: Agent Portal printout of eligibility and enrollment.
- Exhibit 14: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 10, 2020.
- Exhibit 15: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On February 10, 2020, the Health Connector terminated the Appellant's Health Connector Plan effective February 29, 2020. The decision came after the Appellant failed to verify their residency (Exhibits 3, 5, 6).
2. On February 28, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in proof of Massachusetts residency (Exhibit 3).
4. The Appellant submitted an Affidavit of Residency on February 25, 2020 (Exhibits 3, 10, 11).
5. On February 27, 2020, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits (APTC) (Exhibits 12, 13).
6. On March 10, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for Health Connector Plans with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 28, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 10, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 14).
7. As of April 1, 2020, the Appellant failed to respond to the March 10, 2020 letter.
8. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 15).
9. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 10, 2020 action to terminate the Appellant's Health Connector plan effective February 29, 2020 based on their failure to verify their residency in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 10). These efforts led to the Appellant being determined eligible for Health Connector Plans with APTC effective February 27, 2020 (Exhibits 12, 13). The Health Connector issued a notice to the Appellant on March 10, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 14). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 15). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for Health Connector Plans with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11321

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 28, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/12/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated February 28, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form received on February 28, 2020.
- Exhibit 5: Health Connector Special Enrollment Period Decision Denial dated February 12, 2020.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated February 11, 2020.
- Exhibit 7: Health Connector notice of Termination for Nonpayment of Monthly Premium dated February 5, 2020.
- Exhibit 8: Health Connector Customer Service Salesforce call log.
- Exhibit 9: Agent Portal Printout of Eligibility and Enrollment.
- Exhibit 10: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 4, 2020.

Exhibit 11: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On February 11, 2020, the Health Connector determined the Appellant eligible for ConnectorCare Plan Type 2B (Exhibit 8)
2. On February 12, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 5, 7).
3. On February 28, 2020, the Appellant filed an appeal (Exhibit 4).
4. On February 28, 2020, the Health Connector Appeals Unit granted the Appellant an Administrative SEP (Exhibits 2, 3).
5. On March 4, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan Type 2B. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the February 28, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 4, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 10).
6. As of April 1, 2020, the Appellant failed to respond to the March 4, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 11).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 12, 2020 decision to deny the Appellant's request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3, 4). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a ConnectorCare Plan type 2B (Exhibits 3, 9). The Health Connector issued a notice to the Appellant on March 4, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 10). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 11). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a ConnectorCare Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11322

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 28, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/18/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated March 3, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form received on February 28, 2020.
- Exhibit 5: Health Connector Special Enrollment Period Decision Denial dated February 18, 2020.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated October 16, 2019.
- Exhibit 7: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 10, 2020.
- Exhibit 8: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On October 16, 2019, the Health Connector determined the Appellant was eligible for ConnectorCare Plan type 2B with Advanced Premium Tax Credits (APTC) (Exhibit 6).
2. On February 18, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 3, 5).
3. On February 28, 2020, the Appellant filed an appeal (Exhibit 4).
4. On March 3, 2020, the Health Connector Appeals Unit granted the Appellant an Administrative SEP (Exhibit 3).
5. On March 10, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan type 2B. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the March 2, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 10, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 7).
6. As of April 1, 2020, the Appellant failed to respond to the March 10, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 8).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 18, 2020 decision to deny the Appellant's request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 4, 5). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a ConnectorCare Plan type 2B (Exhibits 3, 6). The Health Connector issued a notice to the Appellant on March 10,

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 7). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 8). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a ConnectorCare Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11331

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 28, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/19/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated March 3, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form, with attachments, received on March 2, 2020.
- Exhibit 5: Health Connector Outreach Email sent to the Appellant on March 3, 2020.
- Exhibit 6: Health Connector Special Enrollment Period Decision Denial dated February 19, 2020.
- Exhibit 7: 2020 Eligibility Results with an Application Summary dated October 18, 2019.
- Exhibit 8: Agent Portal Printout of Eligibility and Enrollment.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 10, 2020.
- Exhibit 10: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On October 18, 2019, the Health Connector determined the Appellant was eligible for ConnectorCare Plan type 3A with Advanced Premium Tax Credits (APTC) (Exhibit 7).
2. On February 19, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 3, 6).
3. On March 2, 2020, the Appellant filed an appeal (Exhibit 4).
4. On March 3, 2020, the Health Connector Appeals Unit granted the Appellant an Administrative SEP (Exhibit 5).
5. On March 10, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan type 3A. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the March 2, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 10, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
6. As of April 1, 2020, the Appellant failed to respond to the March 10, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 19, 2020 decision to deny the Appellant's request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 4, 5). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a ConnectorCare Plan type 3A (Exhibits 5, 7). The Health Connector issued a notice to the Appellant on March 10,

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 9). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 10). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a ConnectorCare Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11378

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 28, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/27/20, Health Connector determined the Appellant eligible for ConnectorCare Plan type 2B.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated March 10, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Appeals Unit Outreach Email sent to the Appellant on April 3, 2020.
- Exhibit 5: The Appellant's Online hearing request received on March 6, 2020.
- Exhibit 6: Health Connector Eligibility Approval notice with an Application Summary dated February 27, 2020.
- Exhibit 7: An Application Summary dated March 11, 2020, with an Administrative Special Enrollment Period approval (SEP).
- Exhibit 8: Agent Portal Printout of Member Eligibility History.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated February 27, 2020.

Exhibit 10: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On February 27, 2020, the Health Connector determined the Appellant eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits (Exhibit 6).
2. On March 6, 2020, the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals determined that MassHealth had placed an administrative closure on the benefits of the Appellant's children. The Appeals Unit contacted the Appellant and advised them to contact MassHealth. On March 11, 2020, the Appellant was given an Administrative Special Enrollment Period (SEP) to allow them to enroll in a ConnectorCare plan (Exhibits 3, 6, 7).
4. Effective March 2020 MassHealth benefits for the Appellant's children were reinstated (Exhibit 8).
5. On March 13, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan type 2B. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the March 6, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 13, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
6. As of April 1, 2020, the Appellant failed to respond to the March 10, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

In this case the issue underlying the appeal was the administrative closure of the MassHealth benefits for the Appellant's children and Health Connector's February 27, 2020 determination that the Appellant was eligible for ConnectorCare Plan type 2B. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issues giving rise to their appeal (Exhibits 3, 4, 6). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a ConnectorCare Plan type 2B as well as a referral to MassHealth for questions regarding MassHealth eligibility (Exhibits 3, 7). The Health Connector issued a notice to the Appellant on March 13, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issues appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 9). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 10). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a ConnectorCare Plan and the MassHealth referral obtained from the Informal Dispute Resolution Process appears to have addressed the issues giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11397

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 28, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/26/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated March 11, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form, with an attachment, received on March 9, 2020.
- Exhibit 5: Health Connector Eligibility denial notice dated February 26, 2020.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated December 28, 2019.
- Exhibit 7: Agent Portal Printout of Eligibility and Enrollment.
- Exhibit 8: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 11, 2020.
- Exhibit 9: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On December 28, 2019, the Health Connector determined the Appellant was eligible for ConnectorCare Plan type 3A with Advanced Premium Tax Credits (APTC) (Exhibit 6).
2. The Appellant did not enroll in a plan in December or January 2020 (Exhibit 3).
3. On February 26, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 3, 5).
4. On March 9, 2020, the Appellant filed an appeal (Exhibit 4).
5. On March 11, 2020, the Health Connector Appeals Unit granted the Appellant an Administrative SEP (Exhibit 3).
6. On March 11, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a ConnectorCare Plan type 3A. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the March 11, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 9, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 8).
7. As of April 1, 2020, the Appellant failed to respond to the March 13, 2020 letter.
8. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 9).
9. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 26, 2020 decision to deny the Appellant's request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

ConnectorCare Plan type 3A (Exhibits 3, 6). The Health Connector issued a notice to the Appellant on March 11, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 8). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 9). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a ConnectorCare Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11418

Appeal Decision: Appeal Dismissed.

Hearing Issue: Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

Decision Date: April 28, 2020

AUTHORITY

This matter was considered pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On 02/11/20, Health Connector denied the Appellant's request for a Special Enrollment Period.

ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal, with attachments, dated March 13, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form received on March 10, 2020.
- Exhibit 5: Health Connector Eligibility denial notice with an Application Summary dated February 11, 2020.
- Exhibit 6: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated March 13, 2020.
- Exhibit 7: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated April 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. On February 11, 2020, the Health Connector determined the Appellant was eligible for Health Connector Plans with Advanced Premium Tax Credits (APTC) (Exhibit 5).
2. On February 11, 2020, the Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) for failing to verify a Qualifying Life Event (Exhibits 3, 5).
3. On March 10, 2020, the Appellant filed an appeal (Exhibit 4).
4. On March 3, 2020, the Health Connector Appeals Unit granted the Appellant an Administrative SEP (Exhibit 3).
5. On March 13, 2020, the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for a SEP to enroll in a Health Connector Plan. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the March 10, 2020 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the March 13, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 6).
6. As of April 1, 2020, the Appellant failed to respond to the March 13, 2020 letter.
7. On April 10, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by April 21, 2020¹ to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 7).
8. As of April 27, 2020, the Appellant failed to respond to the Order issued on April 10, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's February 11, 2020 decision to deny the Appellant's request for a SEP based on their failure to verify a Qualifying Life Event. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 2, 3). These efforts led to the Appellant being given an Administrative SEP to allow them to enroll in a Health Connector Plan with APTC (Exhibits 3, 5). The Health Connector issued a notice to the Appellant on March

¹ April 20, 2020 fell on a State of Massachusetts Holiday.

13, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 6). I have reviewed the evidence in the record and *sua sponte* on April 10, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 7). Again, the Appellant failed to respond by April 21, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's request for a SEP to enroll in a Health Connector Plan obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

ORDER

DISMISSED for failure to prosecute.

You may request to vacate this dismissal

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11233

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for Health Connector plans, based on failure to verify residency

Hearing Date: April 6, 2020

Decision Date: April 24, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*

JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 26, 2020, Appellant was determined ineligible for Health Connector plans, due to failure to verify residency.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for Health Connector plans, based on the Appellant's failure to verify Appellant's residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 6, 2020.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Hearing Notice of Hearing (4 pages, dated March 10, 2020)
- Exhibit 3: Health Connector's Acknowledgment of Appeal (5 pages, dated February 20, 2020)
- Exhibit 3(a) Health Connector's Appeals Unit Staff Notes (1page dated March 2, 2020)
- Exhibit 4: Appellant's Appeal Request Form with supporting documentation (5 pages, received on February 19, 2020)
- Exhibit 5: Health Connector Decision Regarding Eligibility Termination (9 pages, dated January 26, 2020)
- Exhibit 6: Health Connector's Application Summary (13 pages dated February 19, 2020)

- Exhibit 7: Health Connector Request for Information to Appellant, requesting documents verifying the Appellant's residency (6 pages, dated October 21, 2019)
- Exhibit 8: Health Connector Virtual Gateway My Workspace (4 pages, dated February 20, 2020)

FINDINGS OF FACT

The record shows, and I so find:

1. In a prior eligibility determination, the Appellant was found eligible for ConnectorCare Plan Type 2B and was asked to send in documents verifying the Appellant's residency. (Exhibit 3(a), Exhibit 7).
2. On September 24, 2019 the Appellant's mail was returned for undeliverable. (Exhibits 1, 3(a), 8).
3. The Appellant was reminded to send in documents verifying residency on October 21, 2019 with a deadline of January 19, 2020. (Exhibit 7).
4. The Appellant was determined ineligible for Health Connector plans on January 26, 2020, after failing to send in documents verifying residency. (Exhibit 1, Exhibit 5)
5. The Appellant testified she received the request for information from the Connectorcare but did not have mortgage or utility bills to send in order to prove residency. (Appellant Testimony).
6. The Appellant indicated she changed her address to her Mother's address for a temporary time during the time the mail was returned for undeliverable. (Exhibit 4).
7. The Appellant submitted 2 forms of change of address with her appeal which reflected her original address prior to the mail being undeliverable and which is now her present address again. (Ex. 4, Testimony of the Appellant).
8. The Appellant testified she spoke with the Connectorcare in January 2020 and in March 2020 regarding submission of proof of residency documents. (Appellant Testimony).
9. Appellant lives in Massachusetts, but did not send in documents verifying residency by the deadline. (Appellant testimony).
10. Appellant has now sent in documents verifying residency. (Appellant Testimony, Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to verify residency. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d). Where the Health Connector cannot verify applicants' residency electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On October 21, 2019, the Appellant was determined eligible ConnectorCare Plan Type 2B and was asked to verify her residency with a deadline of January 19, 2020. (Exhibit 7). The Appellant failed to send in documents verifying her residency, and was determined ineligible for Health Connector plans on January 26, 2020, for not being a

resident of Massachusetts. (Exhibit 5). This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

While the Appellant has now sent in documents verifying eligibility, the Health Connector correctly found that the Appellant was no longer eligible for Health Connector plans on January 26, 2020, and that determination is upheld.

ORDER

The appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2016 will be paid to you when you file your 2016 federal income tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11240

Appeal Decision: Appeal denied

Hearing Issue: Appellant's eligibility for subsidized insurance based on access to Medicare

Hearing Date: April 6, 2020

Decision Date: April 24, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 12, 2020, the Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for Health Connector plans, based on the Appellant's access to Medicare.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 6, 2020, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Hearing Notice of Hearing (4 pages, dated March 10, 2020)
- Exhibit 3: Health Connector's Acknowledgment of Appeal (10 pages, dated February 20, 2020)

- Exhibit 3(a) Health Connector's Appeals Unit Staff Notes (1 page, dated March 9, 2020)
Exhibit 4: Appellant's Appeal Request Form (2 pages, received on February 20, 2020)
Exhibit 5: Health Connector Notice of Denial (6 pages, dated February 12, 2020)
Exhibit 6: Health Connector's Application Summary (4 pages dated February 12, 2020)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a Massachusetts resident. (Exhibits 2- 5, Testimony).
2. The Appellant does not have access to affordable employer-sponsored insurance. (Exhibit 6).
3. On February 12, 2020, a notice was sent to the Appellant stating that Appellant did not qualify for health insurance coverage through the Massachusetts Health Connector because Appellant has access to Medicare or is currently enrolled in Medicare. (Exhibit 5).
4. The Appellant is currently enrolled in Medicare, but states that because Medicare covers only 80 percent of health care costs, it is insufficient coverage to make the cost of health care reasonable or affordable. (Testimony).
5. The Appellant testified that because the Medicare Supplement is expensive. (Testimony, Exhibit 4).
6. The Appellant was determined ineligible for Health Connector plans on February 12, 2020, based on being eligible for Medicare. (Exhibit 5).
7. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare and is in fact on Medicare Part A & B (Exhibit 1, Exhibit 5, Exhibit 6, Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant has appealed the finding that of not being eligible for a Health Connector plan for 2020; and stated that because Medicare is insufficient coverage to make the cost of health care reasonable or affordable.

Generally, an individual may purchase a plan through the Health Connector if they satisfy the eligibility standards at 45 CFR § 155.305(a). However, for individuals who are eligible for Medicare, there is an additional legal standard that must be considered, specifically, the "anti-duplication rule" found in the Social Security Act, 42 USC 1395ss(d)(3)(A)(i), and implemented in federal regulations at 45 CFR § 147.106 and 45 CFR § 148.122. This rule prohibits health insurance issuers from selling insurance to Medicare-eligible individual's if that insurance would duplicate the benefits provided by Medicare, including where the individual only has Medicare

Part A. The Health Connector, as a seller of commercial individual market health insurance, only sells insurance that would be duplicative of benefits provided by Medicare. The Health Connector also must take precautions to ensure that the issuers whose coverage it sells are not put in the position of violating the anti-duplication rule.

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to perform (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their "same policy or contract of insurance." See 45 CFR § 147.106 and 45 CFR §148.122; and discussion generally at 81 FR 94068, December 22, 2016. In choosing this standard, the federal government indicated a clear directive to not renew the individual market coverage of Medicare- eligible individuals except in the narrowest of circumstances, and regardless of whether the individual might otherwise satisfy the eligibility criteria at 45 CFR § 155.304(a). Generally, the Health Connector performs the function of renewals for carriers, in accordance with the provisions found at 45 CFR §155.335. However, in cases where the individual is going to be eligible for Medicare on January 1 of the renewal year, the Health Connector cannot determine whether renewal is appropriate and would comply with the anti-duplication rule. The Health Connector therefore does not perform any renewals for Medicare-eligible individuals, and instead directs individuals to contact their carriers, who can determine whether renewal is permissible. This approach ensures compliance with the anti-duplication rule, and does not interfere with any individual rights, since the individual cannot be eligible for the subsidies exclusively available through the Health Connector. See 26 CFR 1.36B-2(a)(2). To the degree any individual has the right to renew their same policy or contract of insurance, the individual's health insurance issuer remains responsible for performing that renewal.

The Appellant confirmed at the hearing that Appellant is eligible for and enrolled in Medicare. Because the Appellant is enrolled in Medicare, the Health Connector correctly found that the Applicant was not eligible for Health Connector plans in 2020, in order to avoid violating the Medicare anti-duplication rule. Although the fact that Medicare covers 80 percent of health care costs rather than a higher percentage - presents a significant financial challenge for the Appellant, that does not qualify as an exemption from the anti-duplication rule.

ORDER

The appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this decision. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

Cc: Health Connector Appeals Unit

The Appellant is advised to look into the **Serving the Health Insurance Needs of Everyone (SHINE)** program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.

FINAL APPEAL DECISION: ACA 20-11341

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Income amount used to determine eligibility for subsidized Health Connector plans

Hearing Date: April 10, 2020

Decision Date: April 24, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*

JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 15, 2020, Appellant was determined eligible for Health Connector Plan with Advance Premium Tax Credits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant eligible for Health Connector Plan with Advance Premium Tax Credits, based on the income for 2020, used in the Health Connector's renewal process.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on April 10, 2020.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page,	undated)
Exhibit 2:	Health Connector's Hearing Notice of Hearing	(4 pages, dated	3/10/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(6 pages, dated	3/6/, 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	(1 pages, dated	3/6/ 2020)
Exhibit 4:	Appellant's Appeal Request Form	(5 pages, received	2/20 /2020)
Exhibit 5:	Health Connector Eligibility Approval-A S	(12 pages, dated	1/15/2020)
Exhibit 6:	Health Connector's Application Summary Results	(13 pages, dated	3/9/2020)
Exhibit 7:	Virtual Gateway My Workspace	(9 pages, dated	3/6 / 2020)
Exhibit 8:	Health Connector's Application Summary Results	(18 pages, dated	3/6/2020)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a married individual, who plans to file a federal income tax return for tax year 2020. (Exhibit 6).
2. The Appellant's Spouse is eligible for Medicare. (Exhibit 3(a)).
3. The Appellant testified his Spouse will be on Medicare effective May 1, 2020. (Appellant Testimony).
4. The Appellant testified his Daughter is not a tax dependent and has her own health insurance plan. (Appellant Testimony).
5. The Appellant expects to make an annual income of \$65,000 in 2020. (Testimony, Exhibits 4-6, 8).
6. In a prior eligibility determination for plan year 2019, the Appellant was found eligible for ConnectorCare Plan Type 3B. (Exhibit 3(a)).
7. On January 15, 2020, the Health Connector sent the Appellant an Eligibility Approval notice for 2020, which stated that the Appellant's eligibility was going to change from a ConnectorCare Plan to a ConnectorCare Plan with Advance Premium Tax. This notice stated that the Health Connector's 2020 determination was based on an income equivalent to 384.39% of the Federal Poverty Level. The notice instructed the Appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibit 5).
8. The Appellant testified he received information in a telephone conference with the Connector that his premium would increase to \$535.96 based on his reported increased income of \$65,000. (Appellant Testimony).
9. The Appellant testified his actual monthly premiums are \$1,125.96. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible with Advance Premium Tax for 2020 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 384.39% of the Federal Poverty Level. The Appellant in his appeal indicated he cannot afford to pay the new monthly premiums. (Exhibit 4). The Appellant expects to make an annual income of \$65,000 in 2020. (Appellant Testimony, Exhibit 6). Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector is required to re-determine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On January 15, 2020, the Appellant was found eligible for ConnectorCare with Advance Premium Tax Credits for plan year 2020, based on having a household income equivalent to 384.39% of the Federal Poverty Level. This determination came as part of the Health Connector's annual renewal process. The Appellant did not report any changes after receiving the renewal eligibility notice, and the eligibility was finalized on January 15, 2020. This is

consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on a household income equivalent to 384.39% of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335, and the Appellant expects to make an annual income of \$65,000 in 2020. (Appellant Testimony, Exhibit 4,6), and therefore the determination issued by the Health Connector was correct.

The Appellant is advised to report any changes to their income or any other information based on family size on their application if they have not already.

ORDER

The appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2019 from the federal government will be reconciled when you file your 2019 federal income tax return (usually in the spring of 2020). This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2019 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2019 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2019 will be paid to you when you file your 2019 federal income tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11377

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for a special enrollment period for health insurance coverage with the Massachusetts Health Connector

Hearing Date: April 6, 2020

Decision Date: April 24, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The appellant has been never been enrolled in Health Connector Plans. By decision dated February 8, 2020, the Connector advised him that he did not qualify to enroll in a new or different insurance plan because he did not have a qualifying event. (Ex. 5) He filed an appeal dated March 5, 2020. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Ex. 6)

ISSUE

Is the appellant eligible for a special enrollment period for health insurance coverage pursuant to 45 C.F.R.155.420 and 956 CMR 12.10(5)?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 6, 2020, and testified under oath. The hearing record consists of him testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Hearing Notice of Hearing (5 pages, dated March 10, 2020)
- Exhibit 3: Health Connector's Acknowledgment of Appeal (5 pages, dated March 9, 2020)
- Exhibit 3(a) Health Connector's Appeals Unit Staff Notes (1 page, dated March 9, 2020)
- Exhibit 4: Appellant's Appeal Request Form (2 pages, received on March 6, 2020)
- Exhibit 5: Health Connector Notice of Special Enrollment Decision (8 pages, dated February 8, 2020)
- Exhibit 6: Health Connector's Application Summary (5 pages dated March 9, 2020)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 26-years-old, is single, and has a tax household size of one. (Testimony, Ex. 3)
2. The appellant accepted an offer of employment in January 2020 but his employer did not offer health insurance because his employer only had a small number of employees. (Testimony, Ex. 4).
3. The appellant, prior to accepting employment in January 2020, was covered under his parents' health insurance program. (Testimony).
3. The appellant attempted to enroll on February 8, 2020 and answered the CAN I SHOP questions and was eligible for Health Connector with Premium Tax Credits but was unable to enroll due to not having a Qualified Life Event. (Exhibits. 3(a), 5, and 6).
4. By letter dated February 8, 2020, the Health Connector advised the appellant that he did not qualify to enroll in a new or different health insurance plan because he did not have a qualifying event. (Ex. 5).
5. The appellant filed an appeal dated March 5, 2020, in which he stated his current employer does not offer insurance. (Ex. 4).

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 956 CMR 12.10 (5), an individual may enroll in a health plan outside of the open enrollment period during a special enrollment period (SEP) established by the Connector only for one of the following reasons: (a) the enrollee experiences a triggering event, as set forth in 45 CFR 155.420 and applicable state law; (b) a qualified individual is determined newly eligible for a ConnectorCare plan in accordance with 956 CMR 12.08; (c) the enrollee changes plan types in accordance with 956 CMR 12.04(3); or (d) the enrollee has been approved for a hardship waiver in accordance with 956 CMR 12:11; or (e) the enrollee's hardship waiver period has ended. Enrollees have sixty (60) days to enroll in a health plan from the date of one of the aforesaid events. Outside of open enrollment an individual may be granted a SEP, during which the individual can enroll in coverage, bus/he experiences a qualifying life event, such as a change in household composition or loss of coverage.

I take administrative notice of the fact that the open enrollment period for health insurance for 2020 ended on January 23, 2020 for the commercial non-group market, and that closed enrollment runs from February 1, 2020 to December 31, 2020.

The appellant seeks to enroll in a plan outside of the open enrollment period because his employer does not offer insurance. It is indeed unfortunate that his employer does not offer insurance and that the appellant is no longer covered by his parents' health insurance. Unfortunately, however, his circumstances do not fall within the parameters of the foregoing regulations, including the category of "exceptional circumstances" set forth in 45 CFR 155.420(d)(9), and as such, are not considered a qualifying event which would entitle him to a SEP. The appellant was encouraged to attempt to enroll again at this time to determine if he is eligible to receive coverage at this time.

Based on the totality of the evidence, it is concluded that the appellant failed to establish that his circumstances qualify him for a SEP.

ORDER

The appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line at 1-877-369-0130. The mailing address is: Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county whether you reside, or Suffolk County Superior Court, within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

If you are a Massachusetts resident, you may also have the option to apply for an open enrollment waiver from the Office of Patient Protection. You may qualify for the waiver if you were not able to enroll in health insurance during the last open enrollment or special enrollment period for reasons that were not under your control, other than an administrative problem with the Health Connector. Further information may be obtained at the website for the Massachusetts Office of Patient Protection at the Health Policy Commission at mass.gov/hpc/opp.

Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-10410

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: March 27, 2020

Decision Date: April 27, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellants submitted an application for subsidized health insurance on November 6, 2019. The Health Connector determined the Appellant to be eligible for Health Connector plans.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector Plans .

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 27, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (12 pages, dated February 12, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (8 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 3 pages dated November 3, 2019)
- Exhibit 6: Notice of Eligibility Determination (14 pages, dated October 6, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (4 pages, dated October 6, 2019)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (4 pages, dated November 21, 2019)
- Exhibit 9: Historical Notices & Printouts (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 30 year old unmarried male who works in the restaurant business (Appellant testimony, Exhibit7)
2. The Appellant has a household of one. (Exhibit 7)
3. On his application, dated October 6, 2019 the Appellants entered a manual verified annual modified adjusted gross income of (MAGI) of \$29,064. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place him at 232.70% of the 2020 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to

individuals with income below 400% of the FPL. However, Appellant did not provide proof of income and he was eligible for Health Connector plans only at this time.

5. Appellant filed an appeal on November 3, 2019. The Health Connector reviewed Appellant's appeal and contacted the Appellant and urged Appellant to contact customer service and update Appellant's income. Appellant did contact customer service and updated his income. As a result of Appellant's updated income, Appellant was now eligible for ConnectorCare plan 3A with APTC. (Exhibits 7,8 &9)
6. Appellant continued with his hearing and indicated that he was now unemployed due to the Covert 19 pandemic. Appellant was urged to contact Customer Service to update his income. Appellant testified that his income was consistent with Exhibits 7 & 8 at the time of his applications.

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including government sponsored health insurance such as Medicare. 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i).

Appellant's application stated his projected MAGI was \$29,064, which for a household of one, puts the Appellant's income at approximately 232.70 of the 2020 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for ConnectorPlans 3A. The Appellant then appealed. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied. The determination by the Connector is affirmed.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint

with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Appellant is urged to contact Customer Service and report his loss of income.

Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-10915

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: March 27, 2020

Decision Date: April 27, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellants submitted an application for subsidized health insurance on January 8, 2020. The Health Connector determined the Appellant to be eligible for ConnectorCare Connector plan 3B.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare plan 3B.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 27, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (6 pages, dated February 12, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (8 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 1 pages dated January 11, 2020)
- Exhibit 6: Notice of Eligibility Determination (10 pages, dated January 8, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated January 8, 2020)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (4 pages, dated January 15, 2020)
- Exhibit 9: Historical Notices & Printouts (21 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 53 year old unmarried male who works as an engineer (Appellant testimony, Exhibit7)
2. The Appellant has a household of one. (Exhibit 7)
3. On his application, dated January 8, 2020 the Appellants entered a manual verified annual modified adjusted gross income of (MAGI) of \$29,246.36. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place him at 234.16% of the 2020 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to

individuals with income below 400% of the FPL. However, Appellant did not believe that income was correct.

5. Appellant filed an appeal in early January 2020. The Health Connector reviewed Appellant's appeal and contacted the Appellant and urged Appellant to contact customer service and update Appellant's income. Appellant did contact customer service and updated his income. As a result of Appellant's updated income, Appellant was now eligible for ConnectorCare plan 2B with APTC. (Exhibits 7,8 &9)
6. Appellant had indicated to the Health Connector in both his applications that he would be receiving unemployment income. However, Appellant indicated at his hearing that he never received unemployment income.
7. Appellant continued with his hearing and indicated that he never received unemployment. Appellant was urged to contact Customer Service to update his income. Appellant testified that his income was consistent with Exhibit 8 at the time of his application.

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including government sponsored health insurance such as Medicare. 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i).

Appellant's application stated his projected MAGI was \$29,246.36, which for a household of one, puts the Appellant's income at approximately 234.16 of the 2020 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for ConnectorPlan 3A. The Appellant then appealed. The Health Connector and Appellant communicated and determined that the Appellant's correct income was \$22,274 and his FPL was 17.33%. The Appellant was then eligible for ConnectorCare plan 2B. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied. The determination by the Connector is affirmed.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of

Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Appellant is urged to contact Customer Service and report his loss of income.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-10928

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector Plan

Hearing Date: February 24, 2020

Decision Date: April 30, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, Section 155.500 *et seq*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and, Title 956 of the Code of Massachusetts Regulations, Section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, Section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, Section 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, Section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 20, 2019, the Appellant was determined eligible for ConnectorCare Type 2B with an Advance Premium Tax Credit of \$236 in 2020.

ISSUE

Whether the Health Connector made the correction determination on December 20, 2019, on the Appellant's application for health insurance coverage.

HEARING RECORD

On February 24, 2020, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: 1/13/20 Appeal (3 pages)
- Exhibit 2: 1/14/20 Appeals Unit Contact Notes (1 page)
- Exhibit 3: 12/20/19 Eligibility Approval Notice (10 pages)
- Exhibit 4: 2020 Eligibility Results for 12/19/19 Application (7 pages)
- Exhibit 5: 2019 Eligibility Results for 9/15/19 Application (2 pages)
- Exhibit 6: 9/15/19 Application Summary (3 pages)

Exhibit 7: 9/15/19 Request for Proof of Income (4 pages)

Exhibit 8: 1/30/20 Hearing Notice (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On September 15, 2019, the Appellant submitted an application for 2019 health insurance coverage, reporting self-attested total monthly income of \$-567 and projected annual income in 2019 of \$19,236.78. (Exhibit 6)
2. By letter dated September 15, 2019, in response to the Appellant's 9/15/19 application, the Health Connector and MassHealth notified the Appellant that he was required to provide proof of income in order to obtain health insurance coverage. The letter provided a list of acceptable proof and several ways that he could submit the proof; stated that the Appellant needed to provide the proof no later than December 14, 2019; and, provided the phone number and website he could use if he had any questions. The letter further stated that, if he did not provide this proof, they would use available federal and state data sources to decide if he qualified for health insurance coverage. (Exhibits 6 and 7)
3. Neither the Health Connector nor MassHealth has ever received any proof of income from the Appellant in response to their 9/15/19 letter requesting proof of income. (Exhibit 2)
4. On December 19, 2019, the Appellant applied to the Health Connector for 2020 coverage, once again reporting self-attested total monthly income received of \$-567 and projected annual income in 2020 of \$19,236.78. (Exhibit 4)
5. By letter dated December 20, 2019, the Health Connector notified the Appellant that he was eligible in 2020 for ConnectorCare Plan Type 2B with an Advance Premium Tax Credit of \$236/monthly, based on household income that was 171.47% of the Federal Poverty Level (Exhibit 3)
6. On January 13, 2020, the Appellant appealed the Health Connector's 12/20/19 determination, circling "Income" as the reason and stating, "My income has been \$0 since attending school full time in Sept. I sent in the proof of income statement at that time." (Exhibit 1)
7. On January 14, 2020, the HC Appeals Unit sent an email to the Appellant, stating that the Appellant should contact HC Customer Service to review and update his income. (Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

In order to qualify for any financial assistance for a Health Connector Plan, a household's annual income must be between 100% and 400% of FPL. If the household's annual income is below 100% of FPL, the household may be eligible for MassHealth, instead. In either case, an applicant must provide a projected income for the year in which they are applying for coverage in order for the Health Connector to determine whether they are eligible for financial assistance, through a ConnectorCare plan and/or an Advance Premium Tax Credit, and, if so, how much financial assistance they would get.

In this case, the Appellant provided no information in his 12/19/19 application for 2020 coverage about his household's projected income in 2020, other than to re-state what he had reported in his 9/15/19 application for 2019 coverage. However, as the Appellant had never provided proof of his income in response to the Health Connector's 9/15/19 request for proof or otherwise, the Health Connector had no way of determining what financial assistance the Appellant qualified for in 2020.

I do not find credible the Appellant's contention that he submitted proof of income to the Health Connector by mail during the last half of September, 2019; that he called the Health Connector about three weeks later to check

on the status; and, that the Health Connector responded that they had not yet received his letter but would contact him as soon as they received his letter and had processed his proof of income. First of all, if the Appellant had sent in proof of income when he says he did, the Health Connector would have received it much sooner than three weeks later. As the Appellant was aware of the 12/14/19 deadline for submitting his proof of income and apparently wanted coverage to begin in 2019, he would have been more concerned at this point that the Health Connector had not received his proof of income if he had actually sent proof to the Health Connector. Also, when he submitted his 12/20/19 application for 2020, the Appellant stated that his projected income for 2020 was \$19,236.78, exactly the same as in his 9/15/19 application for 2019 coverage. Yet, in his 1/13/20 appeal at issue here, the Appellant states that he has had no income since starting school in September 2019. If this was true, the Appellant should have stated that in his 12/19/19 application for 2020 coverage.

Accordingly, the Health Connector correctly determined on December 20, 2019, that the Appellant was eligible in 2020 for ConnectorCare Plan Type 2B with an Advance Premium Tax Credit of \$236/monthly, based on household income that was 171.47% of the Federal Poverty Level.

ORDER

The appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11037

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, based on timing of when Appellant contacted Health Connector

Hearing Date: March 26, 2020

Decision Date: April 29, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 2, 2019, the Appellant was deemed eligible for Health Connector plans without financial assistance based on tax filing status. Appellant did not appeal that decision within thirty days. On February 1, 2020, Appellant was deemed eligible for ConnectorCare Plan Type 3A.

ISSUE

The issue addressed on this appeal is whether Appellant timely filed an appeal of the November 2, 2019 decision, and whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans without financial assistance based on tax filing status.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 26, 2020. The hearing was recorded. The record was left open for Appellant to submit additional documents regarding telephone calls to the Health Connector. Additional documents were submitted. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant's representative:

Exhibit 1: Affidavit of Record Verification (1 page);

- Exhibit 2: Notice of Hearing (2-12-20) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (2-5-20) (4 pages);
- Exhibit 4: Outreach notes and email and notes (4 pages);
- Exhibit 5: Hearing Request form (1-21-20) (with letter and documents) (18 pages);
- Exhibit 6: Eligibility Approval letters (11-2-19 and 11-11-19) (20 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (5 pages);
- Exhibit 8: Salesforce notes of calls (6 pages);
- Exhibit 9: Workspace form and documents (8 pages);
- Exhibit 10: MMIS form re Mass Health (1 page); and
- Exhibit 11: Additional documents submitted by Appellant pursuant to the open record (10 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on November 2, 2019, and was deemed eligible for Health Connector plans without financial help based on tax filing status. Appellant previously had health insurance through MassHealth. (Appellant Testimony, Exhibits 5, 6, and 10).
2. Appellant had made telephone calls to MassHealth during October 2019 regarding the loss of their MassHealth (Appellant Testimony, Exhibit 11).
3. Appellant did not file an appeal of the November 2, 2019 decision within thirty days. Appellant indicated to Connector staff that they had not received notice of the decision. (Exhibit 4). However, Appellant also stated in the hearing that an error had been made regarding the tax filing status by MassHealth (Appellant Testimony).
4. There are no records of any telephone contact by the Health Connector with Appellant during October 2019 (Exhibits 4 and 8). The additional documents submitted by Appellant with her notes on the telephone records do not provide evidence of calls made to the Health Connector in October 2019 (Exhibit 10). Appellant marked a call as being transferred by MassHealth to the Health Connector in November 2019 but not in October 2019 (Exhibit 10).
5. With regard to the tax filing status issue, the issue was resolved, and Appellant received a new determination indicating eligibility for ConnectorCare Plan Type 3A as of February 1, 2020. (Exhibit 7).
6. Appellant stated that they had a car accident on November 29, 2019, and incurred medical bills that were not fully covered by Health Safety Net. (Appellant's Testimony, Exhibit 5).
7. Appellant was not covered by any insurance from the Health Connector during November 2019. (Exhibits 4, 6, 7 and 9).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was deemed eligible for Health Connector plans without financial assistance on November 2, 2019 based on tax filing status. Appellant did not file an appeal of that decision within thirty days. Appellant claimed that Appellant had called the Health Connector to apply for health insurance in October 2019, but there is no record of those calls. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in

ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC applies to married couples. In general, married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). However, if one of the spouses is the victim of domestic abuse or spousal abandonment, that taxpayer may attest to filing as married filing separately, and still receive APTC. 26 CFR § 1.36B-2T(b)(2)(ii). To claim domestic abuse, the taxpayer must certify that he or she is living apart from the other spouse at the time of tax filing, and is unable to file a joint return because the taxpayer is a victim of “physical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate, and intimidate, or to undermine the victim's ability to reason independently.” 26 C.F.R. § 1.36B-2T(b)(2)(ii), (b)(2)(iii). Spousal abandonment similarly requires that the taxpayer certify that he or she is living apart from the other spouse at the time of tax filing, and that the taxpayer is unable to file a joint tax return because “the taxpayer is unable to locate his or her spouse after reasonable diligence.” 26 C.F.R. § 1.36B-2T(b)(2)(iv), (b)(2)(ii), (iv). Each exception may be claimed if only if it has not been claimed in each of the three preceding taxable years. 26 CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their 2015 taxes in accordance with the required certification, which appears on Form 8962. In addition to the above exceptions to the requirement to file a joint tax return, taxpayers who qualify to file as head of household may also receive APTC. Even those taxpayers who are technically married may qualify to file as head of household, so long as the test for head of household status is satisfied. This test requires that the taxpayer be “unmarried,” that the taxpayer paid more than half the cost of keeping up a home for the year, and that a qualifying person lived with the taxpayer for more than half the year. 26 CFR § 1.2-2(b). Married taxpayers may be “considered unmarried,” and therefore eligible for head of household status, so long as the taxpayer, among other requirements, has not lived with the taxpayer’s spouse during the last six months of the tax year. 26 CFR § 1.7703-1. Taxpayers who are married but file as head of household are technically filing as unmarried, and so do not need an exception to the rule that they file a joint tax return, and may claim APTC so long as they are otherwise eligible. See 26 CFR § 1.36B-4T(b)(5) (Example 9). Applicants looking to claim APTC by claiming head of household status must attest that they will file their 2015 taxes as head of household. Based on information available to the Health Connector, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, despite meeting the income threshold required for that program. The Appellant testified at hearing that there had been an error regarding the tax filing status, and did produce information to that effect in January 2020. Thus, Appellant was deemed eligible as of February 1, 2020 for ConnectorCare Plan Type 3A. However, the Health Connector correctly found that the Appellant was not eligible for APTC or ConnectorCare in November 2019.

ORDER

The Connector determination was correct. The appeal is therefore denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural.

NOTE: Appellant was given information to contact the Ombudsperson at the Health Connector.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11042

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for subsidized health insurance based on income and based upon information supplied by Appellant and other data sources.

Hearing Date: February 26, 2020

Decision Date: April 23, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 9, 2019, Appellant was determined eligible for Health Connector plans with no financial help, based upon data from Appellant's application and other data sources.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans without Advance Premium Tax Credit based on Appellant's income.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 26, 2020. At the end of the hearing, the record was left open so that Appellant could provide further documents. The Appellant submitted an unsigned and undated copy of Appellant's 2018 income tax return, which has been marked as Exhibit 9. The record is now closed. The hearing record consists of the Testimony of Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file
- Exhibit 2: Correspondence from Connector Appeals Unit
- Exhibit 3: Hearing Request Form and support documents
- Exhibit 4: Notices on Appeal

- Exhibit 5: Eligibility Results and Application Summary
Exhibit 6: Income information sent by Appellant on September 6, 2019
Exhibit 7: Updated eligibility results of January 16, 2020, based upon information submitted by Appellant
Exhibit 8: Copies of letters from the Health Connector sent in January 2018 and January 2019 with updated Forms 1095A for tax returns
Exhibit 9: Unsigned and undated copy of Appellant's 2018 income tax return

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was covered by subsidized health insurance in 2018 and 2019 (Testimony of Appellant).
2. On September 6, 2019 Appellant had attested to earning \$3,800 per month for a federal poverty level of 360.09% (Exhibit 5).
3. Also on September 6, 2019, Appellant submitted a Profit and Loss Statement regarding Appellant's self-employment income. The Profit and Loss Statement was for January through May 2019 and showed the income to be \$9,491.57 per month which was 911.92% of the federal poverty level (Exhibit 5).
4. On September 9, 2019, Appellant was notified that Appellant would be eligible for a Health Connector Plan with no financial help based upon Appellant's application or the most recent information that the Health Connector had received from income data sources (Exhibit 4)
5. Appellant had numerous conversations with the Health Connector after September 9, 2019. Appellant was unable to provide further information for 2019 as Appellant did not have an updated Profit and Loss Statement and had not yet filed taxes for 2017 or 2018 (Testimony of Appellant).
6. Appellant had also been asked to verify that Appellant had reconciled past Advance Premium Tax Credits on previous years income tax returns (Testimony of Appellant and Exhibit 8)
7. Appellant did not file 2017 and 2018 income tax returns until January 2020 (Testimony of Appellant).
8. Appellant was struggling financially in late 2019 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

Appellant had been enrolled in a subsidized Health Connector plan in 2018 and 2019. In September 2019, Appellant submitted requested income information to the Health Connector. Appellant was self-employed. Appellant sent in a Profit and Loss statement from the business that showed self-employment income for five months of 2019 of \$9,491.57 per month which was a federal poverty level of 911.92%. Appellant had numerous conversations with the Health Connector, but did not provide necessary information for a different determination. Based upon the information provided by

Appellant, Appellant was found to be eligible for a Health Connector plan without subsidies. This is the correct determination for a person whose household income is 911.92% of the federal poverty level. Additionally, Appellant did not file 2017 and 2018 income tax returns until 2020, so that Advance Premium Tax Credits for those years were not reconciled until 2020.

ORDER

The Appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

ADDENDUM

Subsequent to the hearing, Appellant provided information to the Health Connector about Appellant's current income and tax reconciliation and Appellant received a new determination for MassHealth.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11095

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, based on failure to verify residency

Hearing Date: March 26, 2020

Decision Date: April 6, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 15, 2020, the Appellant's eligibility for ConnectorCare plans was terminated due to failure to verify residency.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant's eligibility for ConnectorCare plans was terminated, based on the Appellant's failure to verify residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 26, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant's representative:

- Exhibit 1: Affidavit of Record Verification and procedures (1 page);
- Exhibit 2: Notice of Hearing (2-12-20) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (1-30-20) (with informal resolution memo) (8 pages);
- Exhibit 4: Outreach notes and email (including email from Appellant) (4 pages);
- Exhibit 5: Hearing Request form (1-29-20) (with document) (3 pages);
- Exhibit 6: Eligibility Termination letter (1-15-20) (6 pages);

- Exhibit 7: Eligibility detail printout and application summary printout (4 pages);
- Exhibit 8: Request for information letter (10-11-19) (4 pages);
- Exhibit 9: Workspace form and documents (24 pages); and
- Exhibit 10: Enrollment information (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance previously through the Health Connector, and had received a letter dated October 11, 2019, requesting that they submit proof of residence by January 9, 2020. (Exhibit 8).
2. Appellant submitted a copy of the lease on or about October 17, 2019, but apparently it was deemed not acceptable as it was not a signed copy. (Exhibit 4).
3. Appellant again submitted a copy of her lease and a utility bill on or about January 3, 2020, however, it was not accepted as it was not a complete copy of the lease. (Exhibit 4).
4. Appellant submitted additional documents on or about January 21, 2020 that were deemed acceptable. (Exhibit 4).
5. Appellant's application was redetermined on January 25, 2020, and Appellant was eligible for ConnectorCare plan Type 2B as of that date. (Exhibits 4, and 7).
6. Appellant testified that when they went to the doctor on February 12, 2020, the doctor's office indicated that they did not have coverage. (Appellant's Testimony).
7. Appellant testified that as of February 14, 2020, they received the documents establishing that they had coverage. (Appellant's Testimony).
8. Appellant believed that the Health Connector did not properly handle the case, and that the documents submitted in October, 2019 and on January 3, 2020, should have been accepted. Appellant indicated that the information was at the top of the lease, and not the bottom, but that should not have made a difference. Appellant did not state that the lease first submitted was a signed copy. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant's eligibility for ConnectorCare plans was terminated based on failure to verify residency. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d). where the Health Connector cannot verify applicants' residency electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On January 15, 2020, the Appellant's eligibility for ConnectorCare plans was terminated due to failure to have provided acceptable documents previously requested in October 2019. The Appellant sent in documents purporting to verify residency, however the documents were deemed not acceptable because the lease submitted was not a signed lease. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the

correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a). Appellant did submit a document regarding residency, and that was accepted as of January 21, 2020. Appellant was then deemed eligible for ConnectorCare Plan Type 2B and was notified that they could enroll. The issue had been resolved; however the Appellant was upset, and believed that the documents submitted earlier should have been acceptable.

The Health Connector correctly found that the Appellant's eligibility for ConnectorCare plans should be terminated on January 15, 2020, and that determination is upheld.

ORDER

The Connector determination was correct. The appeal is therefore denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with was us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

NOTE: The pronouns "they" and "their" is used in order to be gender neutral, regardless of the singular or plural.

NOTE: Appellant was given information to contact the Ombudsperson at the Health Connector.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11134

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, residency

Hearing Date: March 31, 2020

Decision Date: April 30, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 10, 2020, Appellant was determined ineligible for health insurance through the Health Connector on the basis of residency. Appellant was redetermined on January 10, 2020, and was determined eligible for Health Connector plans with no financial assistance on the basis of income over 400% of the Federal Poverty level.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was ineligible for health insurance through the Health Connector, based on residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 31, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (2-25-20) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (2-5-20) (4 pages);
- Exhibit 4: Outreach notes and emails (7 pages);

- Exhibit 5: Hearing Request form (1-24-20) (with letter and documents) (6 pages);
- Exhibit 6: Eligibility Denial letter (1-10-20) (4 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (10 pages);
- Exhibit 8: Workspace form and documents (2 pages); and
- Exhibit 9: Salesforce form (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance previously through MassHealth, but had not previously had health insurance through the Health Connector. (Appellant Testimony, Exhibit 4).
2. Appellant submitted an application for health insurance through the Health Connector on or about January 10, 2020. Appellant was determined ineligible for health insurance through the Health Connector on the basis of residency. (Appellant Testimony, Exhibits 6 and 7).
3. Appellant then submitted an Affidavit of Residency and was redetermined as eligible for Health Connector Plans with no financial assistance based on income equivalent to 604.86% of the Federal Poverty Level.
4. Appellant filed an appeal that questioned the penalty on the 2018 tax return and also appealed the issue of residency and income. (Appellant Testimony, Exhibits 4 and 5).
5. Appellant stated that their income was unknown until the end of the year, but did not indicate that the self-attested income was incorrect. (Exhibit 5, Appellant Testimony).
6. Appellant indicated that Appellant was in Germany at the time of the hearing and that Appellant no longer had the Post Office Box that was used as the address. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was deemed ineligible for health insurance through the Health Connector based on residency. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency, in accordance with 45 CFR § 155.315(d). Where the Health Connector cannot verify applicants' residency electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On January 10, 2020, the Appellant was determined ineligible for health insurance through the Health Connector based on residency. Appellant submitted an Affidavit of Residency and Appellant was redetermined as being eligible for health connector plans with no financial assistance based on income. The Appellant appealed and raised the issue of tax penalty which is not an appealable issue under the eligibility determination.

The Health Connector correctly found that the Appellant was ineligible for health insurance through the Health Connector on January 10, 2020, and that determination is upheld.

ORDER

The Connector determination was correct. The appeal is therefore denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11158

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for subsidized insurance; based on failure to reconcile prior tax credits

Hearing Date: March 30, 2020

Decision Date: April 29, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 6, 2020, the Appellant was determined eligible for Health Connector plans with no financial help for plan year 2020. The determination was a result of the Health Connector's renewal process.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no financial help, based on information used in the Health Connector's renewal process.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 30, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (2-24-20) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (2-24-20) (2 pages);
- Exhibit 4: Outreach notes and email (3 pages);
- Exhibit 5: Hearing Request form (2-6-20) (1 page);

- Exhibit 6: Special Enrollment Decision (2-6-20) (6 pages);
Exhibit 7: Eligibility detail printout and application summary printout (10 pages);
Exhibit 8: Form 1095-A's for TY 2017 – 2019 (23 pages); and
Exhibit 9: Documents from Appellant re immigration (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. In 2017 - 2019, Appellant had been covered by ConnectorCare plans (Exhibit 8).
2. Appellant had failed to reconcile receipt of advance premium tax credits prior to the date of the application on February 6, 2020. (Appellant Testimony).
3. On February 6, 2020, Appellant was determined eligible for Health Connector plans with no financial help, and was determined not to be eligible for a special enrollment at that time. This was based on data from other sources (Exhibits 6, 7).
4. Appellant had not updated the information with the Health Connector prior to February 6, 2020.
5. On February 6, 2020, Appellant filed an appeal.
6. Appellant testified that they had not filed the reconciliation forms with the taxes. (Appellant's Testimony, Exhibit 4).
7. The determination of the Connector was correct based upon the information available to the Connector at the time of the application on February 6, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans with no financial help for 2020. Appellant asserts that this determination was incorrect, because the Appellant will make no income, and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On February 6, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2017 - 2019, the Appellant was eligible for ConnectorCare Plans, and received APTC. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c) – (g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On February 6, 2020, the Appellant was found eligible for Health Connector Plans with no financial help for plan year 2020, based on having failed to file the required reconciliation. The final determination was correct for

Appellant, based on information available to the Connector. This process complied with federal law at 45 CFR § 155.335.

ORDER

The Connector determination was correct. The appeal is therefore denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

NOTE: Appellant was advised to update the tax filing and then attest to the filing of the taxes and reconciliation. In addition, Appellant’s passport was expired and the Appeals Unit assisted Appellant to update that information.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11187

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for subsidized insurance; based on failure to reconcile prior tax credits

Hearing Date: March 30, 2020

Decision Date: April 29, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

JURISDICTION

Applicants and Enrollees are entitled to a hearing under with the Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 31, 2020, the Appellant was determined eligible for Health Connector plans with no financial help for plan year 2020. The determination was a result of the Health Connector's renewal process.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no financial help, based on information used in the Health Connector's renewal process.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 30, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (2-24-20) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (2-12-20) (3 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (2-11-20) (1 page);

- Exhibit 6: Eligibility Approval letter (1-31-20) (8 pages);
Exhibit 7: Eligibility detail printout and application summary printout (5 pages); and
Exhibit 8: Form 1095-A's for TY 2018 – 2019 (15 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. In 2018 - 2019, Appellant had been covered by ConnectorCare plans (Exhibit 8).
2. Appellant indicated that they had filed an extension for the 2018 taxes and had filed the 2018 taxes in October 2019, but that the IRS had not processed the tax return prior to the time Appellant was determined eligible for unsubsidized insurance. (Appellant Testimony, Exhibit 4).
3. On January 31, 2020, Appellant was determined eligible for Health Connector plans with no financial help. This was based on data from other sources (Exhibits 6, 7).
4. Appellant had not updated the information with the Health Connector prior to January 21, 2020.
5. On February 11, 2020, Appellant filed an appeal.
6. Appellant testified that they had received information that the tax return had been processed and uploaded the tax transcript on March 29, 2020. (Appellant's Testimony).
7. The determination of the Connector was correct based upon the information available to the Connector at the time of the decision on January 31, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans with no financial help for 2020. Appellant asserts that this determination was incorrect, because the Appellant's income falls below 300% of the Federal Poverty Level, and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On January 31, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2018 - 2019, the Appellant was eligible for ConnectorCare Plans, and received APTC. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c) – (g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On January 31, 2020, the Appellant was found eligible for Health Connector Plans with no financial help for plan year 2020, based on having failed to file the required reconciliation. While Appellant had filed the return and reconciliation in October 2019, it had not been processed prior to the determination of the Health Connector.

The Appellant did upload the tax transcript the day before the hearing, but the prior determination of the Health Connector was correct. The final determination was correct for Appellant, based on information available to the Connector at that time. This process complied with federal law at 45 CFR § 155.335.

ORDER

The Connector determination was correct. The appeal is therefore denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during the tax year will be paid to you when you file your taxes.

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11356

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for subsidized insurance based on access to Medicare.

Hearing Date: April 2, 2020

Decision Date: April 22, 2020

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 29, 2020, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is or is enrolled in Medicare.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for Health Connector plans based on the Appellant's access to Medicare.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 10, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and his representative were sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

Exhibit 1: Health Connector's Hearing Affidavit (1 page)

- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated March 10, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (7 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (1page dated March 3, 2020)
- Exhibit 6: Notice of Eligibility Determination (11 pages, dated January 29,2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated January 29, 2020)
- Exhibit 7: Historical Notices & Printouts (9 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on January 29, 2020, based on being eligible for Medicare. (Exhibit 6, Appellant's testimony)
2. Appellant is enrolled in Medicare. (Exhibit 6, & Appellant's testimony)
3. Appellant testified that he currently has Medicare and MassHealth.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant testified that he needs help paying for his medications and co-pays.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including government sponsored health insurance such as Medicare. 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i).

When the Appellant's eligibility for 2020 coverage was determined on January 29, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that he was eligible for Medicare. Because the Appellant was eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM