

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113171

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, income

Hearing Date: February 3, 2021

Decision Date: April 15, 2021

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 18, 2020, the Appellants were determined eligible for Health Connector plans with no financial assistance.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellants were eligible for Health Connector plans with no financial assistance, based on the Appellant's reported and verified income.

HEARING RECORD

One of Appellants appeared at the hearing, which was held by telephone, on February 3, 2021. 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 (1-11-21) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (12-22-20) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (11-27-20) (6 pages);

- Exhibit 6: Eligibility Approval letter (11-18-20) (9 pages); and
Exhibit 7: Eligibility detail printout and application summary printout (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants applied for health insurance through the Health Connector in November 2020. (Testimony, Exhibit 7).
2. The Health Connector determined that Appellants were eligible for Health Connector plans with no financial assistance based on Appellant's income resulting in a Federal Poverty Level of 483%. (Exhibits 6, and 7).
3. Appellant indicated that there appeared to be an error in projecting Appellants' income. Appellant submitted a document that appeared to show income of approximately \$3,000.00 per month, but Appellant did not update the income information in the application prior to the hearing. (Testimony, Exhibit 5).
4. Appellant appealed. (Exhibit 5, Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellants were deemed eligible for Health Connector plans with no financial assistance based on income reported and verified from other sources. 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' income, in accordance with 45 CFR § 155.320(c). 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 consider the information not verified and issue a new eligibility determination.

In November 2020, the Appellants were determined eligible for Health Connector Plans with no financial assistance based on information in Appellant's application, but Appellant believed an error had been made in projecting annual income. Appellant provided a document showing income but had not updated the application prior to the hearing date. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellants were eligible for Health Connector plans with no financial assistance on November 18, 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

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113175

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, income

Hearing Date: February 3, 2021

Decision Date: April 15, 2021

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 October 28, 2020, the Appellants were determined eligible for Health Connector plans with Advance Premium Tax Credits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellants were eligible for Health Connector plans with Advance Premium Tax Credits, based on the Appellant's reported and verified income.

HEARING RECORD

One of Appellants appeared at the hearing, which was held by telephone, on February 3, 2021. 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 (1-11-21) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (12-22-20) (1 page);
- Exhibit 4: Outreach notes and email (3 pages);
- Exhibit 5: Hearing Request form (11-27-20) (6 pages);

Exhibit 6: Eligibility Approval letter (10-28-20) (10 pages); and
Exhibit 7: Eligibility detail printout and application summary printout (8 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants applied for health insurance through the Health Connector in October 2020. (Testimony, Exhibit 7).
2. The Health Connector determined that Appellants were eligible for Health Connector plans with Advance Premium Tax Credits based on Appellant's income resulting in a Federal Poverty Level of 305%. (Exhibits 6, and 7).
3. Appellant indicated that they had difficulty updating their income and that they had lost their subsidies. (Testimony, Exhibit 5).
4. Appellants appealed. (Exhibit 5, Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellants were deemed eligible for Health Connector plans with Advance Premium Tax Credits based on income reported and verified from other sources. 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' income, in accordance with 45 CFR § 155.320(c). 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 consider the information not verified and issue a new eligibility determination.

In October 2020, the Appellants were determined eligible for Health Connector Plans with Advance Premium Tax Credits based on information in Appellant's application. Appellant had attempted to submit information but could not do so, and Appellant believed an error had been made in projecting annual income. Appellant had not updated the application prior to the hearing date. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellants were eligible for Health Connector plans with Advance Premium Tax Credits on October 28, 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

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113336

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, income, APTC amount

Hearing Date: January 27, 2021

Decision Date: April 12, 2021

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 13, 2020, the Appellants were determined eligible for ConnectorCare Plan Type 3A, with Advance Premium Tax Credits and Massachusetts subsidy.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellants were eligible for ConnectorCare Plan Type 3A, based on the Appellants' reported and verified income.

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on January 27, 2021. The hearing was recorded. The record was left open for the Health Connector to provide information about Appellants previous application in January 2020. The hearing record consists of the Appellants' 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 (12-29-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (12-29-20) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (12-14-20) (6 pages);

- Exhibit 6: Eligibility Approval letters (11-10-20 and 11-13-20) (10 pages);
Exhibit 7: Eligibility detail printout and application summary printout (28 pages); and
Exhibit 8: Additional documents submitted pursuant to open record.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants applied for health insurance through the Health Connector in November 2020. (Testimony, Exhibit 7).
2. The Health Connector determined that Appellants were eligible for ConnectorCare Plan Type 3A based on Appellants' income resulting in a Federal Poverty Level of 215%. (Exhibits 6, and 7).
3. Appellants indicated that there was an error regarding the premium payments, and that the problem had been corrected by the time of the hearing (Appellant Testimony, Exhibit 5).
4. Appellant indicated at the hearing that Appellant also believed that the amount of the Advance Premium Tax Credit was in error, based on the fact the premiums had increased. (Appellant Testimony).
5. Appellant indicated that there had also been an issue in the January 2020 application (Testimony).
6. Appellant appealed. (Exhibit 5, Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellants were deemed eligible for ConnectorCare Plan Type 3A based on income reported and verified from other sources. 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' income, in accordance with 45 CFR § 155.320(c). 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 consider the information not verified and issue a new eligibility determination.

In November 2020, the Appellants were determined eligible for ConnectorCare Plan Type 3A based on information in Appellants' application, but Appellants believed that the premiums seemed too high. There was also a billing error that did get resolved prior to the hearing, and in any event, billing errors are addressed to customer service and are not an appealable issue. In any event, it appears that the determination made by the Health Connector that Appellants were eligible for ConnectorCare Plan Type A was correct.

The Health Connector correctly found that the Appellants were eligible for ConnectorCare Plan Type 3A on November 13, 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

NOTE: Members may select a different plan with different premiums within the plan type during open enrollment.

NOTE: If a member has access to affordable health insurance through an employer, then the member is not eligible for subsidized plans through the Health Connector.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13550

Appeal Decision: Appeal Denied

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

Hearing Date: April 12, 2021

Decision Date: April 28, 2021

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 December 14, 2020, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was 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

Appellant appeared at the hearing which was held by telephone, on April 12, 2021. Also present was Appellant's attorney.

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

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form, dated December 30, 2020 and Notice of Appearance of attorney
- Exhibit 2: Eligibility Summary and results dated December 14, 2020
- Exhibit 3: Outreach notes of Appeals Unit
- Exhibit 4: None

Exhibit 5: None

Exhibit 6: Correspondence from Health Connector and information for Medicare recipients, dated January 22, 2021, February 5, 2021 and March 17, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was determined ineligible for 2021 Health Connector plans on December 14, 2020, based on having access to Medicare or being enrolled in Medicare (Exhibit 2)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 2).
3. Appellant filed a Notice of Appeal on December 30, 2020 (Exhibit 1A and Testimony of Appellant).
4. Appellant was eligible for and enrolled in Medicare Part A (Exhibit 2 and Testimony of Appellant).
5. Appellant has serious medical issues and needs health insurance immediately to cover medical expenses not covered by Medicare Part A (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

When the Appellant's eligibility for 2020 coverage was determined on December 14, 2020, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. See Exhibits 1A, 2 and 3. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for benefits under Medicare Part A or enrolled under Part B of Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I). Because the Appellant was eligible for Medicare Part A, the Health Connector found that the Appellant was not eligible for Health Connector plans. 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.

ADDENDUM

The Health Connector provided Appellant and Appellant's attorney several options to get information regarding other insurance options available for people who are eligible for or covered by Medicare. Appellant may want to contact MassHealth (1800 841-2900), SHINE (1-800 243-4636) and Healthcare for All (877 910-2100) to get information.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113599

Appeal Decision: Appeal denied. The determination of the Connector is affirmed.

Hearing Issue: Whether the Connector correctly determined the appellant's ineligibility to purchase health insurance through the Connector because of Appellant's enrollment in or access to Medicare.

Hearing Date: March 5, 2021

Decision Date: April 1, 2021

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 December 22, 2020, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because the appellant had access to Medicare or was enrolled in Medicare.

ISSUE

Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Connector because the appellant was enrolled in or had access to Medicare.

HEARING RECORD

Appellant, a representative (Appellant's daughter), and an interpreter appeared at the hearing which was held by telephone on March 5, 2021. Appellant requested that Appellant's daughter represent him at the hearing. The procedures to be followed during the hearing were reviewed with the attendees who were then sworn in. Exhibits were also reviewed with Appellant and his representative, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant and his representative testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals file, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated February 5, 2021 for March 5, 2021 hearing addressed to Appellant in Spanish and in English

Exhibit 3: Connector Appeals Unit letter dated January 26, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Connector Appeals Unit Staff Notes dated January 26, 2021

Exhibit 3b: Connector Appeals Unit letter to Appellant dated January 26, 2021

- Exhibit 4: Hearing Request Form submitted by Appellant on January 14, 2021 with December 22, 2020 letter from Connector to Appellant (in Spanish)
- Exhibit 5: Connector letter dated December 22, 2020 to Appellant denying eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated December 22, 2020
- Exhibit 7: MassHealth Member Benefits print-out showing Appellant's past coverage

FINDINGS OF FACT

The record shows, and I so find:

1. On December 22, 2020 the appellant applied for insurance through the Connector. The Connector determined that the appellant was ineligible for coverage through the Connector (Exhibit 5 and 6, Testimony of Representative).
2. The Connector denied Appellant coverage because the appellant either had access to Medicare coverage or was enrolled in Medicare (Exhibit 5).
3. Appellant filed a request for an appeal of the Connector's determination on January 14, 2021 (Exhibit 4).
4. Appellant was enrolled in Medicare, Parts A and B, when the appellant applied for coverage through the Connector (Testimony of Representative, Exhibit 6).
5. Appellant wanted coverage through the Connector to help him cover the costs that are not covered by Medicare (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied for health insurance in December, 2020. The Connector determined that Appellant was ineligible to enroll in coverage through the Connector. When determining eligibility, the Connector found that the appellant was enrolled in or had access to Medicare. See Exhibits 4, 5, 6.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain help paying for health insurance through an advance premium tax credit, an individual, among other things, must not have access to other health insurance coverage which meets minimum essential coverage standards. See 45 Code of Federal Regulations Section 155.305(f)(1)(ii)(B) and 26 Code of Federal Regulations 1.36B-2(a)(2). The Social Security Act, Section 1882(d)(3)(A)(i) states: "It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title . . . a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX." In other words, the Social Security Act provides that anyone who is eligible for Part A Medicare coverage cannot be sold coverage through the Connector, since that coverage would duplicate Part A coverage. See also 42USC 1395(d)(3)(A)(i).

Appellant's representative testified that Appellant had Medicare coverage when the appellant applied to the Connector. I find this testimony to be credible. See also Exhibit 6.

The Connector correctly determined that Appellant was ineligible to obtain coverage through the Connector because Appellant was enrolled in Medicare. See The Social Security Act, Section 1882(d)(3)(A)(i) which provides that anyone who is eligible for Part A Medicare coverage cannot be sold coverage through the Connector since that coverage would duplicate Part A coverage.

This determination is affirmed.

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

Addendum: During the hearing, Appellant was given contact information for SHINE and Health Care for All. If Appellant has not done so already, he may want to contact SHINE at **1-800-243-4636** or Health Care for All at **617-350-7279** for advice about obtaining supplemental coverage.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113320

Appeal Decision: Appeal denied. The determination of the Connector is affirmed.

Hearing Issue:

Whether the Connector correctly determined the appellants' eligibility to enroll in a Health Connector plan without an advance premium tax credit.

Hearing Date: March 5, 2021

Decision Date: April 14, 2021

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 December 21, 2020, the Connector determined that the appellants were eligible to purchase a Health Connector plan without an advance premium tax credit based upon information supplied by the appellants to the Connector or upon the most current information from other income data sources.

HEARING RECORD

The appellants appeared at the hearing which was held by telephone on March 5, 2021. The procedures to be followed during the hearing were reviewed with the appellants who were then sworn in. Exhibits were reviewed with Appellants, marked as exhibits, and admitted in evidence with no objection from the appellants. Appellants testified.

The hearing record consists of the testimony of Appellants and the following documents which were admitted in evidence:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated February 5, 2021 for March 5, 2021 hearing addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated January 26, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated January 26, 2021
- Exhibit 3b: Email to Appellant from Connector Appeals Unit dated January 26, 2021
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on January 14, 2021 with December 21, 2020 Connector letter to Appellant attached
- Exhibit 5: Connector letter dated December 21, 2020 to Appellant regarding eligibility

- Exhibit 5a: Connector letter dated December 16, 2020 to Appellant requesting proof of income
Exhibit 6: Summary and results of Appellant's application for Connector health plan dated December 21, 2020
Exhibit 7: Appellant's paystubs dated November 22nd and December 6th, 2020
Exhibit 8: Connector print-out showing receipt and processing of documents (paystubs) with December 21, 2020 disposition

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants had ConnectorCare Type 3 coverage in 2020. The Connector notified the Appellants in a letter dated December 21, 2020 that they were eligible for a Health Connector plan without an advance premium tax credit in 2021. This determination was based upon information provided by the appellants on their application or upon the most current information the Connector could obtain from other income data sources (Exhibit 5 and Testimony of Appellant).
2. Shortly before the December 21st notification was sent, the Connector sent a request for proof of income to the appellants. This letter was dated December 16, 2020 and gave the appellants until March 16, 2021 to submit the proof (Exhibit 5a, Testimony of the Appellant).
3. On December 19, 2020, the appellants sent in proof of income for one of the appellants only. They submitted paystubs for 2 weeks showing on average earnings of \$800 a week (Exhibits 7 and 8).
4. According to the summary of the appellants' application dated December 21, 2020, the appellants projected an annual income of approximately \$85,000 which equaled 495% of the Federal Poverty Level for a tax household of two. One appellant reported income from employment of \$800 a week and other income for the year amounting to \$15,069. The other appellant attested to a weekly unemployment benefit of \$267 a week and other income for the year of \$15,069 (Exhibits 5 and 6).
5. Based upon the projected income, the appellants were determined to be eligible for a Health Connector plan without an advance premium tax credit (Exhibit 5).
6. Appellants submitted a request for an appeal of the Connector's determination on January 14, 2021. Appellants appealed the December 21, 2020 Connector determination because they felt their income determination was incorrect. Appellants stated that they had received a one-time payment as a result of a court case settlement of \$25,000 in 2019. In 2020, their income decreased because of a period of unemployment, and their income for 2021 was going to be even lower (Exhibit 4, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on December 21, 2020 that the appellants were eligible to purchase a Connector Health plan without an advance premium tax credit. See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan. Pursuant to 45 CFR 155.320 the Connector may verify information obtained from the applicant by checking with other data sources.

In this matter, the appellants updated their application for health insurance through the Connector, attesting that their projected income for 2021 was approximately \$85,000 a year. Besides receiving weekly amounts, both appellants attested to having additional yearly income slightly over \$15,000. Both listed the same exact amount. It is unclear from the record whether they were both receiving payments in the amount stated or whether they were to receive the \$15,069 jointly. It is also unclear whether the Connector used the amounts listed on the application or whether the Connector used the most current information available from other income data sources. See Exhibits 5 and 6. It is clear from the record that the appellants did not submit documents which would have verified both their incomes or all of their combined income when they were asked to do so. See Exhibit 5a, a letter sent to the appellants from the Connector asking for proof of income, and Exhibits 7 and 8.

Based upon the appellants' projected income of approximately \$85,000 which equaled 495% of the Federal Poverty Level, the Connector determined that the appellants were eligible for a Connector Health plan without an advance premium tax credit. The \$85,000 figure was either attested to by the appellants on their application for 2021 or was obtained by the Connector from other income data sources. The determination was correct at the time it was made. Those with incomes of over 400% of the Federal Poverty Level are not eligible for advanced premium tax credits. See 26 Code of Federal Regulations Section 1.36B (1) and (2), and 45 Code of Federal Regulations 155.305(a)(1 through 3), 305 (f)(2), and 320.

The determination of the Connector is, therefore, affirmed.

ORDER: The determination by the Connector regarding Appellants' eligibility to purchase a Health Connector plan without an advance premium tax credit 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.

Cc: Connector Appeals Unit

Hearing Officer

Addendum: Given the appellants' testimony, Appellants' projected income may have changed since December, 2020. Appellants may wish to contact Customer Service to report any change. A change in projected income may affect their eligibility for an advance premium tax credit.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13616

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for Health Connector plans based on access to Medicare

Hearing Date: March 22, 2021

Decision Date: April 9, 2021

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

By notice dated January 16, 2021, the appellant was advised that she did not qualify for health insurance through the Health Connector because she had access to or was enrolled in Medicare. (Ex. 2) The appellant filed an appeal which was received on January 26, 2021 based on income and “other” reasons. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 12)

ISSUE

Was the Connector’s decision regarding the appellant’s eligibility for Health Connector plans correct at the time of its determination on January 16, 2021, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 22, 2021, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector’s Eligibility Determination Results based on a program determination date of January 16, 2021 (3 pages)
- Ex. 2—Health Connector’s Notice of Eligibility Denial dated January 16, 2021 (6 pages)
- Ex. 3—Health Connector’s Review of Application (3 pages)
- Ex. 4—Medicaid Household Determination (5 pages)
- Ex. 5—MassHealth member information (1 page)

- Ex. 6—Online Appeal Form received on January 26, 2021 (6 pages)
- Ex. 7—Acknowledgement of Appeal dated February 4, 2021 (1 page)
- Ex. 8—Health Connector Eligibility Determination Results based on a program determination date of January 19, 2021 (2 pages)
- Ex. 9—Health Connector’s Review of Application (3 pages)
- Ex. 10—Health Connector email regarding Medicare dated February 4, 2021 (1 page)
- Ex. 11—Appeals Unit notes (2 pages)
- Ex. 12—Notice of Hearing (3 pages)
- Ex. 13—Affidavit of Connector representative (1page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 50-years-old and has a tax household size of one. (Testimony, Exs. 3,9)
2. The appellant is disabled and receives social security disability income. She has been enrolled in Medicare Part A and Part B since May, 2014. She was also enrolled in MassHealth Standard for several years until recently. (Testimony, Ex. 3)
3. The appellant got married in June, 2020, and after reporting the change to MassHealth, she was notified that she was no longer eligible for benefits. (Testimony)
4. By notice dated January 16, 2021, the Health Connector advised the appellant that she was not eligible for health insurance through the Health Connector because she had access to or was enrolled with Medicare. (Exs. 1,2)
5. The appellant appealed the Connector’s January 16th decision on January 26, 2021, and stated that she had filled out her 2020 application incorrectly. (Ex. 6)
6. By notice dated January 19, 2021, the Health Connector advised the appellant that she was determined eligible for Health Safety Net partial. (Ex. 8)

ANALYSIS AND CONCLUSIONS OF LAW

In general, an individual may purchase health insurance through the Health Connector if s/he satisfies 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. The rule prohibits health insurance issuers from selling insurance to Medicare-eligible individuals 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 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 provide (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 eligible criteria at 45 CFR § 155.305(a).

The appellant does not dispute that she has been enrolled in Medicare Part A and Part B since May, 2014. Based on that information, the Connector determined that she was not eligible for health insurance through the Health Connector. It appears that the appellant meant to appeal MassHealth’s determination regarding her eligibility for benefits and she was advised to contact that agency for assistance.

Based on the foregoing, it is concluded that the Connector’s determination on January 16, 2021 regarding the appellant’s eligibility for health insurance through the Health Connector based on access to Medicare was correct.

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13618

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for Health Connector plans based on access to Medicare

Hearing Date: March 22, 2021

Decision Date: April 13, 2021

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

By notice dated January 12, 2021, the appellant was advised that she did not qualify for health insurance through the Health Connector because she had access to or was enrolled in Medicare. (Ex. 2) The appellant filed an appeal dated February 2, 2021 based on access to other insurance. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 12)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector plans correct at the time of its determination on January 12, 2021, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 22, 2021, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results based on a program determination date of January 12, 2021 (2 pages)
- Ex. 2—Health Connector's Notice of Eligibility Denial dated January 12, 2021 (6 pages)
- Ex. 3—Health Connector's Review of Application (3 pages)
- Ex. 4—Medicaid Household Determination (5 pages)
- Ex. 5—MassHealth member information (1 page)

- Ex. 6—Hearing Request Form dated February 2, 2021 (6 pages)
- Ex. 7—Acknowledgement of Appeal dated February 4, 2021 (1 page)
- Ex. 8—Health Connector Eligibility Determination Results based on a program determination date of January 26, 2021 (2 pages)
- Ex. 9—Health Connector’s Review of Application (3 pages)
- Ex. 10—Health Connector email regarding Medicare dated February 4, 2021 (1 page)
- Ex. 11—Appeals Unit notes (2 pages)
- Ex. 12—Notice of Hearing (3 pages)
- Ex. 13—Affidavit of Connector representative (1page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 54-years-old and has a tax household size of one. (Testimony, Exs. 3,9)
2. The appellant received social security disability income from 2011 until 2017 when she was able to return to work. She was enrolled in Medicare Part A and Part B beginning in 2011. In 2017, she contacted Medicare and advised them that she intended to go back to work and wanted to be disenrolled. She was told that she could remain enrolled in Part A and still obtain employer health insurance, and she agreed to remain in that status. It took almost two years for Medicare to disenroll her from Part B and she continued to pay premiums even though she was enrolled and paying for employer health insurance at the same time. (Testimony, Exs. 4,5)
3. The appellant was enrolled in employer health insurance until December 6, 2020, when she was laid off from her position. She declined to continue the insurance through COBRA because the premium was too high, and applied for insurance through the Health Connector. (Testimony)
4. By notice dated January 12, 2021, the Health Connector advised the appellant that she was not eligible for health insurance through the Health Connector because she had access to or was enrolled with Medicare. (Exs. 1,2)
5. The appellant appealed the Connector’s January 12th decision on February 2, 2021, and stated in part that she only has access to Medicare Part A, and is not eligible for Part B or Part D. (Ex. 6)
6. By notice dated January 26, 2021, the Health Connector advised the appellant that she was determined eligible for Health Safety Net partial. (Ex. 8)
7. The appellant intends to return to work as soon as possible and hopes to obtain employer health insurance. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

In general, an individual may purchase health insurance through the Health Connector if s/he satisfies 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. The rule prohibits health insurance issuers from selling insurance to Medicare-eligible individuals 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 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 provide (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 eligible criteria at 45 CFR § 155.305(a).

The appellant does not dispute that she was enrolled in Medicare Part A and Part B from 2011 until 2017, when she decided to return to work and terminate her social security disability benefits. She advised Medicare of her decision and requested that she be disenrolled from Part A and Part B. She was eventually removed from Part B, but was told that she could remain enrolled in Part A and still obtain employer health insurance. She agreed, and was enrolled in employer health insurance until she was laid off from her job in December, 2020. She could not afford the COBRA premium, and applied for insurance through the Health Connector. Her application was denied based on her continuing enrollment in Part A.

It is unfortunate that the appellant’s Part A enrollment blocks her eligibility for Connector insurance, particularly since she relied on Medicare’s advice to remain enrolled to her detriment. She was advised to contact Medicare and request that she be removed from Part A as soon as possible.

Based on the foregoing, it is concluded that the Connector’s determination on January 12, 2021 regarding the appellant’s eligibility for health insurance through the Health Connector based on access to Medicare was correct.

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13658

Appeal Decision: Appeal Denied

Hearing Issue: Denial of a Request for a Premium Waiver or Reduction.

Hearing Date: March 26,2021

Decision Date: April 1, 2021

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 October 22, 2020, the Appellant was determined eligible for Health Connector plans with Advance Premium Tax Credits (APTC).

On December 23, the Health Connector denied the Appellant's request for a Waiver or Reduction of the Appellant's monthly premium contribution.

ISSUES:

The first issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant's financial eligibility for ConnectorCare based on the Appellant's reported income.

The second issue addressed on this appeal is whether the Health Connector correctly determined that Appellant did not demonstrate eligibility for a Premium Waiver or Reduction due to extreme financial hardship.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 26, 2021. 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.

- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated March 1, 2021.
Exhibit 3: Health Connector Appeals Unit Outreach Notes.
Exhibit 4: Customer Service Oracle Printout
Exhibit 5: Health Connector Hardship Waiver Denial Notice dated December 23, 2020.
Exhibit 6: 2021 Eligibility Results with an Application Summary dated October 22, 2020.
Exhibit 7: The Appellant's Hearing Request Form, with attachments dated January 22, 2021.
Exhibit 8: A copy of the Appellant's Application for a Premium Waiver or Reduction dated December 18, 2020.
Exhibit 9: 2021 Eligibility Results with an Application Summary dated January 15, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was enrolled in ConnectorCare during the period of 02/01/20- 09/30/20 (Exhibit 3).
2. The Appellant's Application was updated on October 22, 2020. The Appellant reported income from two employers. Health Connector determined the Appellant's income equal to 377.72% of the federal poverty level for the Appellant's reported household of one. The Appellant was determined eligible for Health Connector Plans effective January 1, 2021 (Exhibit 6).
3. The Appellant did not file an appeal to dispute this determination.
4. The Appellant submitted an application for a Waiver or Reduction of their monthly health care premium on December 18, 2020 (Exhibit 8).
5. The Health Connector denied the Appellant's application for a Premium Waiver or Reduction on December 18, 2020 because the Appellant was determined ineligible for ConnectorCare (Exhibits 5, 6).
6. The Appellant filed an Appeal of the Premium Waiver or Reduction denial on January 2, 2021. The Appellant reported that they have four children (Exhibit 7).
7. The Appellant updated their Application on January 15, 2021. The Appellant maintained their status as a household of one. The Appellant was found eligible for Health Connector Plans with APTC of \$211 (Exhibit 9).
8. The Appellant testified that they help take care of their children and grandchildren and cannot afford to pay a health insurance premium. The Appellant did not dispute that they applied for health insurance as a household of one (Exhibits 6, 9).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was receiving ConnectorCare in September 2020 for their reported household of one. On October 22, 2020, the Appellant's application was updated. The Appellant reported income from two employers. Health Connector determined the Appellant had income equal to 377.72% of the federal poverty level. The Appellant

was determined eligible for Health Connector Plans without subsidies. The Appellant did not appeal this determination within thirty days. 956 CMR 12.13(2).

The Appellant applied for a Premium Waiver due to hardship on December 23, 2020. Under 956 CMR 12.11(5), individuals who are eligible for ConnectorCare and who experience extreme financial hardship may be eligible to have their premium payment waived or reduced. Health Connector correctly denied the Appellant's application for a Premium Waiver on December 23, 2020 because the Appellant was not eligible for or receiving ConnectorCare.

The Appellant's application was updated on January 15, 2021. The Appellant was still reporting being a household of one with income from two employers. 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. On January 15, 2021, the Appellant was determined eligible for Health Connector Plans with APTC of \$211 based on income of \$377.72% for the Appellant's household of one. Since the Appellant's income was greater than 300% of the federal poverty level, Health Connector correctly determined the Appellant ineligible for ConnectorCare.

ORDER

This 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.

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded that they may update their application to report changes in household composition and income at any time.

The Appellant may contact Customer Service at 1-877-623-6765 for assistance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13721

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare, based on tax filing status.

Hearing Date: March 26, 2021

Decision Date: April 1, 2021

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 applied for subsidized health insurance on December 31, 2020. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant's tax filing status information reported on the application.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 26, 2020. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated March 1, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Approval Notice dated December 31, 2020.
- Exhibit 5: 2020 Results with an Application Summary dated December 31, 2020.
- Exhibit 6: The Appellant's Hearing Request Form dated January 31, 2021.
- Exhibit 7: A Married Filing Separately detail page from the Appellant's Application.
- Exhibit 8: Form 1095-A for Filing 2018 Taxes with a letter of instruction issued by the Health Connector on January 16, 2019.

Exhibit 9: A Medicaid Household Determination Printout.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 54 lives with two children ages 24 and 9 and a niece/nephew age 14. The Appellant applied for health insurance for the Appellant and her two children. The Appellant did not apply for coverage for the niece/nephew (Exhibit 5).
2. The Appellant is employed by two employers and reported projected income of \$44,000. The Appellant's oldest child is employed and reported projected income of \$24,000. Health Connector determined the household income to be equal to 371.44% of the federal poverty level (Exhibits 4, 5).
3. The Appellant noted on their application that they were married and would not file a joint income tax return with their Spouse in tax year 2020 or 2021 (Exhibits 5, 7, 9).
4. On March 31, 2020, the Health Connector determined that the Appellant was eligible for Health Connector plans without subsidies, because the Appellant stated they were married but would not file a joint income tax return with their spouse (Exhibits 4, 5, 7).
5. There is no evidence in this administrative record to indicate that the Appellant alleged spousal abuse or abandonment on their Application (Exhibits 5, 7, 9).
6. The Appellant filed an appeal on January 31, 2021 (Exhibit 6).
7. The Appellant testified that they have not lived with their spouse for many years and do not have any information regarding their spouse's finances. The Appellant said that it was not possible to file a joint income tax return under these circumstances. The Appellant indicated that they did not file a tax return to reconcile tax credits received in tax year 2018. The Appellant was unsure if they received the form and letter issued by the Health Connector on January 16, 2019. The Appellant said that it costs money to file a tax return (Exhibit 8 and Appellant Testimony).
8. The Appellant also testified that their situation has changed since they filed the Application in December. The Appellant said that they were divorced in February 2021 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance on December 31, 2020 for themselves and two children ages 24 and 9. The Appellant and their oldest child are employed. Health Connector verified that the household had projected income equal to 371.44% of the federal poverty level. The Appellant reported on their application that they were married but they did not plan to file a joint income tax return for tax year 2021. Evidence in the record indicates that the Appellant received tax credits in tax year 2018. The Appellant acknowledges that they did not file a 2019 tax return to reconcile past tax credits. 45 CFR § 155.305(f)(4).

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households 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 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 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 taxes as head of household.

The Appellant stated on her application that she is married and does not intend to file a joint tax return. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC despite having income less than 400% of the federal poverty level. The Appellant did not request an exemption on their application. At the hearing, the Appellant testified that they had not lived with their spouse for several years. The Appellant also testified that they obtained a divorce in February 2021. The Appellant was advised to contact Health Connector Customer Service as soon as possible to report the change in marital status. The Appellant was also advised to review their household income and report any changes.

Based on the Appellant’s marital status at the time of application and the fact that the Appellant reported they would not file a joint income tax return and did not claim an exemption, the Health Connector correctly found that the Appellant was eligible for Health Connector plans with no financial assistance.

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.

Cc: Connector Appeals Unit

ADDENDUM

The Appellant may contact Health Connector Customer Service at 1-877-623-6765 to report the change in marital status. The Appellant may also report any changes in household income.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13858

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for subsidized health insurance, based on income

Hearing Date: April 12, 2021

Decision Date: April 27, 2021

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 20, 2021, Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credit.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plans with Advance Premium Tax Credit, based on Appellant's income.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 12, 2021. The hearing record consists of the Testimony of Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form dated February 17, 2021
- Exhibit 2: Eligibility results and Summary dated January 20, 2021
- Exhibit 3: Appeals Unit outreach notes
- Exhibit 4: None
- Exhibit 5: Recent Eligibility Results and Summary
- Exhibit 6: Correspondence from Health Connector dated March 17, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was insured by a Connector Care Plan in 2019 and 2020 (Exhibit 1 and Testimony of Appellant).
2. Appellant applied for 2021 coverage in January 2021 (Exhibit 3)
3. On January 20, 2021, Appellant was found to have a Federal Poverty Level of 336.18% and was found eligible for Health Connector Plans with Advance Premium Tax Credit of \$146.00 (Exhibit 2).
4. Appellant's income had increased a small amount since 2020, but the premium for the new plan had increased substantially (Exhibit 2 and Testimony of Appellant).
5. At the time of the hearing, Appellant had been notified that due to the American Rescue Plan, the Advance Premium Tax Credit would be increased (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).

On January 20, 2021, Appellant applied for 2021 coverage and was found to have a Federal Poverty Level of 336.18% and was found eligible for Health Connector Plans with Advance Premium Tax Credit of \$146.00. This was the correct determination for a single person with Appellant's income at the time the determination was made on January 20, 2021.

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

Shortly before the hearing, Appellant was notified that Appellant would be eligible for a higher amount of Advance Premium Tax Credit, based upon HR1319 American Rescue Plan Act of 2021, which became law after Appellant's application.

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: March 24, 2021

Decision Date: April 2, 2021

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

Appellant was notified by the Health Connector on January 7, 2021 that he was not eligible for subsidies to purchase health insurance because he was eligible for Medicare.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidies.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 24, 2021.

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

- Exhibit 1: Appeals Request On-line Form (received 2/7/21) (1 page)
- Exhibit 2: Appeal Request Form (received 2/17/21) (4 pages)

- Exhibit 3: Health Connector Record Affidavit (1 page)
- Exhibit 4: Denial notice (1/7/21) (2 pages)
- Exhibit 5: Screen Shot of Application Summary (1/7/21) (5 pages)
- Exhibit 6: Screen Shot of Eligibility Summary (1/7/21) (2 pages)
- Exhibit 7: Email from Appeals Unit to Appellant (2/23/21) (2 pages)
- Exhibit 8: Screen shot of Medicaid eligibility (2 pages)
- Exhibit 9: Appeals Unit Database notes (1 page)
- Exhibit 10: Hearing Notice (2/23/21) (3 pages)
- Exhibit 11: Acknowledgement of Appeal (2 pages)

FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a 67-year-old man living in Middlesex County.
2. Appellant was working full-time until January of 2021. During that time, he received health insurance through his employer.
3. In anticipation of ending his insurance through his employment, Appellant applied to receive Medicare Part B, the part of Medicare that covers outpatient services.
4. Appellant had turned 65 in 2019 and at that point obtained Medicare Part A, which covers inpatient services.
5. When Appellant signed up for Medicare Part B, he was told that his coverage would start on July 1.
6. At that point, Appellant applied for Connector Care, which is subsidized health insurance administered by the Health Connector. He hoped that he could obtain Connector Care until July 1, when his Medicare Part B became effective.
7. Appellant was denied eligibility for Connector Care because he is eligible for Medicare. Exhibit 4.
8. Appellant was notified of that denial by notice dated February 1, 2021. Exhibit 4.
9. He filed a timely appeal of that notice. Exhibits 1,2.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was ineligible for subsidies to purchase insurance because he was eligible for Medicare.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). In addition to the APTCs, which are federal subsidies, the Health Connector determines eligibility for state subsidies. These subsidies are provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs. 956 CMR § 12.04.

The eligibility criteria for APTCs are established by federal law. I.R.C. § 36B. That federal statute provides that an individual is not eligible for premium tax credits if that individual is eligible for “minimum essential coverage.” Id. § 36B(c)(2)(b). In turn, “minimum essential coverage” means coverage through certain designated programs, specifically including Medicare. I.R.C. § 5000A(f)(1)(A). Thus, an individual who is eligible for Medicare is *not* eligible under federal law for premium tax credits and accordingly is not eligible under state regulation for Connector Care. Indeed, it is unlawful for any entity to provide a health insurance plan to anyone who is entitled to benefits under Medicare Part A. 42 U.S.C. § 1395ss(d)(3)(a)(i).

In this case, Appellant was eligible for and entitled to Medicare and was in fact receiving Medicare Part A at the time that he applied for Connector Care. Consequently, he was not eligible for APTCs under federal law; further, because he was not eligible for APTCs, he was not eligible for Connector Care.

Accordingly, I conclude that the Health Connector correctly determined that Appellant was not eligible for Connector Care and I deny the appeal.

Appellant is urged to contact SHINE, which is a federally-funded organization that can provide counseling to persons with regard to Medicare eligibility and enrollment, to see if he can obtain Medicare Part B earlier than July 1. The contact information for SHINE is 800-243-4636.

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113584

Appeal Decision: Appeal denied. The determination of the Connector is affirmed.

Hearing Issue:

Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector without an advance premium tax credit.

Hearing Date: March 19, 2021

Decision Date: April 27, 2021

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 December 17, 2020, the Connector determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit based upon information supplied by the appellant to the Connector.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit.

HEARING RECORD

The appellant's representative appeared at the hearing which was held by telephone on March 19, 2021. The appellant was not present. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were reviewed with the representative, marked as exhibits, and admitted in evidence with no objection from the representative. Representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated February 23, 2021 addressed to Appellant for March 19, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated February 2, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated February 2, 2021
- Exhibit 3b: Email to Appellant from the Connector Appeals Unit undated with MassHealth application attached
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on January 13, 2021
- Exhibit 5: Connector letter dated December 17, 2020 to Appellant regarding eligibility approval for Connector Health Plan with no financial assistance
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated January 13,

2021

Exhibit 7: Medicaid household determination print-out regarding Appellant

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had ConnectorCare Type 1 coverage in 2020 (Testimony of Representative, Exhibit 3a).
2. On December 17, 2020, the Connector determined that the appellant would not be eligible for ConnectorCare coverage in 2021. The Connector found that the appellant would be eligible for a Health Connector plan without an advance premium tax credit because the appellant's income was too high or too low, because of the appellant's tax filer status, because of the appellant's access to other health insurance or to MassHealth (Testimony of Representative, Exhibit 5).
3. Appellant submitted a request for an appeal of the Connector's determination on January 13, 2021 (Exhibit 4).
4. The appellant had been asked to provide proof of income to the Connector. Appellant sent the Connector her 2019 tax return which showed that Appellant had an income of \$4,751 a year. Appellant's only income has been and is a pension of that amount. Appellant's pension is paid by her ex-employer in Appellant's country of origin. Appellant, who is over 65 years old, only worked in her country of origin which she left in 2015 in order to move to Massachusetts. Appellant has a permanent resident card (Testimony of Representative, Exhibit 6).
5. In addition to providing her 2019 Federal tax return to the Connector, the appellant attested to a projected annual income of \$4,751 on her application for health insurance through the Connector. Appellant's annual income of \$4,751 equals 37% of the Federal Poverty Level (Testimony of Representative, Exhibit 6)

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on December 17, 2020 that the appellant was eligible to purchase a Connector Health plan without an advance premium tax credit. See Exhibits 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to less than 100% or more than 400% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan. but without an advance premium tax credit. An exception may be made for an individual who is a qualified alien who has been in the United States

less than five years. Since such an individual is barred from receiving MassHealth benefits, the Connector may provide ConnectorCare Type I benefits to the legally present individual. See 8 U. S. C. 1613, 42 CFR 435.406(a) and (b), and 956 CMR 12.00 et. seq.

In this matter, the appellant was found to be eligible for a Health Connector plan without an advance premium tax credit. According to the notice sent to the appellant and dated December 17, 2020, Appellant was not eligible for a tax credit because Appellant had income that was too high or too low, had access to health insurance through another source which met minimum essential coverage standards, or had attested that she did not intend to file a tax return or had failed to reconcile earlier tax returns. See Exhibit 5.

Appellant attested on her application that she had no access to other insurance, and that she intended to file taxes. She also attested to a projected income of \$4,751 for 2021 which equals 37%% of the Federal Poverty Level. Appellant is over 65 and her sole source of support is a pension which she receives from an employer in her country of origin. Appellant also submitted proof of income, her 2019 Federal tax return to the Connector showing the same income. See Exhibits 4, 5, and 6 and the testimony of the representative which I find to be credible.

Based upon the projected income that the appellant attested to on her application for 2021 coverage, the Connector correctly determined the appellant's eligibility for a Connector Health plan without an advance premium tax credit. As noted above, if an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. If the projected income is less than 100%, the individual is not eligible for a tax credit, though the applicant may purchase a Connector Health plan. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit.

Appellant's projected income, equaling less than 100% of the Federal Poverty Level, was too low for her to be eligible for a tax credit. See Exhibit 6 and the testimony of the appellant's representative which I find to be credible. See also 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. In this matter, Appellant had been eligible for ConnectorCare, Type I until her immigration status changed. Once Appellant was legally present for five years, her eligibility for MassHealth changed and she was no longer eligible for ConnectorCare coverage. See cites above.

The Connector's determination is affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan without an advance premium tax credit 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.

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113585

Appeal Decision: Appeal denied. The determination of the Connector is affirmed.

Hearing Issue:

Whether the Connector correctly determined the appellants' eligibility to enroll in a Health Connector plan with an advance premium tax credit.

Hearing Date: March 19, 2021

Decision Date: April 28, 2021

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 4, 2021, the Connector determined that the appellants were eligible to enroll in a Health Connector Health plan with an advance premium tax credit for 2021 based upon information supplied by the appellants to the Connector.

ISSUE

Whether the Connector correctly determined that the appellants were eligible to enroll in a Health Connector plan with an advance premium tax credit in 2021.

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on March 19, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated February 23, 2021 for March 19, 2021 hearing addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated February 2, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated February 2, 2021

Exhibit 4: Hearing Request Form from Appellant received by the Connector on January 13, 2021

Exhibit 5: Connector letter dated January 4, 2021 to Appellant regarding eligibility for Connector Health plan with advance premium tax credit

Exhibit 6: Summary and results of Appellants' application for Connector health plan dated January 4, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, a couple and their adult child who was a tax dependent, had ConnectorCare Type 3 coverage in 2020 (Exhibit 3a, Testimony of Appellant).
2. Appellants provided the Connector with their 2019 tax return as proof of income for 2021 coverage. According to the return, one of the appellants earned \$29,898 during 2019, and another earned \$35,460. The appellants also attested to this amount on their application (Testimony of Appellant and Exhibit 6).
3. The appellants' projected income for 2021 of \$65,358 equaled 300.91% of the Federal Poverty Level. Based upon this, the Connector determined on January 4, 2021 that the appellants were no longer eligible for ConnectorCare coverage. Instead, for 2021, the appellants were eligible for Connector Health plans with advance premium tax credits (Testimony of Appellant, Exhibits 5 and 6).
4. In 2020, the appellants' income decreased. One of the appellants ran her own business which she had to close down because of the pandemic from late March through August. Appellant incorrectly attested to a higher income on her Connector 2021 application (Testimony of Appellant).
5. On January 13, 2021, Appellant submitted a request for an appeal of the Connector's January 4, 2021 determination (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on January 4, 2021 that the appellants were eligible to enroll in a Connector Health plan with advance premium tax credits in 2021. See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the Connector determined that the appellants were eligible for health insurance with an advance premium tax credit after they attested that their projected income for 2021 would be \$65,358. The determination was based upon this projected income which equaled 300.91%% of the Federal Poverty Level and the size of the tax household. See Exhibits 5 and 6, and the testimony of the appellant which I find to be credible.

Based upon the self-attestation by the appellants of their projected annual income and their 2019 Federal tax return which they submitted to the Connector as proof of income, the Connector correctly determined the appellants' eligibility for a Connector Health plans with an advance premium tax credit. As noted above, if individuals are otherwise eligible to purchase health insurance through the Connector and if the individuals have an income which is between 100% and 400% of the Federal Poverty level, the individuals are eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. If the projected income is between 100% and 300% of the Federal Poverty Level, the individuals may be eligible for a ConnectorCare plan if they meet other eligibility requirements. The plan type is dependent upon the individuals' projected income level and size of the tax household. See 956 CMR 12.00 et. seq.

The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellants' eligibility to enroll in a Connector Health plan with an advance premium tax credit 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.

Cc: Connector Appeals Unit

Hearing Officer

Addendum: Appellant testified during the hearing that the household income had decreased. If the appellant has not already done so, Appellant may wish to contact Customer Service at the Connector in order to attest to the lower income.