

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-15717

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Eligibility for ConnectorCare based on access to other affordable insurance.

**Hearing Date:** February 22, 2022

**Decision Date:** March 1, 2022

---

### 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 16, 2021, a member of the Appellant's household was determined eligible for Health Connector plans without subsidies. The reason the Appellant's child was denied subsidies is because the Appellant's application indicated that this household member had access to other affordable health insurance.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant's child was not eligible for subsidies, based on the child's reported access to other insurance.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 22, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. 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 January 24, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Approval Notice dated December 16, 2021.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated December 16, 2022.
- Exhibit 6: Medicaid Household Determination Printout dated December 16, 2022.
- Exhibit 7: Appellant's Online Appeal Request dated January 12, 2022.

Exhibit 8: Health Connector Appeals Unit Outreach Email dated January 18, 2022.  
Exhibit 9: Health Connector Access to ESI printout.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied for subsidized health insurance for themselves, their spouse and one child on December 16, 2021. The Appellant reported income equal to 165.28% of the federal poverty level (Exhibit 5).
2. The Appellant had reported that their child had access to other health insurance, Wellfleet Cigna PPO (Exhibits 5, 9).
3. On December 16, 2021 the Appellant and their spouse were determined eligible for ConnectorCare 2B. The Appellant's child was determined eligible for Health Connector plans with no financial assistance based on the Appellant's having reported that this dependent had access to other health insurance (Exhibits 3, 4, 9).
4. The Appellant filed an appeal on January 12, 2022 (Exhibit 7).
5. On January 18, 2022 Health Connector Appeals Unit staff sent an Email to the Appellant advising them to update their application if their child no longer has access to other health insurance (Exhibit 8).
6. The Appellant testified that their child used to have health insurance through the college they attend but this insurance was cancelled. As of the date of the hearing, the Appellant had not updated their application (Appellant Testimony).

### **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant applied for ConnectorCare for themselves, their spouse, and their child, age 20. The Appellant reported income equal to 165.28% of the federal poverty level. The Appellant had also reported that their child had access to other affordable health insurance through Wellfleet Cigna PPO. The Appellant and their spouse were determined eligible for ConnectorCare. The Appellant's child was determined eligible for Health Connector Plans with no financial assistance based on their having access to other insurance. The Appellant filed an appeal to dispute the determination of eligibility for their child.

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

The Appellant testified that their child used to have health insurance through the college they attend but is no longer enrolled in that insurance. As of the date of the Hearing, the Appellant had not updated their application

to report that their child does not have access to other insurance. The Appellant was advised to update their application and was given the contact information for Health Connector Customer Service.

Based on the information available to the Health Connector on December 16, 2021, the Health Connector correctly determined that the Appellant's child was not eligible for ConnectorCare because of their reported access to other affordable health insurance that met Massachusetts standards. 45 CFR § 155.305(f)(1)(ii)(B).

**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 may contact Health Connector Customer Service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-15983

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit

**Hearing Date:** March 24, 2022

**Decision Date:** April 11, 2022

---

### 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 February 15, 2022, the appellant was advised that she was eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$256.00/month beginning on March 1, 2022. (Exs. 1,3) The appellant filed an appeal dated February 16, 2022, based on income. (Ex. 5) The matter was referred to a hearing after receipt of the appeal. (Ex. 13)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with APTC on February 15, 2022, correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 24, 2022, 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 showing a program determination for February 15, 2022 (2 pages)
- Ex. 2-- Health Connector's Review of Application (3 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated February 15, 2022 (8 pages)
- Ex. 4—Medicaid Household Determination Document (5 pages)
- Ex. 5—Online Appeal Form dated February 16, 2022 (6 pages)

- Ex. 6—Acknowledgment of Appeal dated February 17, 2022 (1 page)
- Ex. 7—Health Connector’s Eligibility Determination Results based on a program determination date of October 23, 2021 (2 pages) <sup>1</sup>
- Ex. 8—Health Connector’s Review of Application (3 pages)
- Ex. 9—My Workspace results (1 page)
- Ex. 10—Income Detail document (3 pages)
- Ex. 11—Social Security letter dated February 15, 2022 (1 page)
- Ex. 12-- Appeals Unit case notes (1 page)
- Ex.13—Notice of Hearing (3 pages)
- Ex. 14—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 64 years-old and has a tax household size of one. (Testimony, Exs. 2,8)
2. The appellant enrolled in a ConnectorCare plan in July, 2021, for which she paid \$35.00/month. By notice dated October 23, 2021, the appellant was determined eligible for ConnectorCare Plan Type 3A with an APTC of \$615.00/month based on having an income and household size equivalent to 240.68% of the Federal Poverty Level (FPL), effective January 1, 2022. On the application on which the determination was based, the appellant attested to a projected yearly income of \$31,000.00. (Testimony, Ex. 8)
3. By notice dated February 15, 2022, the appellant was determined eligible for Health Connector Plans with an APTC of \$256.00/month based on having an income and household size equivalent to 496.11% of the FPL, effective March 1, 2022. On the application on which the determination was based, the appellant attested to a projected yearly income of \$49,584.00. The Connector verified her projected income to be \$63,889.52. (Testimony, Exs. 1,2,3,10)
4. The Connector’s verified income for the February 15, 2022, determination listed the following sources: \$1208.00 twice/month from employment; \$420.66/month from a pension; and \$2488.30/month from Social Security. The appellant works as a per diem employee for a hospital and earns \$1224.00/month, not \$1208.00/twice per month as calculated by the Connector. At most, the appellant works two shifts per month. She submitted pay stubs from 2021 to the Connector in which her income from her per diem employment was higher than what she currently earns. (Testimony, Exs. 9,10,11)
5. The appellant appealed the Connector’s February 15, 2022, determination on February 16, 2022, based on income. In her appeal, she stated in part that her income was not calculated correctly and that she earns a maximum of \$1224.00/month from her per diem employment. (Testimony, Ex. 5)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant’s behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive

---

<sup>1</sup> Exs.7 and 8 were inadvertently omitted from the Hearing Record Sheet and were added after the hearing.

APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

The appellant disputes the projected income calculated by the Connector for the February 15, 2022 eligibility determination. The appellant maintains that the error is based on a miscalculation of her per diem employment which was higher in 2021 than what she currently earns. It is unclear based on the evidence in the record if the increase in income is attributable to a miscalculation on the Connector's part or a higher per diem income earned in 2021. The appellant was advised to update her application with current income information or contact customer service for assistance at 1-877-623-6765.

Based on the totality of the evidence, it is concluded that the Connector's determination on February 15, 2022, regarding the appellant's eligibility for Health Connector Plans with APTC was correct, and is therefore 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 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: ACA 22-15935

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit

**Hearing Date:** March 21, 2022

**Decision Date:** April 25, 2022

---

### 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 December 10, 2021, the Appellant was advised determined eligible for ConnectorCare without subsidies for the plan year 2022. The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.9)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan without subsidies for 2022, based on the income used in the Health Connector's process. The Appellant's income was too low for eligibility for Connectorcare subsidies.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 21, 2022, and testified under oath. The Appellant testified at the hearing. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Appellant's Appeal Request Form	(6 pages, received 2/8/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated 2/16/ 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 page, dated 2/22/ 2022)
Exhibit 5:	Health Connector Eligibility Results	( 1 page, dated 1/14/ 2021)

Exhibit 6:	Health Connector's Summary	(3 pages, dated	1/14/2022)
Exhibit 7	Health Connector's Eligibility Denial (Husband)	(8 pages, dated	12/10/2021)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated	2/8/ 2022)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	1/14/ 2022)
Exhibit 10:	Email from the Connector re proof of income	(1 page, dated	2/16/2022)
Exhibit 11	Health Connector's Eligibility Approval	(8 pages, dated	12/10/2021)
Exhibit 12:	Virtual Gateway my workspace	(1 page, dated	3/16/2022)
Exhibit 13:	Appellant's Paystubs and 2020 Tax Return Profit and Loss Statement	(8 pages, dated	2/16/2022)
Exhibit 14:	Appellant's Proof of Residency	(10 pages, dated	5/5/2021)
Exhibit 15:	Health Connector Eligibility Results	(1 page, dated	7/13/ 2021)
Exhibit 16:	Health Connector's Summary	(3 pages, dated	7/13/2021)
Exhibit 17:	Appellant's Statement in Support of Appeal	(3 pages, dated	1/26/2022)
Exhibit 17:	Connector's Email requesting income verification	(1 page, dated	2/16/2022)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is individual who plans to file a federal income tax return for tax year 2021. (Exhibits. 1 and 9)
2. The appellant had been enrolled with health insurance through the Connectorcare in 2021. (Testimony, Ex. 9, 15, 16).
3. The appellant testified that she was eligible for Connectcare in 2021 despite having a low income and had also received unemployment. (Appellant's Testimony).
4. The appellant testified she had been sending in all requested documents for income verification and continued to receive the same letters from the Connectorcare without a reason why her documentation was not sufficient. (Appellant's Testimony, Exhibits 11-14).
5. The Appellant was sent a notice on December 10, 2021, that she was eligible only for Connectorcare without financial help. This notice stated that the Health Connector's determination was based on an income equivalent to 59.63 % of the Federal Poverty Level. The notice instructed the reason she did qualify was because her income was too low. The notice also instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibits 1,11).
6. The Appellant testified she was self-employed in a seasonal business and also worked part time. (Appellant's testimony).
7. The Appellant was notified via email on February 16, 2022, that she needed to submit proof of income that the proof of income the appellant had been sending in since May 2021 was unacceptable including Schedule C. (Exhibit 17).
8. The Appellant was encouraged at the hearing to contact MassHealth and provide MassHealth all requested documents for income verification and update her income if it had changed.



## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans without subsidies, after originally being eligible for ConnectorCare Plan Type 2, based on the Appellant's reported change in income. The Appellant asserts that this determination was incorrect because the Appellant cannot afford to purchase an unsubsidized Health Connector plan. The Appellant was found eligible for ConnectorCare without subsidies for 2022 based on the Health Connector's determination that used an income and family size equivalent to 59.63% of the Federal Poverty Level. The Appellant asserts that this determination was incorrect because the Appellant received ConnectorCare Plan 2 with subsidies in 2021 which stopped in January 2022 and her income warrants continued subsidies, and the Appellant should therefore have remained eligible for ConnectorCare Plan Type 2, as she was in 2021. (Appellant's Testimony).

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 between 100 - 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. Individuals whose income falls below 100% of the Federal Poverty Level are not eligible for APTC, unless they are denied Medicaid eligibility based on their lawful presence status. 45 CFR § 155.305(f)(2).

On December 10, 2021, the Appellant was advised that she was eligible for ConnectorCare without subsidies for plan year 2022 based on having a household income equivalent to 59.23 % of the Federal Poverty Level. The Appellant agrees that the reported change in income was accurate but asserts that she should keep her ConnectorCare Plan Type 2 eligibility, since they cannot afford the unsubsidized Health Connector. However, because of the eligibility rules for APTC and ConnectorCare, the Health Connector cannot allow the Appellant to continue to be eligible for subsidized insurance, since the Appellant has attested to an income that makes the Appellant ineligible for those benefits. 45 CFR § 155.305(f) and 956 CMR 12.04(3)(c).

Based upon the totality of the evidence, it is concluded that the Connector's determination on December 10, 2021, regarding the Appellant's eligibility for Health Connector Plans without subsidies was correct. The Appellant is advised to call MassHealth and to send in the requested verification of income documents, and report any changes to her income or any other information on her application.

### **ORDER**

The appeal is 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 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

#### **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 2021 from the federal government will be reconciled when you file your 2021 federal income tax return (usually in the spring of 2022). 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 2021 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2021 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2021 will be paid to you when you file your 2021 federal income tax return.

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied, Eligibility determination upheld

**Hearing Issue:** Eligibility for Health Connector plans, based on failure to establish lawful presence and attest to tax filing

**Hearing Date:** April 15, 2022

**Decision Date:** April 22, 2022

---

### **AUTHORITY**

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

### **JURISDICTION**

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

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On February 11, 2022, Appellant was determined ineligible for Health Connector plans due to failure to establish lawful presence and attest to tax filing to the Health Connector at the time of the application.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for Health Connector plans, based on the Appellant's failure to establish lawful presence and based on the Appellant's tax filing status to the Health Connector.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on April 15, 2022. The Appellant was sworn in. The Appellant testified at the hearing.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection.

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Appellant's Appeal Request Form	(6 pages, received 2/14/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated 3/18/ 2021)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 page, dated 3/24/ 2022)

# Massachusetts Health Connector Appeals Unit



Exhibit 5:	Health Connector’s Application Summary	(3 pages, dated	2/10/ 2022)
Exhibit 6:	Health Connector’s Eligibility Results	(3 pages, dated	2/10/2021)
Exhibit 7:	Health Connector’s Eligibility Denial	(8 pages, dated	2/11/2022)
Exhibit 8:	Health Connector’s Appeals Unit Staff Notes	( 2 pages, dated	2/8/ 2022)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	1/10/ 2022)
Exhibit 10:	Email from the Connector	(1 page, dated	3/18/2022)

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 45-year-old, married and applied for subsidized health insurance through the Health Connector on February 11, 2022. (Appellant Testimony, Exhibits 1,5, 10).
2. The Appellant testified she filed 2021 taxes as married filing jointly. (Appellant’s Testimony).
3. The Appellant was determined ineligible for Health Connector plans on February 11, 2022, after answering no to both immigration questions and answering no that that she intended on filing a tax return. (Exhibits 1,5-9,10).
4. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 5).
5. The Appellant did not attest to filing tax returns. (Exhibit 5).
6. The Appellant was sent a request to provide proof of lawful presence (Exhibit 10).
7. The Appellant did not submit documentation regarding immigration status. (Exhibits 1, 9, 10, and 11).
8. The Appellant indicated her Spouse had Employer Sponsored Insurance, but they could not afford family coverage. (Appellant’s Testimony).
9. The Appellant was encouraged to contact customer service to submit immigration documentation, tax filing status, and income information.

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to establish lawful presence and failing to attest to filing a tax return. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector. In addition, applicants must attest that they will file a tax return in order to claim APTC. (26 CFR § 1.36B-2T(b)(2)(i)).

On February 11, 2022, the Appellant applied for health insurance through the Health Connector but did not attest to being lawfully present. The Appellant also attested on the application that she did not intend to file a tax return. The Appellant was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present and did not attest to filing income taxes, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1). The Appellant was instructed to contact customer service to submit immigration documentation and tax filing status.

## ORDER

## Massachusetts Health Connector Appeals Unit



Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector's eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law on the information provided by the Appellant in his application.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2022 from the federal government will be reconciled when you file your 2022 federal income tax return (usually in the spring of 2023). 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 2022 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2022 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2022 will be paid to you when you file your 2022 federal income tax return.

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied, Eligibility determination upheld

**Hearing Issue:** Eligibility for a special enrollment period, based on failure to have a qualifying life event

**Hearing Date:** April 15, 2022

**Decision Date:** April 25, 2022

---

### **AUTHORITY**

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

### **JURISDICTION**

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

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On March 11, 2022, the Appellant was determined eligible for Health Connector plans with APTC but was determined ineligible for a special enrollment period due to failure to have a qualifying life event.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for a special enrollment period, based on the Appellant's failure to have a qualifying life event.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 1, 2016.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Appellant's Appeal Request Form	(6 pages, received 3/14/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated 3/14/2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 page, dated 3/24/ 2022)
Exhibit 5:	Special Enrollment Period Decision	(6 pages, dated 3/11/ 2022)
Exhibit 6:	Health Connector's Application Summary	(3 pages, dated 3/11/ 2022)
Exhibit 7:	Health Connector's Eligibility Results	(3 pages, dated 3/11/2022)



## Massachusetts Health Connector Appeals Unit



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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

If the Appellant experiences a qualifying life event, the Appellant should contact the Health Connector's customer service center and request a special enrollment period.

The Appellant may also consider reviewing the criteria for an Enrollment Waiver from the Massachusetts Office of Patient Protection. Information can be found at <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/health-policy-commission/patient-protection/>.



# FINAL APPEAL DECISION: ACA22-16191

**Appeal Decision:** Appeal Denied, Eligibility determination upheld

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

**Hearing Date:** April 15, 2022

**Decision Date:** April 25, 2022

---

## **AUTHORITY**

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

## **JURISDICTION**

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

## **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On February 7, 2022, Appellant was determined ineligible for Health Connector plans with coverage ending on May 31, 2019, due to failure to verify residency.

## **ISSUE**

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

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 15, 2022.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Appellant's Appeal Request Form w/ documents	(10 pages, received 3/15/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated 3/16 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 page, dated 3/24/ 2022)
Exhibit 5:	Health Connector's Application Summary	(3 pages, dated 3/11/ 2022)
Exhibit 6:	Health Connector's Eligibility Results	(3 pages, dated 2/7/2022)
Exhibit 7:	Health Connector's Eligibility Denial	(8 pages, dated 2/7/2022)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated 2/8/ 2022)

Exhibit 9:	Medicaid Household Determination	(5 pages, dated	2/7/ 2022)
Exhibit 10:	Email from the Connector	(1 page, dated	3/16/2022)
Exhibit 11	MMIS Health Safety Net		

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant is over age 65. (Exhibits 1, 6, and 7).
2. Appellant referenced in his appeal that he was out of the United States for a few months and returned on December 12, 2021 as provided information to a family medical center as part of the appeal but did not receive a medical card. (Exhibits 1, 2, Appellant's Testimony).
3. Appellant testified he has been living at the current Massachusetts address since 2015. (Appellant's Testimony).
4. Appellant testified he does not have any income. (Appellant's Testimony, Exhibits 1,6, and 7)).
5. Appellant submitted a bank statement as part of his appeal with a Massachusetts address. (Exhibits 1,2).
6. Appellant had an administrative closure of not being a resident of Massachusetts. (Exhibit 8).
7. Appellant was notified by Connectorcare on March 16, 2022 via an email with an affidavit of residency attached and also encouraged to call MassHealth and update his address. (Exhibit 10).
8. Appellant testified he did not receive the email but confirmed the email address. (Exhibit 10).
9. Appellant has been in MA for over 5 years, is over age 65, and was encouraged to call MassHealth or Shine if he was not eligible for Medicare. (Exhibit 10).
10. The Appellant was determined ineligible for Health Connector plans on February 7, 2022 because the records did not indicate that the Appellant lived in Massachusetts. (Exhibit 1, Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On February 7, 2022, the Appellant was determined ineligible for Health Connector plans on February 7, 2022 because the records did not indicate that the Appellant lived in Massachusetts. Thereafter, the Appellant was reminded to send in residency verification documents via an affidavit of residency to MassHealth. (Exhibits 1,2,7 and 10). The Appellant failed to send in documents verifying his residency and was determined ineligible for Health Connector plans on February 7, 2022. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f) and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

The Appellant testified that he had lived in Massachusetts since 2015 at the address submitted on the application and the documents submitted with the Appeal, believing that would suffice for proof of residency. The documentation submitted was not sufficient to prove residency. (Appellant's Testimony, Exhibits 1, 2, 7, and 10).

Based upon the evidence in the record, it is concluded that the Connector's determination on February 7, 2022, regarding the appellants' eligibility for Health Connector Plan was correct and is therefore affirmed. The was encouraged to contact MassHealth or Shine where the Appellant has been in MA for over 5 years, is over age 65, if he was not eligible for Medicare.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2022 from the federal government will be reconciled when you file your 2022 federal income tax return (usually in the spring of 2023). 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 2022 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2022 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2022 will be paid to you when you file your 2022 federal income tax return.

## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA 22-15917

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare based on non-tax filing.

**Hearing Date:** March 25, 2022

**Decision Date:** April 19, 2022

---

#### **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 submitted an application for subsidized health insurance on December 20, 2021. The Health Connector determined the Appellant to be eligible for Health Connector Plans.

#### **ISSUE**

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

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on March 25, 2022. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

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

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated February 25, 2022)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (2 pages)
- Exhibit 5: Appellant's appeal request form 4 pages dated February 3, 2022)
- Exhibit 6: Notice of Eligibility Determination (6 pages, dated January 27, 2022)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated December 20, 2021)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (6 pages, dated February 16, 2022)
- Exhibit 9: Historical Notices and Printouts

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 26 year old single male (Exhibit 7 & 8 )
2. The Appellant has a household of one. (Exhibit 7 & 8 and Appellant testimony )
3. On his application, dated December 20, 2021 stated that he did not file income tax returns. Appellant testified that he has filed tax returns since 2016.
4. Appellant was notified after he submitted his December 20, 2021 application that he had to provide further information regarding his income, residency and his tax filing status.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must have income greater than 100% of the FPL. 45 CFR § 155.305(f)(1)(i).

In addition, under 45 CFR s. 155.305(f)(4), the Exchange may not determine a tax filer eligible for advance payments of the premium tax credit if the tax filer did not comply with the requirements to file an income tax return for that year as required by 26 U.S. 6011,6012 and implementing regulations. In this case, one issue presented was whether the failure to assert that the Appellant would file a tax return was the correct determination. Based on his application and buttressed by his testimony, the determination of the Connector regarding eligibility for APTC and the Massachusetts subsidy was correct.

The Appeal is denied for the above stated reasons of non-tax filing.

#### **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

#### **ADDENDUM**

Appellant is urged to contact the Health Connector customer service and update his status as to income, residency and non-tax filing.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-15393

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit

**Hearing Date:** March 24, 2022

**Decision Date:** April 9, 2022

---

### **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 October 22, 2021, the appellant was advised that she was eligible for a Health Connector Plan with no financial help beginning on November 1, 2021. (Exs. 1,3) The appellant filed an appeal dated November 23, 2021. (Ex. 8) The matter was referred to a hearing after receipt of the appeal. (Ex. 15)

### **ISSUE**

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help on October 22, 2021 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on March 24, 2022, 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 showing a program determination date of October 22, 2021 (2 pages)

Ex.2—Health Connector's Review of Application (3 pages)

Ex. 3— Health Connector's Notice of Eligibility Approval dated October 22, 2021 (8 pages)

Ex. 4—Medicaid Household Determination information (6 pages)

Ex. 5—Health Connector's Eligibility Determination Results showing a program determination date of November 22, 2021 (3 pages)



- Ex. 6—Health Connector’s Review of Application (3 pages)
- Ex. 7—Health Connector’s Warning of Premium Termination dated October 29, 2021 (3 pages)
- Ex. 8—Online Appeal Request received on November 23, 2021 (6 pages)
- Ex. 9—Acknowledgment of Appeal dated November 30, 2021 (1 page)
- Ex. 10—Health Connector Notice of Dismissal of Appeal dated January 5, 2022 (1 page)
- Ex. 11—Request to Vacate Dismissal received on February 7, 2022 (1 page)
- Ex. 12—Health Connector email dated November 30, 2021 (1 page)
- Ex. 13—Health Connector email dated February 22, 2022 (1 page)
- Ex. 14—Appeals Unit case notes (1 page)
- Ex. 15—Notice of Hearing dated February 23, 2022 (3 pages)
- Ex. 16—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 68-years-old. (Testimony, Exs. 2,6)
2. The appellant became a legal permanent resident of the United States on October 22, 2016. (Testimony)
3. The appellant is not eligible for Medicare. (Testimony)
3. The appellant has had subsidized health insurance through the Health Connector since she arrived in the U.S. in 2016. (Testimony)
4. By notice dated October 22, 2021, the appellant was determined eligible for Health Connector Plans with no financial help beginning on November 1, 2021. The notice stated that her household income was determined to be 0.00% of the Federal Poverty Level (FPL) based on information provided in her application or obtained from income data sources. The notice further stated that the appellant did not qualify for a ConnectorCare plan or an Advanced Premium Tax Credit (APTC) for one of a number of reasons including that her annual income was below 100% of the FPL. (Exs. 1,3)
5. The appellant filed an appeal of the October 22, 2021 determination on November 23, 2021 and stated in part that she cannot afford to pay an unsubsidized premium because she has no income. (Ex. 8)
6. The appellant does not work and takes care of her elderly father. She earned approximately \$1500.00 in 2021 helping out in a relative’s pharmacy and anticipates that her income will be the same in 2022. (Testimony, Exs. 2,6)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an Advanced Premium Tax Credit (APTC) if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant’s behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who

have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

Although the appellant is over the age of 65, she is not eligible for Medicare Part A without a premium. The Health Connector regulations do not address individuals who are over age 65, but not eligible for Medicare.<sup>1</sup> Under federal law, individuals with income at or below 100% of the FPL are not eligible for premium tax credits, and only individuals eligible for premium tax credits are eligible for ConnectorCare. 45 CFR section 155.305(f)(1)(i) and 26 CFR section 1.36B-2(a) and (b). This rule affects adults over the age of 65 who are not eligible for Medicare, and who have income up to 100% of the FPL but do not qualify for MassHealth. The APTC eligibility exception set forth in 956 CMR 12.04(3)(a)/ 45 CFR 155.305 (f)(2) for non-citizens who are lawfully present and have income less than 100% FPL is only available if that individual is otherwise ineligible for Medicaid due to his/her immigration status. Since the appellant has been a U.S. permanent resident for more than five years, she no longer meets the special criteria for non-Medicaid eligible lawfully present individuals to receive APTCs. If the FPL threshold of 100% did not apply, she would be eligible for ConnectorCare (which has no asset test). However, the result of the application of these rules blocks the appellant's eligibility for subsidized health insurance.

Based on the totality of the evidence, it is concluded that the Connector's determination on October 22, 2021 regarding the appellant's eligibility for Health Connector Plans with no financial help was correct, and is therefore 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 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

## **ADDENDUM**

At the conclusion of the hearing, the appellant was advised to fill out a MassHealth application for individuals over the age of 65. (<https://www.mass.gov/how-to/apply-for-masshealth-coverage-for-seniors-and-people-of-any-age->

---

<sup>1</sup> Individuals who are enrolled in Medicare or eligible for Medicare are not eligible for premium tax credits regardless of income. 45 CFR section 155.305(f).

[who-need-long-term-care-services](#)) She was also advised to contact a volunteer at SHINE for assistance with the application. (1-800-243-4636; <https://www.mass.gov/health-insurance-counseling>)

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-15684

**Appeal Decision:** Appeal denied

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

**Hearing Date:** March 24, 2022

**Decision Date:** April 10, 2022

---

### 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 10, 2022, the appellant was advised that he did not qualify for health insurance through the Health Connector because he had access to or was enrolled in Medicare. (Ex. 3) The appellant filed an appeal dated January 10, 2022. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 14)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector plans correct at the time of its determination on January 10, 2022, pursuant to 42 U.S.C. 1395ss?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 24, 2022, and testified under oath. The hearing record consists of his 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 10, 2022 (3 pages)
- Ex. 2—Health Connector's Review of Application (4 pages)
- Ex. 3—Health Connector's Notice of Eligibility Denial dated January 10, 2022 (6 pages)
- Ex. 4—Medicaid Household Determination document (6 pages)
- Ex. 5—Health Connector's Request for Information dated May 22, 2021 (4 pages)
- Ex. 6—Online Appeal Form dated January 10, 2022 (6 pages)

- Ex. 7—Acknowledgement of Appeal dated January 11, 2022 (1 page)
- Ex. 8—Notice of Hearing dated January 20, 2022 (3 pages)
- Ex. 9—Health Connector’s Notice of Dismissal of Appeal dated February 15, 2022 (1 page) <sup>1</sup>
- Ex. 10—Appellant’s Request to Vacate Dismissal received on February 16, 2022 (2 pages)
- Ex. 11—Health Connector email dated January 11, 2022 (1 page)
- Ex. 12—My Workspace results (1 page)
- Ex. 13-- Appeals Unit notes (2 pages)
- Ex. 14—Notice of Hearing dated February 23, 2022 (3 pages)
- Ex. 15—Affidavit of Connector representative (1page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 66-years-old, is single and has a tax household size of two. (Testimony, Exs. 2,4)
2. The appellant has been enrolled in Medicare Part A since in or around June, 2020. He did not enroll in Part B at that time because he determined that a premium for a Health Connector plan cost less than a premium for Medicare Part B. In addition, in his review of Medicare materials, he did not find any reference to the fact that he was required to enroll in Part B at the same time as Part A. (Testimony)
3. The appellant was enrolled in subsidized health insurance through the Health Connector until December 31, 2021. (Testimony)
4. By notice dated January 10, 2022, the Health Connector advised the appellant that he was not eligible for health insurance through the Health Connector because he had access to or was enrolled with Medicare. (Ex. 3)
5. The appellant appealed the Connector’s January 10th decision on that date and stated in part that he opted to stay with Health Connector insurance because it was less expensive than Medicare, and he did not know that his eligibility for Medicare made him ineligible for continued insurance through the Connector. (Ex. 6)
6. The appellant is not eligible to enroll in Medicare Part B until July 1, 2022. (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.

---

<sup>1</sup> On the Hearing Record Sheet, Ex. 9 was mistakenly marked as dated January 5, 2022. The Notice of Dismissal is dated February 15, 2022.

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 he has been enrolled in Medicare Part A since in or around June, 2020. Based on that information, the Connector determined that he was not eligible for health insurance through the Health Connector. The appellant did not enroll in Medicare Part B because the cost of insurance through the Health Connector was cheaper than through Medicare, and he was unaware that his eligibility for Medicare made him ineligible for continued insurance through the Connector. He has now applied for Part B coverage, but cannot enroll until July, 2022.

Based on the foregoing, it is concluded that the Connector’s determination on January 10, 2022 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

**ADDENDUM**

The appellant was advised to contact SHINE at 1-800-243-4636 for information on health insurance options for Medicare eligible individuals. He was also advised to contact Medicare to inquire whether he is eligible for a special enrollment period prior to July, 2022, or in the alternative, to contact his insurance company directly to determine whether he can continue his insurance until July.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2215707

**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 access to or enrollment in Medicare.

**Hearing Date:** February 14, 2022

**Decision Date:** April 14, 2022

### 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 23, 2021, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant had access to 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 had access to or was enrolled in Medicare.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 14, 2022. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant testified. At the end of the hearing, the record was left open until March 24, 2022 to give the appellant time to submit additional evidence regarding Appellant's Medicare status. As of today, no additional evidence has been received from the appellant. The record is now closed.

The hearing record consists of the testimony of the 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 January 20, 2022 addressed to Appellant for a hearing on February 14, 2022

Exhibit 3: Connector Appeals Unit letter dated, January 14, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit staff outreach notes dated January 14, 2022

Exhibit 3b: Appeals Unit letter to Appellant dated January 14, 2022



- Exhibit 4: Hearing Request Form received by the Connector on January 13, 2022  
Exhibit 5: Connector letter dated December 23, 2021 to Appellant denying eligibility  
Exhibit 6: Summary and results of Appellant's application dated December 23, 2021  
Exhibit 6a: Summary and results of Appellant's application dated January 7, 2021  
Exhibit 7: MassHealth Member Benefits print-out, Appellant's household determination, January 7, 2022  
Exhibit 8: Open Record form sent to Appellant requesting additional evidence about Medicare enrollment status, dated February 14, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector on December 23, 2021 (Exhibits 5 and 6).
2. On December 23, 2021, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant either had access to Medicare or was enrolled in Medicare. According to Appellant's application, Appellant was enrolled in Medicare (Exhibits 5 and 6).
3. Appellant filed a request for an appeal of the Connector's determination which was received by the Connector on January 13, 2022 (Exhibit 4).
4. Appellant received Social Security disability benefits, including Medicare coverage, from January, 2011 through 2016. Appellant's disability payments ended in 2016. Appellant assumed that she was no longer covered by Medicare and obtained coverage through her spouse's plan. When the appellant's spouse was laid off in 2020, the couple obtained coverage under COBRA. The COBRA coverage was going to end on April 1, 2022 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance in December, 2021. The Connector determined that Appellant was ineligible to enroll in coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's determination on January 13, 2022. 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 was enrolled in Medicare at the time Appellant applied for health insurance through the Connector. See Exhibits 5, and 6. Appellant had received Social Security disability benefits, including Medicare coverage, from January, 2011 through 2016. Appellant's disability payments ended in 2016. Appellant assumed that she was no longer covered by Medicare and obtained coverage through her spouse's plan. When the appellant's spouse was laid off in 2020, the couple obtained coverage under

COBRA. The COBRA coverage was going to end on April 1, 2022. See the testimony of the appellant which I find credible.

Despite Appellant's assumption that she no longer had Medicare coverage, according to her application to the Connector for coverage, Appellant still had Medicare coverage or still had access to enroll in the program as of the date she applied. During the appeals hearing on February 14, 2022, the appellant was given additional time to obtain documentation from Medicare regarding her enrollment status. As of the date of this hearing, no documentation was received from the appellant.

I determine that the Connector correctly decided at the time it made its determination that Appellant was enrolled in Medicare or had access to the program, and that Appellant was, therefore, ineligible to purchase any health insurance plan through the Connector. This determination was based upon information on the appellant's application. See citations above. 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:** If Appellant is able to clarify her Medicare enrollment status and she finds that she is no longer enrolled in Medicare or no longer has access to Medicare, Appellant may wish to reapply to the Connector for coverage. Appellant would need proof of her Medicare enrollment status.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-15913

**Appeal Decision:** Appeal Denied, Eligibility determination upheld

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

**Hearing Date:** March 25, 2022

**Decision Date:** April 19, 2022

---

### 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 2, 2022, Appellants were determined ineligible for Health Connector plans without subsidies. The Appellants determination came after failing to verify residency.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 25, 2022. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated February 25, 2022)
- Exhibit 3: Health Connector's Acknowledgement of Appeal 1 Page )
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 2 pages dated January 28, 2022)
- Exhibit 6: Notice of Eligibility Determination (6 pages, dated January 2, 2022)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (7 pages, dated January 2, 2022)
- Exhibit 8: Historical Notices and Printouts (9 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied to obtain subsidized health insurance through the Connector. (Exhibit 7, Appellant's testimony)
2. Appellant was notified that she had to provide proof of residency. However, the Appellant did not do so (Exhibit 6 and Appellant's testimony).
3. During Appellant's testimony she indicated that she did not notify the Health Connector.
4. Appellant indicated that she did not realize that she had to provide proof of residency.
5. Appellants received a request for information dated February 9, 2022 indicating that she needed to send in proof of residency.
6. Appellant has just obtained a job.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellants were determined ineligible for Health Connector plans and were asked to verify their residency. The Appellants failed to send in documents verifying their residency, and was determined ineligible for Health Connector plans on January 2, 2022, for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

The Health Connector correctly found that the Appellants were no longer eligible for Health Connector plans on January 2, 2022, and that determination is upheld.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

The Appellant is requested to contact Customer Service to update her current status as to residency and to update her current status as to income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-15971

**Appeal Decision:** The Connector's denial of Appellant's application for the purchase of subsidized health insurance is affirmed.

**Hearing Issue:** Appellant's eligibility for subsidized insurance based on access to employer sponsored health insurance

**Hearing Date:** March 23, 2022

**Decision Date:** April 5, 2022

### 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 submitted an application for subsidized health insurance on January 28, 2022. 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 Appellant was not eligible for subsidies, based on Appellant's access to affordable employer sponsored health insurance.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 23, 2022. Also present was Appellant's adult child.

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

- Exhibit 1: Affidavit of record of the Health Connector
- Exhibit 1A: Hearing Request form, dated February 14, 2022
- Exhibit 2: Eligibility Results and Summary dated January 25, 2021
- Exhibit 3: Appeals Unit Outreach
- Exhibit 4: None
- Exhibit 5: Recent eligibility notice, dated February 16, 2022

Exhibit 6: Correspondence from Health Connector, dated February 22, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for subsidized health insurance on January 25, 2022 (Exhibit 2).
2. On January 25, 2022 the Health Connector found that the Appellant was eligible for Health Connector plans but was not eligible for subsidies, because the Appellant had access to affordable health coverage through a job (Exhibit 2).
3. On February 1, 2022, Appellant was denied a Special Enrollment Period to enroll outside of the Open Enrollment Period (Exhibit 2).
4. On February 16, 2022, Appellant was granted a Special Enrollment Period to enroll outside of the Open Enrollment Period (Exhibit 5).
5. Appellant filed an appeal on February 14, 2022 (Exhibit 1A).
6. When Appellant applied for subsidized insurance, Appellant stated that Appellant had access to affordable employer sponsored health insurance (Exhibit 2 and Testimony of Appellant).
7. Appellant has been ill and on disability insurance since 2020. Appellant has been covered by employer sponsored health insurance (Testimony of Appellant).

### **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3) and IRS Revenue Procedure 2021-36. Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.61 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

The Appellant attested on the application that Appellant has access to affordable employer sponsored insurance that meets minimum value standards. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination. 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 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.

**ADDENDUM**

**Appellant was given the telephone number for Healthcare for All (800 272-4232) for further information.**



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-16190

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit

**Hearing Date:** April 25, 2022

**Decision Date:** April 29, 2022

---

### 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 March 8, 2022, the appellants, husband and wife, were advised that they were eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$0/month beginning on April 1, 2022. (Exs. 1,3) The appellants filed an appeal which was received on March 14, 2022, based on income. (Ex. 7) The matter was referred to a hearing after receipt of the appeal. (Ex. 19)

### ISSUE

Was the Connector's decision regarding the appellants' eligibility for Health Connector Plans with APTC on March 8, 2022, correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant husband appeared at the hearing which was held by telephone on April 25, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for March 8, 2022 (2 pages)
- Ex. 2-- Health Connector's Review of Application (6 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated March 8, 2022 (4 pages)
- Ex. 4—Medicaid Household Determination Document (7 pages)

- Ex. 5—Health Connector’s Eligibility Determination Results showing a program determination for December 14, 2021 (4 pages)
- Ex. 6—Health Connector’s Review of Application (6 pages)
- Ex. 7—Online Appeal Form received on March 14, 2022 (6 pages)
- Ex. 8—Acknowledgment of Appeal dated March 22, 2022 (1 page)
- Ex. 9—Health Connector’s Request for Information Reminder Letter dated February 16, 2022 (4 pages)
- Ex. 10—Health Connector’s Request for Information dated March 8, 2022 (4 pages)
- Ex. 11—Income detail document for the appellants (3 pages)
- Ex. 12—My Workspace document (1 page)
- Ex. 13—2021 Form 1040 for appellants’ daughter (13 pages)
- Ex. 14—2021 Form 1040 for appellants (45 pages)
- Ex. 15—2021 W-2 statement for daughter; 2021 Form 1099-HC; Fidelity statement for daughter (13 pages)
- Ex. 16—Health Connector’s Eligibility Determination Results showing a program determination for April 9, 2022 (3 pages)
- Ex. 17—Health Connector’s Review of Application (6 pages)
- Ex. 18-- Appeals Unit case notes (1 page)
- Ex.19—Notice of Hearing (3 pages)
- Ex. 20—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant husband is 58-years-old, the appellant wife is 56-years-old and they have a tax household size of four consisting of themselves and two daughters, one of whom is enrolled in MassHealth. (Testimony, Exs. 2,4,6,17)
2. The appellant husband was employed for part of 2021 and he and his family were enrolled in employer provided health insurance. He retired during the year and continued their enrollment for the remainder of the year through COBRA. The husband applied for health insurance through the Health Connector for 2022, and by notice dated December 14, 2021, the appellant, his wife and their eldest daughter were determined eligible for ConnectorCare Plan Type 3A with an APTC of \$1258.00/month based on having an income and household size equivalent to 218.87% of the Federal Poverty Level (FPL), effective January 1, 2022. On the application on which the determination was based, the appellant husband attested to a projected yearly income of \$52,000.00, the wife attested to a projected yearly income of \$6,000.00 and the daughter attested to a projected yearly income of \$3,800.00. (Testimony, Exs. 5,6)
3. By notice dated February March 8, 2022, the appellants and their daughter were determined eligible for Health Connector Plans with an APTC of \$0/month based on having an income and household size equivalent to 3314.06% of the FPL, effective April 1, 2022. (Testimony, Exs. 1,3)
4. The Connector’s verified income for the March 8, 2022, determination listed the following sources for the appellant husband: \$138,277.00/year from employment; \$605,453.00/year from a pension; \$8591.00/month from capital gains; \$16,259.00/year from interest, dividends and other investments; and \$5317.00/year of rental or royalty income. The following source was listed for the appellant wife: \$9812.00 from self-employment income; and for the daughter, \$8866.00/year from employment and \$7920.00/year of income from capital gains. (Testimony, Exs. 2,11,13,14,15)

5. The Connector's March 8<sup>th</sup> determinations were based on documentation submitted by the appellants to the Connector including 2021 Form 1040s for themselves and their daughter, and other tax reporting forms. (Exs. 11,13,14,15)

6. The appellant husband retired and no longer has employment income. He rolled over \$605,453.00 from his retirement account into a retirement savings account in 2021. His daughter is a full-time student who is studying abroad and has not earned any income in 2022. He recently filed a \$0 income form with the Connector on her behalf. (Testimony)

7. The appellants appealed the Connector's March 8, 2022, determination on March 14, 2022, based on income. In the appeal, the appellant husband stated in part that his self-reported income is shown to be \$868,407.00 which is nowhere near accurate. He further stated that he retired in 2021 and has capital gains, dividend and farm income totaling less than \$130,000.00 for 2022. (Testimony, Ex. 7)

### **ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

The appellant husband disputes the projected income calculated by the Connector for the March 8, 2022 eligibility determination. He maintains that part of the error is based on employment income he no longer earns and retirement account funds which were rolled over into a savings account, but appear to have been treated as income. In addition, he contends that his daughter is a full-time student and has not earned any income in 2022. Since the March 8<sup>th</sup> determination appears to be based on 2021 tax and financial information, the appellant was advised to update his application with current income information or contact customer service for assistance at 1-877-623-6765.

Based on the totality of the evidence, it is concluded that the Connector's determination on March 8, 2022, regarding the appellants' eligibility for Health Connector Plans with APTC was correct, and is therefore 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 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