

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: January 2, 2024

Decision Date: March 20, 2024

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 November 3, 2023, the Appellant was determined eligible for Health Connector plans with no financial help, 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 event¹.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 2, 2024. The hearing record consists of the Appellant's testimony and the following documents which were

¹ In his testimony, Appellant expressed his desire to appeal the affordability of plans he was determined to be eligible for in calendar year 2024 and did not want to appeal the Special Enrollment Period issue. After discussions with the Health Connector Staff the only issue considered here will be the failure to establish a qualifying life event to enroll in 2023.

admitted into evidence:

- Exhibit 1: Appellant's online Appeal Form (6 pages undated); and Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Eligibility Results (2 pages, dated 11/3/23); Health Connector's Eligibility Approval Notice (8 pages, dated 10/21/23); Health Connector's Notice on Appeal (6 pages dated 10/21/23); and Health Connector's Application Summary (3 pages, dated 11/3/23)
- Exhibit 3: Health Connector's Outreach Notes (1 page, dated 12/22/2023)
- Exhibit 4: Health Connector's 2024 Eligibility Results (2 pages, undated); Health Connector's Application Summary (4 pages, undated)
- Exhibit 5: Health Connector's Acknowledgement of Appeal (1 page, 11/3/2023); Health Connector's Hearing Notice (3 pages, dated 12/06/2023; Health Connector's Open Enrollment Waiver and Instructions (7 pages dated 11/3/2023)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was employed until August of 2023, at which time the Appellant was laid off (Appellant Testimony).
2. The Appellant received a severance payment from this employer when laid off (Appellant Testimony).
3. The Appellant enrolled in COBRA coverage in August of 2023 through the Appellant's employer, and was eligible to remain enrolled in the COBRA plan for 18 months (Appellant testimony).
4. The Appellant's submitted an application to the Massachusetts Health Connector on October 21, 2023 (Exhibit 2, Appellant Testimony).
5. The Appellant was denied eligibility for the Health Connector on November 3, 2023 since he was not experiencing a qualifying life event.
6. As of his application date the Appellant had not experienced a qualifying life event (Appellant Testimony).
7. The Appellant began collecting unemployment compensation insurance in December of 2023.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found qualified to enroll in a Health Connector Plan (no financial help), but was not granted a special enrollment period therefore could not enroll in coverage. The Appellant asserts that this determination was incorrect, and that he should be permitted to enroll in coverage through the Health Connector. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which was November 1, 2023 to January 23, 2024. Appellant testified that he did apply during open enrollment season after being notified of his ineligibility. He was informed at the Hearing that this appeal will only deal with lack of a qualifying event issue, and he can appeal his other issue subsequently (See Footnote 1). Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage. 45 CFR § 155.420.

On November 3, 2023, the Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. The Appellant's loss of employment is not in and of itself a qualifying life event, because he continued to be covered by the COBRA policy 45 CFR § 155.420(e)(1). In addition, Claimant testified to an estimated combined income in 2023 for he and his spouse of \$300,000. The Appellant testified to no qualifying life events in 2023. Because the Appellant did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR § 155.420. If the Appellant has experienced a change in circumstances, he can update his application to reflect these changes. 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/>.

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 45 CFR § 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: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for Health Connector plans, based on failure to establish residency and lawful presence

Hearing Date: April 4, 2024

Decision Date: April 26, 2024

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 5, 2024, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

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 to the Health Connector.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 4, 2024. The Appellant was 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 (1 P, undated)
- Exhibit 2: Appellant’s Appeal Request Form (2 PP, received 1/17/2024)
- Exhibit 3: Health Connector’s Acknowledgment of Appeal (1 P, dated 1/25/ 2024)
- Exhibit 4: Health Connector’s Notice of Appeal Hearing (1 P, dated 3/5/ 2024)
- Exhibit 5: Health Connector’s Application Summary (3 PP, dated 1/5/ 2024)

Massachusetts Health Connector Appeals Unit



Exhibit 6:	Health Connector’s Eligibility Results	(3 PP, dated	1/5/2024)
Exhibit 7:	Health Connector’s Eligibility Denial	(8 PP, dated	1/5/2024)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	1/5/ 2024)
Exhibit 9:	Health Connector’s Appeals Unit Staff Notes	(1 P, dated	2/6/ 2024)
Exhibit 10:	Health Connector’s Application Summary	(8 PP, dated	12/1/ 2023)
Exhibit 11:	Health Connector’s Eligibility Results	(3 PP, dated	12/1/ 2023)
Exhibit 12:	Immigration Document Request	(1 P, dated	1/25/ 2024)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on January 5, 2024, after failing to establish she was lawfully present to the Health Connector. (Exhibits 1, 4-7).
2. The Appellant had coverage through Health Safety Net and had never been enrolled in Connectorcare. Exhibits 1,9).
3. The Appellant testified she had incorrectly submitted income information and attempted to call the Connector. (Exhibits 1, 2, 5-7, 10-11, and Testimony).
4. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibits 1,5, 6, and 9).
5. The Appellant testified she was requesting an appeal because of the need for medical coverage. (Appellant’s Testimony).
6. The Appellant was encouraged to call the Connector and submit proof of immigration documents showing that the Appellant is lawfully present to the Health Connector.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to establish lawful presence. 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.

On January 5, 2043, the Appellant applied for health insurance through the Health Connector but was denied for not establishing lawful presence. Because the Appellant did not did not attest to being lawfully present at the time the Appellant applied and present other evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

Based upon the evidence in the record, it is concluded that the Connector’s determination on January 5, 2024, regarding the appellants’ eligibility for Health Connector Plan 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

Massachusetts Health Connector Appeals Unit



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.

William F. O'Connell
William F. O'Connell
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 2024 from the federal government will be reconciled when you file your 2024 federal income tax return (usually in the spring of 2025). 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 2024 (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 2024 (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 2024 will be paid to you when you file your 2024 federal income tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA24-21481

Appeal Decision: Appeal denied, eligibility determination upheld.

Hearing Issue: Appeal of eligibility for Health Connector Plans with no financial help, based on Appellant’s stated intention to participate in Health Reimbursement Arrangement (“HRA”)

Hearing Date: March 11, 2024

Decision Date: April 18, 2024

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 and 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 forth in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 4, 2024, the Health Connector notified the Appellant that they were qualified to enroll in a Health Connector Plan with no financial help. The Health Connector’s decision was based on the Appellant’s stated intention to participate in a Health Reimbursement Arrangement.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined, based on the Appellant’s stated intention to participate in a Health Reimbursement Arrangement, that the Appellant was eligible to enroll in a Health Connector Plan with no financial help.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 11, 2024. I left the record open for the Health Connector to provide additional documentation, which the Health Connector

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

- Exhibit 1: On-line appeal form, dated 1/5/24 (6 pages)
- Exhibit 2: Health Connector Appeals Unit affidavit (1 page)
- Exhibit 3: Health Connector Eligibility Results, dated 1/5/24 (2 pages)
- Exhibit 4: Medicaid Household Determination, dated 1/5/24 (4 pages)
- Exhibit 5: Health Connector Eligibility Approval Notice, dated 1/4/24 (8 pages)
- Exhibit 6: Appellant's Application Summary, dated 1/5/24 (3 pages)
- Exhibit 7: Health Connector outreach notes (1 page)
- Exhibit 8: Health Connector Eligibility Results, dated 10/9/23 (2 pages)
- Exhibit 9: Appellant's Application Summary, dated 10/9/23 (3 pages)
- Exhibit 10: Health Connector Acknowledgment of Appeal, dated 1/16/24 (1 page)
- Exhibit 11: Health Connector Notice of 3/11/24 Hearing (3 pages)
- Exhibit 12: Open Record Request to Health Connector, dated 3/11/24 (2 pages)
- Exhibit 13: Health Connector Response to Open Record Request, dated 4/10/24 (42 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a single woman residing in Middlesex County and will turn 31 in August 2024. (Exhibits 4 and 5).
2. The Appellant submitted an application for health insurance on October 9, 2023 and, based on a self-reported income that was 342.94% of the Federal Poverty Level ("FPL"), was found to be eligible for a ConnectorCare Plan Type 3C with Advance Premium Tax Credits. (Exhibit 8).
3. The Appellant answered "no" to the following questions in their October 9, 2023 application for health insurance: "Has Minimum Essential Coverage (MEC)," "Has Option to Enroll in Employer Health Coverage," "Has Affordable Employer Sponsored Insurance (ESI)," and "Has Health Reimbursement Arrangement (QSEHRA/ICHRA)." (Exhibit 9).
4. The Appellant testified that after they submitted their October 9, 2023 application, they received a raise that increased their annual income from \$60,000 to \$65,000, and that they therefore updated their health insurance application.
5. In their updated application, which was submitted to the Health Connector on or about January 4, 2024, the Appellant answered "Yes" to the question "Has Health Reimbursement Arrangement (QSEHRA/ICHRA)."
6. The Health Connector notified the Appellant on January 4, 2024 that they were eligible to enroll in Health Connector plans with no financial assistance. (Exhibit 5). The Health Connector's internal outreach notes state that the Appellant was deemed only to be eligible for Health

Connector plans with no financial assistance because the Appellant stated on their application that they had a Health Reimbursement Arrangement (“HRA”) through their employer. (Exhibit 7).

7. The Appellant submitted an on-line appeal to the Health Connector on January 5, 2024. The Appellant stated in the appeal, “I submitted an application for enrollment in November with an annual income for 1 person of \$60,000 and selected Tufts Health Direct Connectorcare III as my insurance. I received a raise after that, so on 01/04/2024 I updated my income to \$65,000 and then that health plan was no longer available. I was told this was because of my income increase, however according to this article and chart on your website [citation omitted] to qualify for ConnectorCare Plan Type 3D in 2023 you must make between 400% - 500% of the FPL, which is \$58,321 to \$72,900. My incomes before and after the raise both fall within this range, so I should still be able to have the original ConnectorCare plan. No one has been able to explain why I am being kicked off the Tufts Health Direct ConnectorCare III plan.” (Exhibit 13).
8. The Appellant testified that they did not remember answering on their health insurance applications whether they had access to a HRA, but that their employer does offer an HRA. The Appellant testified that their employer does not offer health insurance coverage and only offers the HRA.
9. I left the record open for the Health Connector to provide “Any documents relating to the Appellant’s access to a Health Reimbursement Arrangement (HRA) through their employer, including, but not limited to, the Appellant’s full answers in their October 9, 2023 and January 5, 2024 applications for health insurance regarding their access to a HRA through employment.” (Exhibit 12).
10. The Health Connector submitted 42 pages of documents in response to my open record request, including a document showing that in their January 4, 2024 application, the Appellant stated that (1) their employer offered an ICHRA; (2) the maximum yearly self-only coverage permitted benefit through the ICHRA was \$4800; and (3) the Appellant intended to accept the ICHRA benefit. (Exhibit 13).

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that the Appellant was only eligible for Health Connector plans without financial assistance. The Appellant takes the position that they were eligible for a ConnectorCare Plan because their income was between 400% and 500% of the FPL. Finding of Fact No. 7.

To be eligible for ConnectorCare, an individual must meet the eligibility criteria for a Non-group Health Plan with Advance Premium Tax Credits (“APTC”) only, as set forth in 956 CMR 12.04(2)(a) and (b). 956 CMR 12.04(3)(a)(2). Under 956 CMR 12.04(2)(b), to be eligible for a Non-group Health Plan with APTC only, an individual must meet the eligibility requirements for federal APTCs set forth in 45 CFR 155.305(f). Under 45 CFR 155.305(f)(1)(ii)(B), to be eligible for APTCs, an individual must not be eligible

for minimum essential coverage, with the exception of coverage in the individual market, in accordance with section 26 CFR 1.36B-2(a)(2) and (c). Under 26 CFR 1.36B-2(c)(3)(i)(B), an employee who is offered an HRA is eligible for minimum essential coverage if the HRA is affordable or if the employee does not opt out of and waive future reimbursements from the HRA. (Emphasis added).

In this case, the Appellant stated in their January 4, 2024 application to the Health Connector that their employer offered an ICHRA and that they intended to accept the ICHRA benefit. Finding of Fact No. 10 and Exhibit 13. Because the Appellant effectively stated in their January 4, 2024 application to the Health Connector that they were not opting out of the ICHRA, they are regarded as having minimum essential coverage under 26 CFR 1.36B and therefore are ineligible for APTCs under 45 CFR 155.305(f)(1)(ii)(B) and for ConnectorCare under 956 CMR 12.04(3)(a)(2). As a result, I find that the Health Connector correctly decided that the Appellant was eligible only for Health Connector plans without financial assistance, and I deny the Appellant's appeal.

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 to Suffolk Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

cc: Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for Health Connector plans, based on failure to establish lawful presence

Hearing Date: March 6, 2024

Decision Date: April 1, 2024

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 December 5, 2023, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector and a non-tax filer.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for Health Connector plans on December 5, 2023, based on the Appellant's failure to establish lawful presence to the Health Connector, and based on Appellant being a non-tax filer.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 6, 2024.

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

- Exhibit 1: Affidavit of Records (1 page).
- Exhibit 2: Notice of Hearing (1-31-24) (3 pages).
- Exhibit 3: Acknowledgement of Appeal (1-9-24) (1 page).
- Exhibit 4: Outreach notes (1 page).
- Exhibit 5: Hearing Request (12-27-23) (2 pages).
- Exhibit 6: Application Results and summary print out (5 pages).
- Exhibit 7: Eligibility Denial letter (12-5-23) (7 pages).

Massachusetts Health Connector Appeals Unit



Exhibit 8: Medicaid Household Determination (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on December 5, 2023, after failing to establish that the Appellant is lawfully present to the Health Connector and failing to establish that Appellant was a tax filer. (Exhibit 6, Exhibit 7)
2. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 6)
3. Appellant also had appeal with MassHealth. (Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to establish lawful presence. 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.

On December 5, 2023, the Appellant applied for health insurance through the Health Connector but did not attest to being lawfully present and was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1). Appellant also did not attest to being a tax filer. To be eligible for subsidies through the Health Connector, applicants must attest that they will be filing tax returns.

The Health Connector correctly found that the Appellant was not eligible for Health Connector plans on December 5, 2023, based on the Appellant's attestation, and that determination is upheld. Further, the Health Connector correctly found that Appellant was not eligible for subsidies on December 5, 2023, based on Appellant's failure to attest to being a tax filer, and that determination is upheld.

ORDER

The appeal is denied.

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

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

Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA24-21446

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: March 18, 2024

Decision Date: April 12, 2024

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 26, 2023 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's representative appeared at the hearing which was held by telephone on March 18, 2024. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Documents in the appellant's file were also reviewed with the representative, marked as exhibits, and admitted in evidence with no objection from the representative. The representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 31, 2024 addressed to Appellant for a hearing on March 18, 2024
- Exhibit 3: Connector Appeals Unit letter dated January 18, 2024 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated January 17, 2024 and March 11, 2024
- Exhibit 3b: Connector letter dated January 18, 2024 to Appellant
- Exhibit 4: Hearing Request Form received by the Connector on January 2, 2024 with attachments
- Exhibit 5: Connector letter dated December 26, 2023 to Appellant and Representative denying eligibility

Exhibit 5a: MassHealth letter to Appellant dated September 25, 2023 requesting information
Exhibit 6: Summary and results of Appellant's application dated December 26, 2023
Exhibit 7: MassHealth print-out, Appellant's household determination dated December 26, 2023
Exhibit 8: Connector print-out showing Appellant's proof of non-incarceration, and benefits print-out showing MassHealth coverage until March 18, 2024
Exhibit 8a: Appellant's proof of income, residency, and designation of representative

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is in-patient at a Massachusetts hospital. Appellant has been hospitalized since January, 2023 (Testimony of Representative).
2. Appellant has had Medicare coverage, Parts A and B since at least January, 2023 when he was admitted into the hospital (Exhibit 6, Testimony of Appellant).
3. In December, 2023, Appellant applied for health insurance coverage through the Connector (Exhibits 5 and 6).
4. On December 26, 2023 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. The Connector notified the appellant by mail of this determination (Exhibits 5 and 6).
5. Appellant filed a request for an appeal of the Connector's determination which was received by the Connector on January 2, 2024 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

On December 26, 2023 the Connector determined that Appellant was ineligible to obtain coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's determination. The appeal request was received by the Connector on January 2, 2024. 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 on December 26, 2023. Appellant has had Medicare coverage, Parts A and B, since January, 2023 when Appellant was admitted to a hospital. Appellant has been in-patient since his admission. See the testimony of the appellant's representative which I find to be credible, and Exhibits 5, and 6.

The Connector correctly determined that because Appellant was enrolled in Medicare, or had access to enroll, Appellant was ineligible to purchase any health insurance plan through the Connector. This determination was based upon information on the appellant's application which indicated that Appellant was enrolled in the Medicare program. The representative corroborated the information regarding Medicare enrollment during the hearing. 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: Appellant is looking for access to MassHealth coverage or to some form of supplemental coverage. If Appellant's representative has not already done so, the representative may wish to contact SHINE at 978-683-7747 or Health Care for All at 1-800-272-4232 to find out if there is supplemental coverage available.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA24-21488

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

Hearing Issue: Whether the Connector correctly determined one of the appellant's ineligibility to purchase health insurance through the Connector because of Appellant's access to or enrollment in Medicare; and whether the Connector correctly determined the other appellant's eligibility to obtain a Health Connector Plan without an advance premium tax credit because of Appellant's access to affordable employer-sponsored insurance which met the Commonwealth's standards.

Hearing Date: March 18, 2024

Decision Date: April 24, 2024

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 5, 2024 the Connector determined that one of the appellants was ineligible to purchase health insurance through the Connector because the appellant had access to or was enrolled in Medicare and that the other appellant was eligible to obtain a Health Connector Plan without an advance premium tax credit because the appellant had access to affordable employer-sponsored coverage which met the Commonwealth's standards.

HEARING RECORD

The appellants appeared at the hearing which was held by telephone on March 18, 2024. The procedures to be followed during the hearing were reviewed with them. They were then sworn in. Documents in the appellants' file were also reviewed, marked as exhibits, and admitted in evidence with no objection from the appellants. Appellants testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of appeals files, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 31, 2024 addressed to Appellant for a hearing on March 18, 2024

Exhibit 3: Connector Appeals Unit letter dated January 17, 2024 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing and notice of bifurcated hearing

Exhibit 3a: Appeals Unit staff outreach notes dated January 17, 2024

Exhibit 3b: Connector letter dated January 17, 2024 to Appellant

Exhibit 3c: Application for HCC, MassHealth Program for Seniors, sent to Appellants

- Exhibit 4: Hearing Request Form received by the Connector on January 6, 2024
Exhibit 5: Connector letter dated January 5, 2024 to Appellant regarding eligibility
Exhibit 5a: Connector letter to Appellant dated January 5, 2024 regarding denial of eligibility for one appellant
Exhibit 6: Summary and results of Appellants' application dated January 5, 2024
Exhibit 6a: Summary and results of Appellants' application dated January 7, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. One of the Appellants has had Medicare coverage, Parts A and B since February, 2024, but he was eligible to enroll since he turned 65 over two years ago. Before he enrolled, he had coverage through his spouse's plan which was affordable and met the Commonwealth's minimum creditable coverage standards. This plan was offered by the spouse's employer. Even though he has Medicare coverage, he still has the coverage he had before through his spouse's plan (Exhibit 6, Testimony of Appellant).
2. The other appellant has had health insurance through her employment. Appellant attested on her Connector application, submitted on January 5, 2024, that she had coverage and that it was affordable. Appellant applied to the Connector because she was anticipating either leaving her job or going part-time. In either case, she would lose her health insurance and wanted to have replacement coverage so there would be no gap for her and her spouse (Testimony of Appellant, Exhibits 4, 6).
3. On January 5, 2024 the Connector determined that the spouse with access to or enrollment in Medicare was ineligible to obtain insurance through the Connector. The Connector also determined that the appellant with access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards through employment was eligible to purchase a Health Connector Plan without an advance premium tax credit (See Exhibits 5 and 5a; 6 and 6a).
4. Appellants filed a request for an appeal of the Connector's determinations which was received by the Connector on January 6, 2024 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

On January 5, 2024 the Connector determined that the appellant with access to or enrollment in Medicare was ineligible to obtain insurance through the Connector. The Connector also determined that the other appellant who had access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards through employment was eligible to purchase a Health Connector Plan without an advance premium tax credit. See Exhibits 5 and 5a; 6 and 6a; and the testimony of one of the appellants which I find to be credible.

Appellants appealed the Connector's determinations. The appeal request was received by the Connector on January 6, 2024. See Exhibit 4.

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 who was denied eligibility did not enroll in Medicare until after he applied for Connector coverage, but he had access at the time he applied. In fact, he had access for over two years before he applied to the Connector. See the testimony of the appellant's testimony which I find to be credible, and Exhibits 5, and 6 and the Social Security Act, Section 1882(d)(3)(A)(i). This appellant also had coverage under his spouse's employer-sponsored plan which was affordable and met the Commonwealth's standards.

Appellant who was found eligible to purchase a Health Connector plan without an advance premium tax credit had coverage through employment. Her coverage was affordable and met the Commonwealth's standards. See Exhibit 6. She applied to the Connector because she was anticipating either leaving her job or going part-time. In either case, she would lose her coverage. See Appellant's testimony which I find to be credible, Exhibits 4 and 6; and 45 Code of Federal Regulations Section 155.305(f)(1)(ii)(B) and 26 Code of Federal Regulations 1.36B-2(a)(2).

The January 5, 2024 determinations of the Connector regarding Appellants' application 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA24-21506

Appeal Decision: Appeal denied, eligibility determination upheld.

Hearing Issue: Calculation of ConnectorCare Plan Type based on income.

Hearing Date: April 3, 2024

Decision Date: April 17, 2024

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 and 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 forth in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 27, 2023, the Health Connector notified the Appellant that they were eligible to enroll in a ConnectorCare Plan Type 3C with Advance Premium Tax Credits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible to enroll in a ConnectorCare Plan Type 3C with Advance Premium Tax Credits.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on April 3, 2024. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Hearing Request Form submitted by Appellant and received by the Health Connector on 1/9/24 (6 pages)

- Exhibit 2: Health Connector Appeals Unit affidavit (1 page)
Exhibit 3: Health Connector Eligibility Approval Notice, dated 12/27/23 (8 pages)
Exhibit 4: Health Connector Eligibility Results, dated 12/27/23 (2 pages)
Exhibit 5: Medicaid Household Determination, dated 12/27/23 (4 pages)
Exhibit 6: Appellant's Application Summary, dated 12/27/23 (3 pages)
Exhibit 7: Screenshot of benefit lookup tool (1 page)
Exhibit 8: Health Connector outreach notes (1 page)
Exhibit 9: Health Connector Notice of Hearing on 4/3/24, dated 3/5/24 (3 pages)
Exhibit 10: Health Connector Notice of Bifurcated Appeal, dated 1/25/24 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a single person with no dependents. (Exhibit 5).
2. Based on the Appellant's self-reported annual income of \$50,000, the Health Connector determined on December 27, 2023 that the Appellant earned 342.94% of the Federal Poverty Level (FPL) and therefore was qualified to enroll in a ConnectorCare Plan Type 3C with Advance Premium Tax Credits. (Exhibits 4 and 6).
3. On December 27, 2023, the Health Connector issued an Eligibility Approval Notice to the Appellant in which it stated that the Appellant was qualified to enroll in a ConnectorCare Plan Type 3C with Advance Premium Tax Credits. (Exhibit 3).
4. The Appellant submitted a Hearing Request Form to the Health Connector that was dated 1/3/24 and was received by the Health Connector on 1/9/24. The Appellant did not circle a reason for their appeal on the Hearing Request Form, but rather wrote the following after "Other": "I had coverage – submitted my ID to MassHealth prior to deadline and confir[med] by 4 reps." The Appellant also wrote: "I got notice on 12/20 my MassHealth could be canceled by 12/27, to call. I called was told you needed a copy of my ID. I sent it by fax on 12/22/23. Called later that same day + was told that it was received. My health ins. was in good standing. I spoke to 4 reps that week to confirm correct. I went to my Dr. apt as told that all was fine. 4 reps [assured] me I had activeno problems." (Exhibit 1).
5. On January 25, 2024, the Health Connector sent a notice to the Appellant informing them that the Office of Medicaid Board of Hearings, not the Health Connector, is responsible for holding hearings on the MassHealth issues raised in the Appellant's request for a hearing. The notice further stated that a copy of the Appellant's request for a hearing had been transferred to the Office of Medicaid Board of Hearings. (Exhibit 10).
6. On March 5, 2024, the Health Connector issued a Notice of Hearing to the Appellant for the April 3, 2024 hearing. (Exhibit 9).

7. The Appellant testified at the April 3, 2024 hearing that they had a doctor's appointment scheduled for right after Christmas and that five days prior to the appointment, they received notice that they would be terminated from MassHealth if they did not call the MassHealth office. The Appellant testified that they then contacted MassHealth and were told that they needed to send MassHealth a copy of their driver's license, which the Appellant testified they did the next day. The Appellant testified that they then called MassHealth twice before their doctor's appointment to confirm that they still were on MassHealth and that MassHealth told them that they were still enrolled in MassHealth and that their doctor's appointment would be covered. The Appellant testified that when they checked into their doctor's appointment, they were told that their insurance had come up as inactive. The Appellant testified that they again called MassHealth and were told that they were still covered by MassHealth but that it takes a bit of time for the system to update. The Appellant testified that when they spoke to MassHealth at their doctor's office, MassHealth asked them for all of their information again and that the Appellant told MassHealth that their annual income was \$50,000. The Appellant testified that their doctor ordered them to get an X-ray and that when they went to the office for the X-ray the next day, they were again told that their insurance was inactive. The Appellant testified that they called MassHealth once again and were told that they were covered by MassHealth. The Appellant testified that they were later told that their insurance was changing and that they were no longer covered by MassHealth. The Appellant testified that they are taking the position that MassHealth should cover the bills for their doctor's visit and X-ray because the Appellant would not have gone forward with the doctor's visit and the X-ray if they had not received multiple assurances from MassHealth that it would cover those services.

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plan Type 3C based on their income.

ConnectorCare is a Massachusetts program under which eligible persons obtain federal and state subsidies to reduce the cost of health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act ("ACA"). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits ("APTCs"). The amount of APTCs that an individual receives is based on that individual's household income expressed as a percentage of the Federal Poverty Level ("FPL"). 26 U.S.C. § 36B(b)(3)(a)(i). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

In addition to the APTCs, state subsidies are provided through the ConnectorCare program. To be eligible for ConnectorCare in 2024, an individual must qualify for APTCs and have projected yearly household income less than or equal to 500% of the FPL. 956 CMR § 12.04.

The amount of subsidy received through ConnectorCare is scaled based on income. In 2024, individuals in ConnectorCare are placed in one of three "plan types," numbered one through three. See 956 CMR §

12.04(3)(b). The plan type determines the amount of subsidies received. Plan Type 3 has four subtypes denoted as A, B, C, and D. Plan Type 3C, which is the plan type for which Appellant was found eligible, is for individuals whose household income is between 300.1% and 400% of the FPL. Id.

The Health Connector determined on December 27, 2023 that the Appellant qualified for a ConnectorCare Plan Type 3C because the Appellant's self-reported annual income was 342.94% of the FPL. Finding of Fact No. 2. The Appellant testified that when they spoke to what they believed to be MassHealth at their doctor's appointment just after Christmas, MassHealth asked for "all of their information again" and that the Appellant stated that their annual income was \$50,000. Finding of Fact No. 7. Thus, the Appellant confirmed at the hearing that they provided the information about their income on which the Health Connector relied in making its determination about the Appellant's eligibility for health insurance.

I take judicial notice of the fact that the Federal Poverty Level for 2023 for a single person was \$14,4580 and that the annual income for a single person earning \$50,000 per year therefore was 342.94% of the FPL. See <https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines>. Given that an individual whose household income is between 300.1% and 400% of the FPL is eligible for a ConnectorCare Plan Type 3C, 956 CMR § 12.04(3)(b), I find that the Health Connector made the correct decision in notifying the Appellant that they were eligible to enroll in a ConectorCare Plan Type 3C. As a consequence, I am denying the Appellant's appeal.

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 to Suffolk Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

cc: Connector Appeals Unit

ADDENDUM

I recognize that this decision does not resolve the Appellant's dispute with MassHealth about coverage for the Appellant's doctor's appointment and X-ray in late December 2023. As noted in the Notice of Bifurcated Appeal sent to the Appellant on January 25, 2024 (Exhibit 10), that dispute is under the

jurisdiction of the Office of Medicaid Board of Hearings. The Appellant can reach the Board of Hearings at 800-655-0338.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA24-21458

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: April 2, 2024

Decision Date: April 15, 2024

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 November 14, 2023 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 and appellant's representative appeared at the hearing which was held by telephone on April 2, 2024. The procedures to be followed during the hearing were reviewed with them. Appellant and representative were then sworn in. Documents in the appellant's file were also reviewed with the representative and appellant, marked as exhibits, and admitted in evidence with no objection from the representative and Appellant. The representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated March 5, 2024 addressed to Appellant for a hearing on April 2, 2024
- Exhibit 3: Connector Appeals Unit letter dated January 23, 2024 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated January 22, 2024 and March 26, 2024
- Exhibit 4: Hearing Request Form received by the Connector on January 5, 2024
- Exhibit 5: Connector letter dated November 14, 2023 to Appellant and Representative denying eligibility

Exhibit 6: Summary and results of Appellant's application dated November 14, 2023
Exhibit 6a: Summary and results of Appellant's application dated December 5, 2023
Exhibit 6b: Summary and results of Appellant's application dated March 7, 2024
Exhibit 7: MassHealth print-out, Appellant's household determination dated November 14, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant has a disability. In 2023, the appellant was hospitalized for eight months. Appellant has designated his spouse as his representative (Testimony of Representative).
2. Appellant has had Medicare coverage. He has had Part A coverage since at least 2018. Since at least October, 2023, he has also had Part B (Exhibit 6, Testimony of Representative).
3. On November 14, 2023, Appellant's representative, Appellant's spouse, applied for health insurance coverage through the Connector. While speaking to Customer Service, the representative was told that she had to add Appellant to the application. Though she applied to the Connector, the representative really wanted MassHealth coverage (Exhibits 5 and 6, Testimony of Representative).
4. On November 14, 2023 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. The Connector notified the appellant by mail of this determination (Exhibits 5 and 6).
5. Appellant filed a request for an appeal of the Connector's determination which was received by the Connector on January 5, 2024 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

On November 14, 2023 the Connector determined that Appellant was ineligible to obtain coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's determination. The appeal request was received by the Connector on January 5, 2024. 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 on November 14, 2023. He obtained Part A prior to 2018. He got Part B in October, 2023. Appellant applied for Connector coverage on November 14th. See the testimony of the appellant's representative which I find to be credible, and Exhibits 5, and 6.

The Connector correctly determined that because Appellant was enrolled in Medicare, or had access to enroll, Appellant was ineligible to purchase any health insurance plan through the Connector. This

determination was based upon information on the appellant's application which indicated that Appellant was enrolled in the Medicare program. The representative corroborated the information regarding Medicare enrollment during the hearing. 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: Appellant is looking for access to MassHealth coverage. If he has not yet heard from MassHealth, Appellant or his representative may wish to contact MassHealth at 1-800-841-2900.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2421462

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

Hearing Issue:

Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Health Connector because the appellant failed to establish lawful presence.

Hearing Date: April 2, 2024

Decision Date: April 20, 2024

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 4, 2023, the Connector determined that the appellant was ineligible to purchase a Health Connector plan because of the appellant's failure to establish lawful presence in the United States.

HEARING RECORD

The appellant's representative appeared at the hearing which was held by telephone on April 2, 2024. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were reviewed with the representative, marked as exhibits, and admitted in evidence with no objection. The representative testified.

The hearing record consists of the testimony of Appellant's representative, and the following documents which were admitted in evidence with no objection by the appellant:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated March 5, 2024 for April 2, 2024 hearing addressed to Appellant
- Exhibit 3: Appeals Unit letter to Appellant dated January 23, 2024 acknowledging receipt of request for appeal
- Exhibit 3a: Appeals Unit staff outreach notes dated January 23, and March 26, 2024
- Exhibit 4: Hearing Request from Appellant received on January 5, 2024 with attachments
- Exhibit 5: Connector letter to Appellant dated December 4, 2023 regarding denial of eligibility
- Exhibit 5a: Connector letter to Appellant dated December 22, 2023 regarding denial of eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated December 4, 2023

Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated December 22, 2023

Exhibit 6b: Summary and results of Appellant's application for Connector health plan dated March 26, 2024

Exhibit 7: Connector print-out showing documents for proof of immigration status, residency and income submitted by Appellant and uploaded on December 22, 2023, and January 23, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant arrived in the United States on August 1, 2007 from her country of origin. She later obtained a permanent resident card which expires on January 24, 2028 (Testimony of Representative, Exhibits 3a and 7).
2. Appellant applied for health insurance through the Connector on December 4, 2023. On her application, Appellant attested to having a permanent resident card. At the time Appellant applied, she was employed, had a social security number, and was making contributions through her job to Social Security and Medicare. She also owned property and was paying property taxes (Exhibits 6 and 7).
3. The Connector determined and notified Appellant of the determination in a letter dated December 4, 2023 that Appellant was ineligible to obtain health insurance through the Connector because the Connector had no information showing that Appellant was lawfully present in the United States. In the letter, the appellant was informed that if the information about Appellant's status was incorrect, Appellant could submit additional proof. Appellant submitted a copy of her permanent resident card as well as proof of income and residency to the Connector on December 22nd and again on March 26, 2024 (Exhibits 3a, 5, 6, 7 and Testimony of Representative).
4. Appellant's application was run by the Connector several times, in December, 2023 twice, and again in March, 2024. The appellant was determined to be ineligible two times, on December 4th, and on December 22nd. On March 26th, the Connector determined that the appellant was eligible. Nothing changed about the appellant's immigration status during this period (Testimony of Representative, Exhibits 3a, 5, 5a, 6, 6a, 6b, and 7).
4. Appellant submitted a request for an appeal of the Connector's determination on January 5, 2024 (Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on December 4, 2023 that the appellant was ineligible to purchase health insurance through the Connector because the Connector did not have information to show that the appellant was lawfully present. See Exhibit 5.

According to her application, Appellant was not a citizen of the United States, but she did have a permanent resident card that had not expired. See Exhibit 6 and the testimony of the appellant's representative which I find credible. After being denied eligibility, Appellant sent the Connector a copy of her permanent resident card. This was uploaded as part of her file on December 22nd. Appellant was again found to be ineligible. Her application was run again on March 26 after she again sent in a copy of her permanent resident card. This time, though nothing had changed regarding her immigration status, Appellant was found to be lawfully present and, therefore, eligible for coverage. See Exhibits 3a, 5, 5a, 6, 6a, 6b, and 7.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other

things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR155.305(a)(1).

The Connector's determination denying Appellant eligibility to obtain health insurance through the Connector is overturned. As noted above, an applicant must be lawfully present to be eligible for coverage. According to her application, Appellant was lawfully present. On December 22, 2023, Appellant sent the Connector a copy of her permanent resident card. This was uploaded into the system. Despite the attestation and the submission of documentation, Appellant was denied eligibility. She sent the same documentation in March and was then found to be eligible. There is no evidence in the record indicating that Appellant was not lawfully present or that the Connector did not have documentation to support the appellant's attestation of lawful presence as of at least December 22, 2023. Even on December 4th, 2023, the date the Connector first denied the appellant eligibility, the Connector had Appellant's attestation. I note that as of March 26th, the appellant was found to be eligible for coverage using the same documentation submitted by Appellant.

Had the appellant been found eligible for coverage as of December 5th or even December 22nd, it is possible that she would have had coverage as of January 1st, 2024. Appellant should be given the option to have retroactive coverage, understanding that premium payments would also be retroactive.

ORDER: The determination by the Connector regarding Appellant's ineligibility to purchase a Health Connector plan is overturned.

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

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA24-21609

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: April 4, 2024

Decision Date: April 26, 2024

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 9, 2023, Appellant was found eligible for a Connector Care Plan Type 2B beginning on January 1, 2024

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for a Connector Care Plan Type 2B, based upon Appellant's income.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 4, 2024. The Hearing Record consists of the Testimony of Appellant and the following documents which were admitted into evidence:

1. Affidavit and Appeal Request dated January 20, 2024
2. Eligibility on Appeal dated December 9, 2023
3. Research and Resolution
4. Historic notices NONE
5. Recent Determination NONE
6. Notice from Appeal Unit dated March 6, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. On December 9, 2023, Appellant applied for subsidized health insurance for 2024 (Exhibit 2).
2. On December 9, 2023, Appellant was found eligible for a Connector Care Plan 2B based on a federal poverty level of 190.64% (Exhibit 2).
3. Appellant's work situation and income had decreased during 2023 (Testimony of Appellant).
4. Appellant's determination was based on information from when Appellant's income was higher (Testimony of Appellant).
5. Appellant expects to continue to earn less during the remainder of 2024 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit depending on their household income. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 500% FPL qualify for additional state subsidies through the Health Connector's Connector Care program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

On December 9, 2023, Appellant applied for subsidized health insurance for 2024. Appellant was found to have a Federal Poverty Level of 190.64%. On December 9, 2023, Appellant was found eligible for a Connector Care Plan 2B. The Health Connector made the correct determination on December 9, 2023. See 956 CMR 12.04.

ORDER

The Appeal is denied.

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

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

ADDENDUM

If Appellant has not already done so, Appellant should immediately report changes in income to the Health Connector (1-877 623-6795) and provide any documents requested.

Appellant should note that if you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a Connector Care plan (which also includes Advance 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 from the federal government will be reconciled when you file your 2024 federal income tax return. 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 2024 (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 2024 (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.

Connector Appeals Unit

FINAL APPEAL DECISION: ACA24-21933

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: April 3, 2024

Decision Date: April 11, 2024

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 12.13.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on January 31, 2024. The Health Connector determined the Appellant to be eligible for a ConnectorCare plan 2B with Advance premium Tax credits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for a ConnectorCare plan 2B with Advance Premium Tax Credits.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 3, 2024. 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 March 6, 2024)
- 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 (2 pages dated February 12, 2024)
- Exhibit 6: Notice of Eligibility Determination (8 pages, dated January 31, 2024)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (7 pages, dated January 31, 2024)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (5 pages, dated December 26, 2023)
- Exhibit 9: Historical Notices and Printouts (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 24 year old single male (Exhibit 7)
2. The Appellant has a household of one. (Exhibit 7)
3. On his application, dated January 31, 2024 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) of \$28,704.00 (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 186.87% of the 2024 Federal Poverty Level (FPL).
5. An individual at that income level would be eligible for subsidized coverage under the ACA, with Advanced Premium Tax Credits because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

6. The Appellant had been on MassHealth CarePlus but lost said coverage due to loss of covid protection (Exhibit 3, 7 & 8)
7. The Appellant testified that he was involved in a serious motorcycle accident in 2022 and he was informed by his medical providers that he was out of network for his necessary medical services and could not pay the amount of medical bills without medical insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Health Connector correctly found The Appellant eligible for ConnectorCare Plans 2B. The Appellant then appealed. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

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

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

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Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is urged to contact the Health Connector Customer Service and inquire as to whether there is another plan that will allow his current medical providers to be in-network. Appellant is further urged to request information from the Health Connector Customer Service for information regarding contacting the Ombudsman to see if that office can provide further help.