

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4824

Appeal Decision: Appeal Granted

Hearing Issue: Eligibility for APYC

Hearing Date: May 29, 2018

Decision Date: August 16, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On March 19, 2018, the Appellants were determined eligible for health insurance coverage through the Health Connector with no financial help in 2018, based on their income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined on March 19, 2018, that the Appellants were eligible for Health Connector plans with no financial assistance in 2018.

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone on May 29, 2018. At the end of the hearing, the record was left open until June 14, 2018, for the Appellants to submit additional evidence. On June 5, 2018, the Appellants submitted additional evidence, and the record was closed.

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

- Exhibit 1: 3/19/18 Eligibility Approval Notice (24 pages)
- Exhibit 2: 4/13/18 Appeal (3 pages)
- Exhibit 3: Appeals Unit Contact Notes (2 pages)
- Exhibit 4: 4/17/18 2018 Eligibility Results for 3/19/18 Application (5 pages)
- Exhibit 5: MWS – Documents Processed (3 pages)

- Exhibit 6: 3/12/18 Response to 2/8/18 Request for Information (3 pages)
- Exhibit 7: 12/13/17 Request for Information (12 pages)
- Exhibit 8: 4/17/18 AVV/View Application (one page)
- Exhibit 9: 4/26/18 2018 Eligibility Results for 12/6/17 Application (5 pages)
- Exhibit 9A: 4/26/18 My Enrollment/Details (5 pages)
- Exhibit 10: 4/17/18 2018 Eligibility Results for 4/12/18 Application (5 pages)
- Exhibit 11: 4/30/18 Hearing Notice (9 pages)
- Exhibit 12: 4/1/18 and 5/1/18 Health Insurance Bills from Health Connector (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By Request for Information Notice dated February 8, 2018, the Health Connector notified the Appellants that they must send proof of income by March 18, 2018, or their insurance costs would go up. (Exhibit 6; Exhibit 7)
2. By letter dated March 12, 2018, the Appellants provided proof of income to the Health Connector, stating that they did not receive any wage income in 2017; that their only income in 2017 was from interest, dividends and other miscellaneous income; and, that they did not expect any wage income in 2018. The Appellants included with the letter a copy of their 2016 tax return (their most recent tax return), showing substantial wage income for that year. (Appellants' testimony; Exhibit 2; Exhibit 3; Exhibit 6)
3. On March 15, 2018, the Health Connector received the Appellants' 3/12/18 letter with proof of income for 2017. (Exhibit 5)
4. On March 19, 2018, the Appellants submitted an application for health insurance coverage to the Health Connector. By Eligibility Approval Notice dated March 19, 2018, the Health Connector thanked the Appellants for submitting "documents we needed as proof of your information" and notified the Appellants that they qualified for a Health Connector Plan with no financial assistance. The Notice also stated that the Appellants' eligibility was based on household income that was 24,107 percent of the Federal Poverty Level (FPL) for 2018 and that this FPL was based on either the household income the Appellants entered on their application or on the most recent information that the Connector had received from income data sources. (Exhibit 1)
5. The Appellants filed their 2017 tax return in April 2018. (Appellants' testimony)
6. By bill dated April 1, 2018, the Health Connector charged the Appellants the full \$820.76 monthly premium for their coverage in May 2018 without any APTC and an additional \$582 adjustment charge for the prior month, for a total of \$1,402.76, that the Appellants needed to pay by April 23, 2018. (Exhibit 12)
7. On April 12, 2018, the Appellants were determined eligible for Health Connector plans with APTC of \$565, based on self-reported income that was 370.81 percent of FPL. (Exhibit 3; Exhibit 10)
8. On April 13, 2018, the Appellants paid the full \$1,402.76 of the 4/1/18 bill because they did not want to lose their health insurance coverage while their 4/13/18 appeal was pending. (Appellants' testimony; Exhibit 12)
9. On April 13, 2018, the Appellants appealed the Connector's 3/19/18 decision to deny the Appellants help paying for health insurance coverage through the Health Connector. As the reason for their appeal, the Appellants circled "Income" and stated, "Income projection is incorrect, estimate used is based on 2016 income and is not reflective of actual income," on the appeal form. In an attached cover letter, the Appellants stated that they were appealing "based on the fact that the income used to determine eligibility is incorrect." (Exhibit 2)

10. By bill dated May 1, 2018, the Health Connector charged the Appellants a \$255.76 monthly premium (\$820.76 minus \$565 APTC) for June 2018 coverage, and credited them \$565 for their APTC for May 2018, leaving them with a negative balance due of \$309.24. (Exhibit 12)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellants were found eligible for Health Connector Plans without financial assistance, based on projected income for 2018 of over 24,000 percent of FPL. Only people with household income of no more than 400 percent of FPL qualify for an Advance Premium Tax Credit.

In this case, the Appellants' projected income for 2018 qualified them for APTC. While the Health Connector apparently assumed that the Appellants' projected income for 2018 would not change from their 2016 household income, the Appellants were aware that their income would change drastically in 2018 and had submitted documentation of this to the Health Connector. The Appellants had mailed the documentation at the request of the Health Connector, and the Health Connector received the documentation on March 15, 2018, which was three days before the deadline and four days before the Health Connector's determination at issue here. Therefore, I conclude that the Health Connector incorrectly determined on March 19, 2018, that the Appellants did not qualify for any financial assistance in purchasing insurance coverage through the Health Connector in 2018.

However, it appears from the bills the Appellants submitted for May and June 2018 coverage that the Health Connector has corrected the error with credits to the Appellants, as long as the \$309.24 negative balance on the 5/1/18 bill was credited to the Appellants on their 6/1/18 bill for July coverage.

ORDER

The appeal is granted. If not already done, the Health Connector shall adjust the Appellants' account to reflect the full amount of the APTC to which they were entitled in their 3/19/18 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5176

Appeal Decision: Appeal Denied

Hearing Issue: SEP; Changing Enrollment Plan

Hearing Date: June 26, 2018

Decision Date: August 18, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

During open enrollment for 2018, the Appellant's household was determined eligible for Health Connector plans with APTC, and the Appellant enrolled in a Health Connector plan.

ISSUE

The issue addressed on this appeal is whether the Appellant could enroll in a new plan for 2018, outside of open enrollment, due to his misunderstanding about the terms of his current plan.

HEARING RECORD

On June 26, 2018, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 11/7/17 Eligibility Approval Notice (12 pages)
- Exhibit 2: 5/21/18 Appeal
- Exhibit 2A: 5/21/18 Appeal - screenshot
- Exhibit 3: 5/24/18 Contact Note – Ack Letter
- Exhibit 4: 2018 Eligibility Results for 11/6/17 Application (2 pages)
- Exhibit 5: 2018 Application Summary (3 pages)

Exhibit 6: Salesforce Info (4 pages)
Exhibit 7: 5/29/18 Hearing Notice (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant and his wife had health insurance through the Health Connector in 2017 and were pleased with the coverage. Their plan was Tufts Silver 2200 (Exhibit 2; Appellant's testimony)
2. On September 22, 2017, the Appellant called Connector Customer Service after receiving a notice about his APTC for 2018. The Customer Service Representative (CSR) informed the Appellant that he needed to update his information, such as income for 2018, and that he would be receiving additional information from the Connector about renewing for 2018. The Appellant had no further contact with Connector Customer Service, until May 16, 2018. (Exhibit 6)
3. On November 6, 2017, the Appellant applied to the Health Connector for 2018. The Health Connector approved the Appellant and his wife for Health Connector Plans with Advance Premium Tax Credit in 2018, beginning on January 1, 2018. (Exhibit 4)
4. By letter dated November 7, 2017, the Health Connector notified the Appellant that his household was eligible for Health Connector Plans with an Advance Premium Tax Credit in 2017, but that he could not enroll in a plan or change plans at that time unless he had a qualifying event, because it was not open enrollment period. (Exhibit 1)
5. During open enrollment for 2018 coverage, the Appellant called "Massachusetts Health Direct" to speak with a representative and select a plan for 2018. The representative told the Appellant that his current plan was no longer available. The Appellant asked the representative if there was a similar plan available for 2018. The representative informed the Appellant that Tufts Health Direct Silver 2500 was similar, except for the deductible rising from \$2200 to \$2500. (Exhibit 2; Appellant's testimony)
6. The Appellant enrolled in Tufts Health Direct Silver 2500 for 2018, during open enrollment for 2018. (Appellant's testimony; Exhibit 2)
7. In late April 2018 or the first half of May 2018, the Appellant and wife went to fill prescriptions and learned that they would have to meet the deductible of \$2500 before their plan would assist in paying for medications. These same medications were covered in 2017 with minimal or no co-pay. (Exhibit 2; Appellant's testimony)
8. On May 16, 2018, the Appellant called Connector Customer Service and asked why he had been enrolled in his current plan. The CSR responded that the Appellant had received a letter at the time of open enrollment that he had to choose a plan by 11/15/17 or he would be automatically enrolled in a plan that was similar to his current plan. The Appellant then requested an appeals form from the CSR. (Exhibit 6)
9. On May 21, 2018, the Appellant requested a hearing on whether he could enroll in a new plan for 2018, outside of open enrollment, due to his misunderstanding about the terms of his current plan. (Exhibit 2; Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant contends that he should have the opportunity to select a different plan before the next open enrollment period due to his misunderstanding about the benefits of his current plan. There are specific life events that would qualify an applicant for such a special enrollment period, including the applicant mistakenly enrolling in a Health Connector plan due to an error, misrepresentation, or inaction on the part of the Health Connector, as the Appellant argues. I am not persuaded by this argument for the reasons that follow.

There is nothing in the record to support the conclusion that the Appellant mistakenly enrolled in a Health Connector plan due to error, misrepresentation, or inaction on the part of the Health Connector. To the contrary, while the Appellant had contact with Connector Customer Service in the months before and after 2018 open enrollment, there was no contact during open enrollment. Although the Appellant testified that he spoke with "Massachusetts Health Direct" during open enrollment, this person was likely a representative for the Appellant's Tufts Health Direct plan. Moreover, as the Appellant attempted unsuccessfully to change his 2017 plan in November 2017, he was very aware of the importance of choosing the most appropriate plan for his household for 2018 during open enrollment. While he may have had regrets about his choice for 2018, five months into the year, that is not a basis for qualifying the Appellant for a special enrollment period.

Accordingly, the Health Connector's decision that the Appellant could not change health insurance plans for 2018, outside of open enrollment, due to his misunderstanding about the terms of his current plan, was correct, as the Appellant did not qualify for a Special Enrollment Period, under 45 CFR § 155.420.

Accordingly, 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 letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5331

Appeal Decision: The Connector's denial of Appellant family member's application for the purchase of health insurance is affirmed. The Connector's determination that Appellant was eligible for Health Connector plans without subsidies is affirmed.

Hearing Issue: Whether Appellant's family member was properly excluded from obtaining health insurance through the Connector because Appellant is not lawfully present in the United States. Whether the Connector correctly determined that Appellant was eligible for Health Connector Plans without subsidies.

Hearing Date: July 6, 2018

Decision Date: August 9, 2018

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 May 16, 2018, Appellant's family member was denied eligibility to obtain health insurance through the Connector because the family member was found not to be lawfully present in the United States. Appellant was found eligible for a Health Connector Plan without subsidies.

ISSUE

Whether the Health Connector correctly determined that Appellant's family member was ineligible for a Health Connector plan because the family member was not lawfully present in the United States. And whether the determination that Appellant was eligible for a Health Connector Plan without subsidies was correct based upon the information provided on the application.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on July 6, 2018. Also present was a duly sworn interpreter. The procedures to be followed during the hearing were reviewed with Appellant. Exhibits were marked and admitted in evidence with no objection. Appellant testified.

The hearing record consists of Appellant's testimony 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: Correspondence from Connector Appeals Unit addressed to Appellant
- Exhibit 3: Hearing Request Form dated June 4, 2018
- Exhibit 4: Notices from the Health Connector
- Exhibit 5: Historic Eligibility Results and application summary

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied to obtain health insurance for Appellant and a family member through the Connector in May 2018 (Exhibit 4).
2. Appellant's family member's eligibility to obtain health insurance through the Connector was denied on May 16, 2018 because the family member was determined not to be lawfully present in the United States (Exhibit 4).
3. Appellant was determined to be eligible to enroll in a Health Connector Plan without subsidies on May 16, 2018 (Exhibit 4).
4. Appellant listed the income accurately on the application (Testimony of Appellant).
5. Appellant family member does have legal status but did not submit requested documents to the Health Connector at the time of the Application (Exhibit 3)
6. Appellant submitted documents showing lawful presence of the family member with the Notice of Appeal filed on June 4, 2018.(Exhibit 3).
7. Appellant was found eligible for Health Connector Plan without subsidies since Appellant's income was more than 400 % of the Federal Poverty level (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied for health insurance coverage through the Connector for Appellant and a family member in May 2018. On May 16, 2018 the Connector denied Appellant family member's eligibility for health insurance because the family member was determined not to be lawfully present in the United States. Appellant was found eligible for unsubsidized Health Connector Plans. Appellant appealed the Connector's denial on June 4, 2018. Appellant submitted documents showing lawful presence for the family member at the time of the Hearing Request. At the time of the application, Appellant did not submit the documents regarding lawful presence to the Health Connector. See Testimony of Appellant which I find to be credible and Exhibits 3 and 4.

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). Appellant did not provide the requested documents at the time of the application. The Connector's action in denying Appellant family member's eligibility to purchase health insurance through the agency is affirmed based upon the information supplied by Appellant in the application.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on a projected yearly MAGI. 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. Since Appellant's income was more than 400% of the Federal Poverty Level, the decision denying Appellant subsidies is affirmed.

ORDER

The action taken by the Connector at the time of Appellant's application denying Appellant family member's eligibility is affirmed. The action taken denying Appellant subsidies is also 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.

ADDENDUM

Appellant was encouraged to review any expected income changes and report changes to the Health Connector. Appellant should also make the Health Connector aware of any employer sponsored health insurance that may be available.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5405

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; lawful presence

Hearing Date: July 17, 2018

Decision Date: August 13, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On or about May 29, 2018, Appellant submitted an application for insurance, and was determined ineligible on the basis of not being lawfully present in the United States.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for ConnectorCare, based on information regarding his lawful presence in the United States.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 17, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (6-27-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (6-18-18) (2 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (6-3-18) (1 page);
- Exhibit 6: Eligibility Denial letter (5-29-18) (6 pages);

Exhibit 7: MA Health Eligibility Approval letter (5-29-18) (6 pages); and
Exhibit 8: Eligibility detail printout and application summary printout (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in May 2018. Appellant was determined to be ineligible due to information from the government that he was not lawfully present in the United States.
2. Appellant testified that he is lawfully present in the United States and has been lawfully present for one year approximately.
3. Appellant did not submit written documentation of lawful presence or update his application to attest to lawful presence prior to the hearing.

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on applicant's behalf, based on a projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must either be a United States citizen or be lawfully present in the United States. 45 CFR § 155.305.

The information received regarding Appellant was that he was not lawfully present. Appellant testified that he is lawfully present, but had not updated his application nor submitted any documentation to confirm his lawful presence as of the date of the hearing.

The Connector made the correct determination based on the information available to the Connector.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Note: Appellant was advised to update his application and to contact customer service.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5417

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; access to Medicare

Hearing Date: July 17, 2018

Decision Date: August 13, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On or about May 30, 2018, Appellant was determined ineligible for health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 17, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, the Appellant's spouse's testimony and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (6-27-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (6-19-18) (3 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (6-4-18) (2 pages);
- Exhibit 6: Eligibility Denial letter (5-30-18) (6 pages);

Exhibit 7: Eligibility Approval letter (5-30-18) (12 pages); and
Exhibit 8: Eligibility detail printout and application summary printout (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant and Appellant's spouse applied for health insurance through the Health Connector in May 2018.
2. Appellant's spouse was deemed eligible for ConnectorCare Plan Type 2B. Appellant was determined ineligible for Health Connector plans based on being eligible for Medicare.
3. Appellant testified that Appellant had refused Medicare thinking that Appellant could join with Appellant's spouse for a family plan through the Health Connector.
4. Appellant does have access to Medicare.

ANALYSIS AND CONCLUSIONS OF LAW

Under 42 USC 1395 ss(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare.

When Appellant's eligibility for coverage was determined on May 30, 2018, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that he is eligible for Medicare, but indicated he had refused Medicare. However, because Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year

from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

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

Note: Appellant was concerned about whether he could now enroll in Medicare since he had refused it. If Appellant is unable to enroll in Medicare and has documentation that he is unable to do so until open enrollment, he should contact the Health Connector with such written documentation.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA185450

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

Hearing Issue: Whether the Connector correctly determined that the appellant was ineligible to change health insurance plans until the next open enrollment period because Appellant did not have a qualifying life event.

Hearing Date: July 24, 2018

Decision Date: August 14, 2018

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 March 16, 2018, the Connector informed the appellant that she was ineligible to change her health insurance plan through the Connector until the next open enrollment period.

ISSUE

Whether the Connector correctly determined pursuant to 45 CFR 155.410 and 420 that the appellant was ineligible to change health insurance plans through the Connector until the next open enrollment period because Appellant did not have a qualifying life event.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 24, 2018. 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.

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 July 3, 2018 addressed to Appellant for July 24, 2018 hearing
- Exhibit 3: Connector Appeals Unit letter dated June 27, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes
- Exhibit 4: Hearing Request Form by Appellant received on June 18, 2018
- Exhibit 5: Connector letter dated October 30, 2017 to Appellant, final renewal notice

Exhibit 6: Summary and results of Appellant's application for Connector plan dated February 24, 2018
Exhibit 7: Connector Customer Service contact notes
Exhibit 8: Appellant's Connector Profile print-out

FINDINGS OF FACT

The record shows, and I so find:

1. In October, 2017, Appellant received a final renewal notice from the Connector. As of January, 2018, Appellant was to continue with the same ConnectorCare plan that she had in 2017. In the notice, the appellant was advised to find out if her current plan had providers that she would want to use in the coming year and if there would be any changes to her current plan in the next year (Exhibit 5).
2. Appellant remained in the same plan in 2018 (Testimony of Appellant).
3. In early 2018, the appellant discovered that her primary care doctor no longer accepted the coverage Appellant had. Appellant contacted the plan and the Connector and found that no primary care doctor in her town or nearby would accept the coverage. She also called individual doctors. The doctor closest to her who would accept the coverage was at least 50 minutes away by car in a town about 30 to 40 miles away from where she lived (Testimony of Appellant, Exhibit 7).
4. In March, 2018, the appellant called the Connector Customer Service line to ask to switch plans because of her inability to find a doctor near her who would take her coverage; she was told by Customer Service that she could only change plans during the open enrollment period or if she had a change to her eligibility (Exhibit 7, Testimony of Appellant).
5. Appellant had not had a change in her eligibility. She had not moved. Her marital status was unchanged. She had not had a child and had not adopted a child; there was no change in the number of dependents she has. She had not lost coverage, and had not moved. She had no other qualifying event (Testimony of Appellant).
6. Appellant filed a request for an appeal of the Connector's determination in June, 2018. In her request for an appeal, Appellant asked to be allowed to change plans since no doctor in her area would accept her present coverage (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined in March, 2018 that the appellant was ineligible to enroll in a new plan until the next open enrollment period or until her eligibility changed in some way.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event.

Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage or change plans through the Connector within 60 days of the event, even outside of an open enrollment period.

In this matter, Appellant received notice from the Connector at the end of October, 2017 that she was eligible to continue with her ConnectorCare coverage. She was advised to check for any changes to her current plan which would take effect in 2018 and to make sure that the plan she chose had the providers she wished to use in the next year. See Exhibit 5. Appellant opted to remain in the plan she had in 2017 during 2018. It was only in March of 2018 that she discovered that her primary care provider no longer accepted her coverage and that there were no primary care providers available in her vicinity. See the testimony of the appellant and Exhibit 7.

Once she discovered that her provider would not accept her coverage and that there were no primary care providers near her who would accept it, Appellant called Customer Service at the Connector. She was told that unless she had some change to her eligibility (a qualifying life event), she could not change her plan outside of the open enrollment period. See Exhibit 7 and the testimony of the appellant.

Appellant had no qualifying life event. Her marital had not recently changed. She had not recently lost health insurance coverage and she had not moved. There was no evidence of any other qualifying event. See the testimony of the appellant which I find to be credible. See 45 CRF 55.420.

What is at issue here is whether the determination that Appellant was ineligible to change her health insurance plan until the next open enrollment period was correct at the time it was made. The determination was based upon the information the appellant shared with Customer Service concerning qualifying life events. The Connector's determination was correct, and the appellant must wait until the next open enrollment period to enroll in a plan. I understand that the appellant will be inconvenienced by having to use a provider outside of her place of residence. I note, however, that the Final Renewal Notice (Exhibit 5) very clearly advised the appellant to check with her plan and find out if her current provider would accept her coverage in 2018.

Because of this, the determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellant's ineligibility to change health plans until the next open enrollment period 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 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 may request an application for a waiver regarding the open enrollment period through the Office of Patient Protection. She may contact the office at 1-800-436-7757.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA185471

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

Hearing Issue: Whether the Connector correctly terminated Appellant's eligibility to enroll in a Health Connector plan because of the appellant's failure to submit proof of residency

Hearing Date: July 24, 2018

Decision Date: August 22, 2018

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 May 30, 2018, the Connector terminated Appellant's eligibility to enroll in a Health Connector plan because of Appellant's failure to provide proof of required information.

ISSUE

Whether the Connector correctly terminated Appellant's eligibility to purchase health insurance through the Connector because the appellant failed to send in proof of residency.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 24, 2018. An interpreter was also present. 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 for Exhibits 1 through 3 and 4 through 6a. Appellant objected to Exhibit 3a being admitted in evidence. The appellant testified.

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 July 3, 2018 addressed to Appellant for July 24, 2018 hearing

Exhibit 3: Connector Appeals Unit letter dated June 19, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit outreach notes

Exhibit 4: Hearing Request Form by Appellant received on June 18, 2018 with attachments, including a

statement regarding residency and immigration status

Exhibit 5: Connector letter dated May 30, 2018 to Appellant regarding termination of eligibility

Exhibit 5a: Connector letter to Appellant dated February 22, 2018 requesting proof of residency

Exhibit 6: Summary and results of Appellant's application for Connector plan dated February 22, 2018

Exhibit 6a: Summary and results of Appellant's application for Connector plan dated May 30, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. On February 22, 2018, the appellant applied for health insurance coverage through the Connector. She attested to her residency on her application. She was found to be eligible for ConnectorCare coverage (Testimony of Appellant, Exhibit 6)
2. On the same date, the Connector requested in writing that the appellant send in proof of residency by May 23, 2018. A list of documents constituting acceptable proof was attached to the notice. The appellant received the notice (Testimony of Appellant, Exhibit 5a, Exhibit 6).
3. The appellant sent proof of residency, but she sent it to the wrong address and the Connector did not receive the proof (Testimony of Appellant)
4. On May 30, 2018, the Connector notified the appellant that her coverage would be terminated as of May 31, 2018 because she had not sent in the requested proof of residency (Exhibit 5).
5. Appellant filed a request for an appeal of the Connector's determination in June, 2018 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined in May, 2018 that the appellant was no longer eligible to enroll in a Health Connector plan because the appellant did not submit proof of residency. Appellant appealed this determination in June, 2018. See Exhibits 4 and 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. One basic requirement for eligibility is residency within the Commonwealth. If a household's projected income is between 100% and 300% of the Federal Poverty Level, the household members are entitled to an advance premium tax credit to help cover the cost of a ConnectorCare plan in the Commonwealth. If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources and eligibility to enroll in a plan may be terminated. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

Appellant attested to her residency on her application for health insurance through the Connector in February, 2018. Based upon the attestation, the appellant was determined to be eligible for ConnectorCare coverage pending her providing proof of residency by May 23, 2018. Appellant was given a list of acceptable forms of proof. Appellant testified that she sent proof of residency, but she sent it to the wrong address; the Connector did not receive the proof. On May 30, 2018, the Connector sent the appellant notice that her eligibility for coverage was terminated as of May 31, 21028. See Exhibits 5, 5a, and 6, and the testimony of the appellant which I find to be credible.

After not receiving proof of residency from the appellant, the Connector determined that the appellant was no longer eligible for Connector coverage pursuant to 45 CFR § 155.315(f)(5).

What is at issue here is whether the determination made by the Connector was correct on the date it was made. The Connector, after notifying the appellant that she was required to submit proof of residency and not receiving any proof, terminated Appellant's eligibility for coverage as of May 31, 2018. The appellant had not submitted proof of residency by the May 23rd deadline. No error was made by the Connector.

Order: Appellant's appeal is denied. The determination of 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 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5525

Appeal Decision: Appeal denied

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

Hearing Date: July 25, 2018

Decision Date: August 13, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The appellant has been enrolled in unsubsidized Health Connector Plans since January 1, 2018. Her plan has a \$3000.00 deductible which she believed would be reimbursed through a Health Savings Account provided by her employer. The account was never set up and her medical costs are now being applied against her deductible which is causing a financial hardship. She contacted the Health Connector and was advised to apply for a Special Enrollment Period (SEP). By decision dated June 20, 2018, the Connector advised her that she did not qualify to enroll in a new or different insurance plan because she did not have a qualifying event. (Ex. 1) She filed an online appeal dated June 19, 2018. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Ex. 6)

ISSUE

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 25, 2018, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence:

- Ex. 1— Health Connector's Special Enrollment Period Decision dated June 20, 2018 (8 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results (2 pages)

- Ex. 3— Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 4—Online Appeal Form dated June 19, 2018 (2 pages)
- Ex. 5—Acknowledgment of Appeal dated June 28, 2018 (2 pages)
- Ex. 6—Notice of Hearing (5 pages)
- Ex. 7—Affidavit of Connector representative

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 26-years-old, is single, and has a tax household size of one. (Testimony, Ex. 3)
2. The appellant accepted an offer of employment in late 2017 in which the employer represented that it would provide a Health Savings Account (HSA) with an annual benefit of \$3400.00. She then enrolled in an unsubsidized insurance plan through the Health Connector with a deductible of \$3000.00, effective January 1, 2018, based on the assumption that her deductible would be offset by HSA funds. After she commenced employment, the employer did not set up an HSA account. She spoke with her employer about the matter and was advised that the employer was unable to set up the account because she was the only employee in its small workforce who requested it. (Testimony, Ex. 4)
3. Since enrolling in her plan, the appellant has paid \$112.00 for a weekly medical appointment. The cost has been applied against her \$3000.00 deductible which she has not yet met, and which has become a financial hardship. She contacted the Health Connector about switching to a more affordable plan in light of the employer’s failure to provide her with a HSA account. She was advised to file an appeal seeking a SEP. (Testimony)
4. By letter dated June 20, 2018, the Health Connector advised the appellant that she did not qualify to enroll in a new or different health insurance plan because she did not have a qualifying event. (Ex. 1)
5. The appellant filed an appeal dated June 19, 2018, in which she stated in part she enrolled in a high deductible plan in December because her employer advised her that she would be receiving a HSA as a benefit. She further stated that the employer subsequently advised her that the HSA would not be available, and that she has had to pay for her medical expenses out of pocket until her insurance kicks in. Finally, she requested a SEP based on exceptional circumstances. (Ex. 4)

ANALYSIS AND CONCLUSIONS OF LAW

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

I take administrative notice of the fact that the open enrollment period for health insurance for 2018 ended on January 23, 2018 for the commercial non-group market, and that closed enrollment runs from February 1, 2018 to December 31, 2018.

The appellant seeks to change plans outside of the open enrollment period because she cannot afford her out of pocket medical expenses which are currently applied against her deductible of \$3000.00. It is indeed unfortunate that her employer represented that it would provide a HSA as part of her employment offer, and then rescinded that representation, leaving her in the unanticipated situation of covering her expenses until her deductible kicks in. Her frustration and distress are understandable. Unfortunately, however, her circumstances do not fall within the parameters of the foregoing regulations, including the category of "exceptional circumstances" set forth in 45 CFR 155.420(d)(9), and as such, are not considered a qualifying event which would entitle her to a SEP.

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

ORDER

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line at 1-877-369-0130. The mailing address is: Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county 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 a Massachusetts resident, you may also have the option to apply for an open enrollment waiver from the Office of Patient Protection. You may qualify for the waiver if you were not able to enroll in health insurance during the last open enrollment or special enrollment period for reasons that were not under your control, other than an administrative problem with the Health Connector. Further information may be obtained at the website for the Massachusetts Office of Patient Protection at the Health Policy Commission at mass.gov/hpc/opp.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5531

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit based on failure to verify information

Hearing Date: July 25, 2018

Decision Date: August 17, 2018

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 June 15, 2018, the appellant was advised that she qualified for Health Connector Plans (with no financial help) because the Connector did not get the information it needed to verify her eligibility. (Ex. 1) The appellant filed an appeal which was received on June 22, 2018 (Ex. 10) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex.13)

ISSUE

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on June 15, 2018, 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 July 25, 2018, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence:

- Ex. 1—Health Connector's Notice of Eligibility Approval dated June 15, 2018 (12 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for June 15, 2018 (3 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 4—Health Connector's Request for Information dated January 22, 2018 (6 pages)

- Ex. 5— Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for September 7, 2017 (2 pages)
- Ex. 6— Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 7—Income verification documents
- Ex. 8—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination of July 5, 2018 (2 pages)
- Ex. 9—Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 10—Online Appeal Form received on June 22, 2018 (1 page)
- Ex. 11—Acknowledgement of Appeal dated June 29, 2018 (4 pages)
- Ex. 12—Email from Appeals Unit dated July 2, 2018 (1 page)
- Ex. 13—Notice of Hearing (5 pages)
- Ex. 14—Affidavit of Connector representative

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer from both the appellant and the Connector. The documentation from the Connector was received in a timely manner and was marked as follows:

- Ex. 15—Customer Service Log of communications with the appellant from December 18, 2017-July 24, 2018
- Ex. 16—Health Connector’s Final Renewal Notice dated October 31, 2017
- Ex. 17—2018 Enrollment information

The appellant did not submit the documentation requested of her by the filing deadline, and the record was subsequently closed.

The appellant testified that she never received the Health Connector’s January 22, 2018 Request for Information.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 26 years-old, is single, and has a tax household size of one. (Testimony, Exs. 3,6,9)
2. The appellant was enrolled in a ConnectorCare plan with Advanced Premium Tax Credits (APTC) in 2017 for which she paid a monthly premium of approximately \$95.00. (Testimony)
3. By notice dated October 31, 2017, the Health Connector notified the appellant that she qualified for Health Connector Plans (with no financial help) for 2018. The appellant was further notified that her eligibility for 2018 had changed, and she was advised to take immediate action if she believed that the determination was incorrect. (Ex. 16)
4. The appellant contacted customer service in December 18, 2017 for information on why her bill for January, 2018 was so high. The representative advised her to complete the renewal process. (Ex. 15)
5. At some point shortly thereafter, the appellant contacted customer service for assistance with enrollment for 2018. She enrolled in ConnectorCare Plan Type 3A with a monthly premium of \$93.00, effective January 1, 2018. (Testimony, Ex. 17)
6. The appellant paid her premium of \$93.00 for January, 2018. At some point in January, she was billed approximately \$264.00. She called the Health Connector on January 22, 2018 and was advised that her subsidies

did not transfer over to 2018. She was further advised to resubmit her application which she did with assistance from the representative. After doing so, her eligibility was redetermined and she became eligible again for ConnectorCare Plan Type 3A for \$93.00/month. The representative further advised her that the Connector was requesting proof of income which had to be submitted by April 28, 2018. The representative instructed the appellant what type of proof was required and how to submit it. (Testimony, Ex. 15)

7. By letter dated January 22, 2018, the Health Connector notified the appellant that it could not verify her eligibility to purchase a Connector plan, and advised her to submit proof of income to the agency by April 22, 2018. The letter was sent to the address provided by the appellant in her application which did not list a specific apartment number. (Exs. 3,4,6)

8. It is not known whether the appellant submitted proof of income to the Health Connector on or before April 22, 2018.

9. By letter dated June 15, 2018, the Health Connector notified the appellant that she was eligible for Health Connector Plans (with no financial help) because it did not get the proof it needed. The letter further stated that the Connector's determination was based on "data from other sources" because it did not receive the documents it had requested. (Exs. 1,2)

10. The Connector's June 15, 2018 notice was sent to the address provided by the appellant in her application which did not list a specific apartment number. (Exs. 1,3,6)

11. The appellant appealed the Connector's June 15, 2018 determination on June 22, 2018, based on income. She stated in part that she wanted her premiums checked because she overpaid in January. (Testimony, Ex. 10)

12. The appellant called the Health Connector on June 29, 2018 and indicated that she might have overpaid her 2017 premium. She was told that her billing issues were not related to the Connector's June 15th determination, and that a customer service representative would follow up with her about her 2017 premium. (Ex. 15)

13. The appellant submitted two paystubs from the month of June to the Health Connector on July 2, 2018. On July 5, 2018, the Connector verified the appellant's income and determined that her verified income (\$32,497.50) was higher than her self-attested income (\$26,000.00). (Ex. 7)

14. On July 3, 2018, a customer service representative contacted the appellant and advised her that she lost subsidies for the month of July because she did not submit proof of income to the Connector by April 22, 2018. The appellant updated her address on her application by adding an apartment number. The representative advised her that her eligibility had been redetermined and she was again eligible for a ConnectorCare plan effective August 1, 2018. Finally, the representative advised her that she had overpaid her premium for January, 2018 due to a representative error. (Exs. 9,15)

15. On July 5, 2018, the Health Connector notified the appellant that she qualified for ConnectorCare Plan Type 3B with an APTC of \$25.00, effective August 1, 2018. The Federal Poverty Level (FPL) used to decide her program eligibility was 269.47%. (Testimony, Ex. 8)

16. The appellant's premium for unsubsidized Health Connector Plans increased to \$300.00 for the month of July, 2018. She believes that the premium should be adjusted because the Connector's January 22, 2018 Request for Information was sent to her address without an apartment number. (Testimony, Ex. 15)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR 155.305(f), certain taxpayers are eligible for an APTC if their household income 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 income. Taxpayers who qualify for an APTC and who have projected yearly income 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 12.04. The Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by the applicant, including the applicant's income, in accordance with 45 CFR 155.320(d). When the Connector cannot verify an applicant's income electronically, it requests verifying information, in accordance with 45 CFR 155.315(f). If an applicant does 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 June 15, 2018, the appellant was advised that she qualified for Health Connector Plans (with no financial help) because she failed to provide the documentation requested of her to verify her continued eligibility. The appellant argues that she never received the Connector's January 22, 2018 Request for Information because it was sent to her address without an apartment number, and, as a result, her premium of \$300.00 for unsubsidized insurance for the month of July should be adjusted.

The appellant's argument is without merit. It is the responsibility of a member to provide a full mailing address to the Connector and to update that information in the event it changes. The appellant did not indicate an apartment number on her application that accompanied the Connector's eligibility determinations and other notifications prior to July 5, 2018. It was only after a conversation with a customer service representative on July 3, 2018 regarding her loss of subsidies for July that the appellant added an apartment number to her address on her application. The Connector's January 22, 2018 Request for Information was sent to her address of record. Even if one were to give her the benefit of the doubt regarding her claim that she never received that letter, her credibility was weakened by the fact that she called the Connector on January 22, 2018, and was advised by the customer service representative that the Connector was requesting proof of income which had to be submitted on or before April 28, 2018. (It is recognized that the representative provided a filing date that was later than what the Connector indicated in its January 22, 2018 letter.) Furthermore, it is curious that she does not dispute that she received the Connector's June 15, 2018 letter even though it was sent to her address without an apartment number.

The Connector did not receive the information that it requested and in a notice dated June 15, 2018, advised the appellant that she was only eligible to purchase Health Connector plans (with no financial help) pursuant to 45 CFR 155.315(f). Since the appellant failed to provide the requested verification, the Connector relied on data it had available from other sources to issue its determination.

Subsequent to the June 15, 2018 determination, the appellant submitted documentation to verify her income, and on July 5, 2018, she was determined eligible for ConnectorCare Plan Type 3B with APTC, effective August 1, 2018.

Based upon the totality of the evidence, it is concluded that the Connector's determination on June 15, 2018, regarding the appellant's eligibility for Health Connector Plans without subsidies due to failure to provide requested information, 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

The appellant is advised to follow up with the Health Connector's billing department regarding the determination that she overpaid her premium for the month of January, 2018.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5536

Appeal Decision: Appeal denied

Hearing Issue: Eligibility for Waiver or Reduction of Monthly Premium for Subsidized Health Insurance

Hearing Date: July 18, 2018

Decision Date: August 1, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The appellant husband and wife filed an Application for a Premium Waiver or Reduction which was received on May 16, 2018, based on an "other" ground. (Exs. 4,5A) They also included a letter dated May 15, 2018, in which they stated in part that although they would appreciate a reduction of their premium, the real problem stems from the high deductible under their current plan and the high cost of medical procedures. (Ex. 6) By notice dated May 22, 2018, the Health Connector advised the appellants that their application was denied because they did not send supporting documentation to prove their hardship. (Ex. 5) The appellants filed a Hearing Request Form which was received on June 22, 2018, (Ex. 6) in which they stated in part that their waiver request was not fairly reviewed. The matter was referred to a hearing after receipt of the appeal. (Ex. 9)

ISSUE

Was the Connector's decision denying the appellants' application for a premium waiver or reduction correct at the time of its determination on May 22, 2018, pursuant to 956 CMR 12.11 (5)?

HEARING RECORD

The appellant husband appeared at the hearing which was held by telephone on July 18, 2018, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence:

Ex. 1—Health Connector's Notice of Eligibility Approval dated March 7, 2018 (12 pages)

Ex. 2— Computer printout of Health Connector's Eligibility Determination Results (2 pages)

- Ex. 3— Computer printout of Health Connector’s Review of Application (3pages)
- Ex. 4—Application for Premium Waiver or Reduction received on May 16, 2018 (1 page)
- Ex. 5—Health Connector’s Denial of Application for Premium Waiver or Reduction dated May 22, 2018 (6 pages)
- Ex. 5A—My Workspace results (3 pages)
- Ex. 6—Hearing Request Form received on June 22, 2018 (3 pages)
- Ex. 7—Acknowledgment of Appeal dated June 26, 2018 (4 pages)
- Ex. 8—Appeals Unit Notes (1 page)
- Ex. 9—Notice of Hearing (5 pages)
- Ex. 10—Affidavit of Connector representative

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant husband is 58-years-old, the appellant wife is 60-years old, and they have a tax household size of two. (Testimony, Ex. 3)
2. The appellants have been enrolled in Health Connector Plans with an Advance Premium Tax Credit (APTC) of \$662.00 since January 1, 2018. Their monthly premium after application of the APTC is \$528.00. The Federal Poverty Level (FPL) used to determine their eligibility was 314.23%. (Testimony, Exs. 1,2)
3. The appellants have been enrolled in health insurance through the Health Connector for approximately three years. (Testimony)
4. The appellant husband suffers from several serious illnesses and has very large medical costs. The plan he is enrolled in has a high deductible, and he has had to resort to setting up several payment plans for numerous medical bills. (Testimony)
4. The appellants filed an Application for Premium Waiver or Reduction and checked off the “other” ground. The husband attached a letter with the application dated May 15, 2018, in which he stated in part that he is in need of a reduction of his monthly premium as well as a medical plan with no deductible. He further stated that the stress of not being able to meet his obligations under his payment plans is enormous and he fears that he will have to sell his house. (Exs. 4,6)
5. By notice dated May 22, 2018, the Health Connector denied the appellants’ application because they did not provide supporting documentation to prove hardship. (Ex. 5)
6. The appellant husband filed an appeal of the Health Connector’s denial which was received on June 22, 2018, and stated in part that he did not feel that his waiver request was fairly reviewed. (Ex. 6)

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household modified adjusted gross income (MAGI) is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant’s behalf, based on a projected yearly MAGI. 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.

Pursuant to 956 CMR 12.11, the Connector determines premium contributions the enrollees must pay. Included in the rules are specific grounds for Waiver or Reduction of Enrollee Premium contribution for extreme financial hardship. See 956 CMR 12.11 (5).

Pursuant to 956 CMR 12.11, a waiver or reduction of premium is only available to members who qualify for a ConnectorCare plan. The appellants' projected income for 2018 exceeded 300 % of the FPL (314.23%) and they have been enrolled in Health Connector Plans with APTC since January 1, 2018. As such, they are not eligible to apply for a premium waiver or reduction. Although the Connector denied their application due to failure to provide sufficient evidence of a hardship, the correct ground for denial was their lack of eligibility for a ConnectorCare Plan. Hence, although the Connector applied the wrong ground to deny the application, it reached the appropriate determination.

Based upon the foregoing, it is concluded that the Connector's determination regarding the appellants' eligibility for a waiver or reduction of their monthly premium for health insurance was correct at the time of the application, 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: ACA185591

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

Hearing Issue:

Whether the Connector correctly determined the appellant's eligibility to purchase a Health ConnectorCare plan, Type 3B.

Hearing Date: July 31 2018

Decision Date: August 22, 2018

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 June 11, 2018, the Connector determined that the appellant was eligible to purchase a Health ConnectorCare plan, Type 3B, based upon information supplied by the appellant to the Connector.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health ConnectorCare plan, Type 3B.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 31, 2018. 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. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated July 6, 2018 addressed to Appellant for July 31, 2018 hearing
- Exhibit 3: Connector Appeals Unit letter dated July 3, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: E-mail to Appellant from Connector Appeals Unit dated July 3, 2018
- Exhibit 3b: Appeals Unit outreach notes

- Exhibit 4: Hearing Request Form from Appellant received by the Connector on June 26, 2018
- Exhibit 5: Connector letter dated June 11, 2018 to Appellant regarding eligibility to purchase a ConnectorCare health insurance plan
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated June 11, 2018
- Exhibit 7: Summary and results of Appellant's application for Connector health plan dated April 19, 2018
- Exhibit 8: Connector print-out regarding income change
- Exhibit 9: Connector print-out regarding income verification with Appellant's pay stubs, April-May, 2018 with fax coversheet

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in April, 2018. She was asked by the Connector to send in proof of income. Appellant sent in pay stubs for April and May, 2018 (Exhibits 5, 7, 9, and Testimony of Appellant).
2. Appellant's projected income as of the April 19th application equaled 241.5% of the Federal Poverty Level. Based upon this percentage, Appellant was determined to be eligible for a ConnectorCare Type 3A plan (Exhibit 7).
3. After the appellant sent in her pay stubs, the Connector determined that her projected income for 2018 equaled 266.63% of the Federal Poverty Level. Based upon this redetermined level, Appellant was found to be eligible for a ConnectorCare Type 3B plan. The pay stubs showed that Appellant had received overtime pay in addition to her regular weekly salary (Testimony of Appellant, Exhibits 5, 6, and 9).
4. Appellant submitted a request for an appeal of the Connector's determination on June 26, 2018 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on June 11, 2018 that the appellant was eligible to purchase a Health ConnectorCare plan, Type 3B with an advance premium tax credit.

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

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

a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the appellant applied for health insurance through the Connector in April, 2018. She was asked by the Connector to send in proof of income. Appellant sent in pay stubs for April and May, 2018. Appellant's projected income as of the April 19th application equaled 241.5% of the Federal Poverty Level. Based upon this percentage, Appellant was determined to be eligible for a ConnectorCare Type 3A plan. After the appellant sent in her pay stubs, the Connector determined that her projected income for 2018 equaled 266.63% of the Federal Poverty Level. Based upon this redetermined level, Appellant was found to be eligible for a ConnectorCare Type 3B plan. The pay stubs showed that Appellant had received overtime pay in addition to her regular weekly salary. See the testimony of the appellant which I find to be credible and Exhibits 5, 6, 7, and 9.

Based upon the information given by the appellant to the Connector, the Connector correctly determined that the appellant was eligible for a ConnectorCare plan Type 3B Health plan with an advance premium tax credit. If an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. Appellant testified that she had submitted to the Connector pay stubs showing an increase in income (due to overtime). The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a ConnectorCare Health plan, Type 3B, with an advance premium tax credit is affirmed.

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA185641

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

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

Hearing Date: July 31, 2018

Decision Date: August 27, 2018

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 May 24, 2018, the Connector determined that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit based upon information supplied by the appellant to the Connector.

ISSUE

Whether the Connector correctly determined pursuant to 26 Code of Federal Regulations Section 1.36B (1) and (2) that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 31, 2018. 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. Appellant testified.

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 July 6, 2018 addressed to Appellant for July 31, 2018 hearing
- Exhibit 3: Connector Appeals Unit letter dated July 3, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit e-mail to Appellant dated July 3, 2018

- Exhibit 3b: Appeals Unit staff case notes
- Exhibit 4: Hearing Request Form received from Appellant on July 2, 2018 with attachments
- Exhibit 5: Connector letter to Appellant dated May 24, 2018 regarding eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated May 24, 2018
- Exhibit 7: Summary and results of Appellant's application for Connector health plan dated March 30, 2018
- Exhibit 8: Appellant's enrollment history and current status
- Exhibit 9: Connector print-out regarding Appellant's income change effective September 16, 2017
- Exhibit 10: Connector income verification print-out with proof of income submitted attached (Appellant's pay stub, March 2018 and Appellant's 2017 Federal tax return and child's 2017 Federal tax return)
- Exhibit 11: Connector print-out regarding Appellant's child's income verification
- Exhibit 12: Connector print-out regarding receipt of proof of income and processing of information

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied to purchase health insurance through the Connector during the 2018 open enrollment period. On March 30, 2018, the Connector determined based upon the information supplied by the appellant on her application that her projected annual income amounted to 205.94% of the Federal Poverty Level and that the appellant was eligible for a Health ConnectorCare Plan with an advance premium tax credit (Exhibit 7, and Testimony of Appellant).
2. In April, 2018, the appellant sent in proof of income, including her 2017 Federal Tax return and her daughter's 2017 Federal return. Based upon this documentation, the Connector redetermined Appellant's eligibility, finding that her projected annual income now amounted to 400.8% of the Federal Poverty Level and that the appellant was eligible for a Health Connector Plan with no an advance premium tax credit (Exhibits 6 and 10).
3. The Connector sent the appellant another letter, dated May 24, 2108, regarding her eligibility based upon the new income verification (Exhibit 5).
4. Appellant appealed the May 24, 2018 determination claiming that she is self-employed and that so far this year, she had earned less than she had last year. Appellant's income varies from year to year and from month to month within any one year (Testimony of Appellant, Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on May 24, 2018 that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit.

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

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the

credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. If the individual's projected income turns out to be higher than the actual income, the individual may receive a tax credit in the amount of the advance premium tax credit not received. This type of correction occurs when the individual files a tax return and reconciles the tax credit received and the tax credit that should have been received. See the Internal Revenue Service Publication 5120.

Appellant applied for health insurance coverage through the Connector for 2018. The Connector determined that the appellant was eligible to purchase a Health ConnectorCare plan with an advance premium tax credit. Appellant's projected annual income amounted to 205.94% of the Federal Poverty Level. This determination was based upon information supplied by the appellant on her application for coverage. The appellant then sent in proof of income, including her 2017 Federal Tax return. Based upon the documents received, the Connector redetermined the appellant's eligibility, finding that the appellant was no longer eligible for a ConnectorCare plan with a tax credit. Her projected income based upon the documents received was 400.08% of the Federal Poverty Level. Appellant appealed this redetermination. See Exhibits 4 through 12, and the testimony of the appellant which I find to be credible.

Based upon the information given by the appellant to the Connector, the Connector correctly determined that the appellant was eligible for a Connector Health plan without an advance premium tax credit. If an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is over 400% of the Federal Poverty level, the individual is eligible to purchase a plan without an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit.

Appellant testified that her income varies from month to month. As explained to the appellant during the hearing, the appellant, if her income does not increase between now and the year's end, may ultimately receive the tax credit that she feels he was entitled to. When she files her federal income tax return and, as required, reconciles her projected income and her actual income, she will receive a tax credit if during the course of the year she received less assistance paying for her coverage than she should have. Appellant may wish to look at the Internal Revenue Service Publication 5120 for more information about reconciliation and what happens when an individual's projected income is greater than actual income at the end of the tax year.

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

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA186129

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

Hearing Issue: Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Connector until the next open enrollment period because Appellant did not have a qualifying life event.

Hearing Date: August 28, 2018

Decision Date: August 29, 2018

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 July 28, 2018, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector until the next open enrollment period.

ISSUE

Whether the Connector correctly determined pursuant to 45 CFR 155.410 and 420 that the appellant was ineligible to purchase health insurance through the Connector until the next open enrollment period because Appellant did not have a qualifying life event.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 28, 2018. 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.

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 August 8, 2018 addressed to Appellant for August 28, 2018 hearing
- Exhibit 3: Connector Appeals Unit letter dated August 7, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Connector Appeals Unit e-mail to Appellant dated August 14, 2018
- Exhibit 3b: Appeals Unit staff case notes
- Exhibit 4: Hearing Request Form submitted by Appellant on August 6, 2018 with letter attached

Exhibit 5: Connector letter dated July 28, 2018 to Appellant regarding special enrollment period
Exhibit 6: Summary and results of Appellant's application for Connector plan dated July 28, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. On July 28, 2018, Appellant applied for health insurance through the Connector. Appellant had moved to Massachusetts on May 16, 2018. After she arrived, she established residency and obtained a Massachusetts driver's license. She started a new job. Appellant did not realize that after moving to the Commonwealth, she had 60 days to apply for health insurance through the Connector, or that if she waited more than 60 days to apply, she would have to wait until the next open enrollment period (Testimony of Appellant, Exhibits 4 and 6).
2. On the same date, the Connector determined that the appellant was not eligible to purchase a Connector Health Plan at that time because she did not have a qualifying event which would allow her to enroll outside of the open enrollment period (Exhibits 5 and 6).
3. Notice of the determinations was sent to the appellant (Exhibit 5).
4. Appellant filed a request for an appeal of the Connector's determination on August 6, 2018 (Exhibit 4).
5. Appellant did not have a qualifying life event within 60 days of her applying for health insurance on July 28, 2018. She had recently moved to Massachusetts but not within 60 days of July 28th. She had not lost health insurance coverage, gained a dependent, had a change in marital or immigration status within the past 60 days. Appellant is not an Alaska native or a native American. She also had no other qualifying even and no exceptional circumstances which would allow the Connector to grant the appellant a special enrollment period (Testimony of Appellant, Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on July 28, 2018 that the appellant was ineligible to enroll in a Health Connector plan because the appellant, while eligible for coverage through a Connector Health Plan, was not eligible to enroll until the next open enrollment period because she had no qualifying life event.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event.

Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period. There is an exceptional circumstances exception. Examples of exceptional circumstances are given in the Centers for

Medicare and Medicaid Services and for Consumer Information and Insurance Oversight Affordable Exchanges Guidance dated March 26, 2014. Examples listed are a natural disaster, or medical emergency.

In this matter, Appellant had no qualifying life event within 60 days of her applying for coverage through the Connector. She had recently moved to Massachusetts but not within 60 days of July 28th. She had not lost health insurance coverage, gained a dependent, had a change in marital or immigration status within the past 60 days. Appellant is not an Alaska native or a native American. She also had no other qualifying even and no exceptional circumstances which would allow the Connector to grant the appellant a special enrollment period. There was no evidence of any other qualifying event. Appellant did not realize that she had to apply for coverage within 60 days of her moving to the Commonwealth. See the testimony of the appellant which I find to be credible.

What is at issue here is whether the original determination that Appellant was ineligible to enroll in a Connector Health Plan until the next open enrollment period was correct at the time it was made. The determination was based upon the attestations made by Appellant on her application concerning qualifying life events. Appellant did not claim that she had a qualifying life event on her application and there is no other evidence in the record that the appellant had a qualifying life event. The Connector's determination was correct, and the appellant must wait until the next open enrollment period to enroll in a plan.

Because of this, the determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellant's ineligibility to purchase a Connector Health plan until the next open enrollment period 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 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 may request an application for a waiver regarding the open enrollment period through the Office of Patient Protection. She may contact the office at 1-800-436-7757.