

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Denied

Hearing Issue: Eligibility for Hardship Waiver/Reduction

Hearing Date: August 29, 2017

Decision Date: November 1, 2017

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 28, 2017, the Health Connector determined that the Appellant was not eligible for a waiver or reduction of her monthly premium because she did not provide enough information to process her request.

ISSUE

Whether the Health Connector correctly determined on June 28, 2017, that the Appellant was not eligible for a waiver or reduction of her monthly premium, based on the information provided on her application.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 29, 2017. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit
- Exhibit 2: Application for Premium Reduction, dated 5/15/17 (4 pages)
- Exhibit 3: 6/28/17 Hardship Waiver Denial Letter (6 pages)
- Exhibit 4: 7/13/17 Appeal (7 pages)

Massachusetts Health Connector Appeals Unit

- Exhibit 5: 7/13/17 Appeal (Screenshot)
- Exhibit 6: 7/18/17 Appeals Outreach Notes (2 pages)
- Exhibit 7: 7/17/17 2017 Eligibility Results/ Application Summary (6 pages)
- Exhibit 8: 7/17/17 Virtual Gateway – Denial (2 pages)
- Exhibit 9: 7/18/17 Fax of 4/4/17 Shut-off Notice
- Exhibit 10: 7/24/17 Hearing Notice (4 pages)
- Exhibit 11: 7/17/17 Appeal Acknowledgment (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On May 15, 2017, the Appellant submitted to the Health Connector an application for a premium waiver or reduction, requesting reduction of future premium, reduction of past due premium, and waiver of past due premium, and checking off in Section 4 of her application, as her reason for requesting a waiver/reduction, that she had received a shut-off notice within the past 60 days. (Exhibit 2; Appellant’s testimony)
2. Section 5, Proof of Hardship, of the application, states that: “For each event(s) you checked in Section 4, please describe what happened” and “You must attach evidence (proof) of your hardship.” The Appellant did not describe in her application what had happened. The Appellant attached what she considered to be proof of hardship. (Exhibit 2; Appellant’s testimony)
3. The Appellant’s proof consisted of a one-page photocopy of poor quality. Much of the page has a dark background, and the text is barely readable as a result. Other parts of the page have a brighter background but are still difficult to read. Despite the poor quality, the photocopy shows that the document is a shut-off notice dated April 4, 2017, from her utility provider and addressed to the Appellant at her current address, notifying the Appellant that her service was scheduled for shut off on May 2, 2017, unless she made a payment of \$434.70 by May 1, 2017. (Exhibit 2)
4. By letter dated June 28, 2017, the Health Connector notified the Appellant that her application to waive or reduce her premium had been denied, because: “You did not give us enough information to process your request.” (Exhibit 3; Exhibit 8)
5. On July 13, 2017, the Appellant appealed the Connector’s 6/28/17 determination, stating that, “I sent in documents, shut off notice for utilities.” (Exhibit 4)
6. On July 17, 2017, the Appeals Unit tried unsuccessfully to reach the Appellant by phone about submitting a better copy of her shut off notice and left a voice-mail message. On July 18, 2017, the Appeals Unit spoke with the Appellant by phone. During the call, the Appellant stated that she would fax the shut-off notice to the Appeals Unit again. Shortly later that morning, the Appellant faxed a copy of the 4/4/17 shut-off notice without any blackened background obscuring the text. (Exhibit 6; Exhibit 9; Appellant’s testimony)
7. The Appellant did not realize that the proof she had submitted to the Connector on May 15, 2017, was not legible until the Appeals Unit informed her on July 18, 2017. (Appellant’s testimony)

ANALYSIS AND CONCLUSIONS OF LAW

Massachusetts Health Connector Appeals Unit

956 CMR 12.11, Enrollee Premium Contribution, Section (5), Waiver or Reduction of Enrollee Premium Contribution for Extreme Financial Hardship, subsection (a) provides, in relevant part, that: "Extreme financial hardship means that the Enrollee has shown to the satisfaction of the Connector that the Enrollee: 2. has a shut-off notice, or has been shut off, or has a refusal to deliver essential utilities within the sixty (60) days prior to application (gas, electric, oil, water, or sole telephone)."

In this case, the Appellant submitted a copy of a shut-off notice to the Connector, along with her application for premium waiver or reduction. Upon receipt, the Connector determined that the Appellant's proof was insufficient, since the copy was of poor quality and illegible. While I agree with the Connector's determination that the photocopy submitted by the Appellant was of poor quality, I disagree with the Connector's determination that the photocopy was illegible. Although it takes some effort to make out the text in the document, it is possible to read all the essential sections of document, showing that it is a recent shut-off notice from a utility provider addressed to the Appellant at her current address. Therefore, I conclude that the Appellant's proof of hardship was satisfactory, as it showed extreme financial hardship, under 956 CMR 12.11.

Accordingly, I conclude that the Health Connector incorrectly determined on June 28, 2017, that the Appellant was not eligible for a waiver or reduction of her monthly premium, based on the information provided on her application, under 956 CMR 12.11.

ORDER

The appeal is granted. The Connector shall make the Appellant whole by reducing the Appellant's premium as would have been done had the Connector approved the Appellant's 5/15/17 application for a premium waiver or reduction and applying this determination retroactively.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Denied

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

Hearing Date: September 19, 2017

Decision Date: November 30, 2017

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 25, 2017, the Health Connector determined that the Appellant was not eligible for Health Connector plans, due to his failure to verify residency.

ISSUE

Whether the Health Connector correctly determined on June 25, 2017, that the Appellant was not eligible for Health Connector plans, based on the Appellant's failure to verify his residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 19, 2017. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit
- Exhibit 2: 6/25/17 Eligibility Denial Notice (in Spanish) (8 pages)
- Exhibit 3: Generic Eligibility Notice Letter (15 pages)
- Exhibit 4: 7/24/17 Appeal (in Spanish) (2 pages)

Massachusetts Health Connector Appeals Unit

- Exhibit 5: 7/24/17 Appeal (Screenshot)
- Exhibit 6: Outreach Notes, 7/27 to 8/17/17 (2 pages)
- Exhibit 7: 7/27/17 Appeal Ack. (2 pages)
- Exhibit 8: 2017 Eligibility Results for 6/25/17 Application (4 pages)
- Exhibit 9: 7/25/17 AVV/Program Determination
- Exhibit 10: 2017 Eligibility Results for 8/14/17 Application (5 pages)
- Exhibit 11: 2017 Eligibility Results for 9/8/16 Application (4 pages)
- Exhibit 12: 7/27/17 Request for Proof of Residency (4 pages)
- Exhibit 13: 8/10/17 Receipt of Proof of Residency (2 pages)
- Exhibit 14: 8/25/17 Hearing Notice (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On September 8, 2016, the Appellant submitted to the Health Connector an application for health insurance coverage in 2017. On that date, the Connector determined that the Appellant was eligible for ConnectorCare Plan Type 2B in 2017 but that he needed to submit proof of residency to qualify. (Exhibit 11)
2. On June 25, 2017, the Appellant submitted a new application for health insurance. By letter dated June 25, 2017, the Health Connector notified the Appellant that he was not eligible for Health Connector plan because the Connector had not received information from him that was needed to prove that he was eligible for a Health Connector plan. (Exhibits 2, 3 and 11)
3. On July 24, 2017, the Appellant submitted his appeal of the Connector's 6/25/17 determination along with a copy of his 7/14/17 weekly paystub from his employer. On the appeal form the Appellant circled "Income" as the reason for his appeal. (Exhibits 4 and 5)
4. On July 27, 2017, the Connector Appeals Unit sent the Appellant a letter acknowledging that his appeal been received and including additional information about the Appellant needing to provide proof of his residency to the Connector. The Appeals Unit also called the Appellant and left a message that the Appeals Unit had sent him a letter about the need for him to submit documents showing proof of residency as soon as possible. (Exhibit 6)
5. On August 9, 2017, the Appeals Unit received an affidavit of residency from the Appellant, and the Appeals Unit sent the document to the verification unit. The Appellant had not provided proof of residency to the Connector prior to this time. (Exhibit 6)
6. On August 14, 2017, the Appellant submitted a new application to the Connector, and the Connector approved the Appellant for ConnectorCare Plan Type 2B with an APTC of \$192 monthly. (Exhibit 10)
7. After the Connector had processed the Appellant's proof of residency, the Appeals Unit called the Appellant and left a message saying that the Appellant was now eligible to enroll in a plan, that he should call a Customer Service Representative (CSR) to select a plan, and that he had until October 13, 2017, to select a plan. (Exhibit 6)
8. On August 17, 2017, the Appeals Unit spoke with the Appellant by phone and offered him assistance in selecting a health insurance plan through a CSR. (Exhibit 6)

ANALYSIS AND CONCLUSIONS OF LAW

Massachusetts Health Connector Appeals Unit

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

On September 8, 2016, the Appellant was determined eligible for ConnectorCare Plan Type 2B but was asked to verify his residency. The Appellant did not provide proof of residency to the Connector. When the Appellant applied again on June 25, 2017, the Appellant still had not submitted proof of residency, and the Connector determined ineligible for Health Connector plans for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

While the Appellant has now sent in documents verifying his residency and eligibility, the Health Connector correctly determined that the Appellant was not eligible for Health Connector plans on June 25, 2017, and that determination is upheld.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility for subsidized insurance based on tax filing status.

Hearing Date: September 12, 2017

Decision Date: September 26, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance. The Health Connector determined that the Appellant was eligible for Health Connector plans on July 5, 2017 because she was not lawfully present. However, Appellant corrected her application to verify she was lawfully present. Appellant also filed a document indicating she was not filing a tax return.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for Health Connector plans with a subsidy because she stated that she would not be filing a tax return.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 12, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified. At the end of the hearing the record was closed.

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

- Exhibit 1: Health Connector notice of eligibility determination (six pages, dated July 5, 2017)
- Exhibit 2: Appellant's appeal request form (14 pages dated August 2, 2017)
- Exhibit 3: Health Connector's Eligibility Determination Results & Review Computer Printout (4 pages, dated September 11, 2017)
- Exhibit 4: Health Connector's Eligibility Determination Results & Review Computer Printout (6 pages, dated July 5, 2017)
- Exhibit 5: Health Connector's Acknowledgement of Appeal (5 pages, dated August 10, 2017)
- Exhibit 6: Health Connector's Hearing Notice (4 pages, dated August 25, 2017)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 8: Health Connector's 'AVV' Tool Document
- Exhibit 9: Documents regarding Appellant's Application History

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a single individual, who applied for subsidized health insurance through the Health Connector. (Exhibit 1, Exhibit 3, Exhibit 4,)
2. The Appellant has a tax household of two. (Exhibit 1, Exhibit 3, Exhibit 4)
3. The Appellant is not sure she will have income in 2017. (Appellant testimony)
4. The Appellant did not work in 2016 because she did not have a work permit.
5. The Appellant indicated in her documentation that she would not be filing a tax return. She was disqualified originally for not being lawfully present. She has corrected her application showing that she is lawfully present.
6. Appellant was informed that she would only be eligible if she filed documents indicating that she will file a tax return, even if she does not have any income. Appellant indicated that she will file such a form.
7. The Health Connector correctly determined that she was not eligible for Advanced Premium Tax Credits at the time of her original application because she indicated that she was not going to file a tax return.
8. Applicants for subsidized insurance are only eligible if they attest that they will file a tax return.

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 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. However, under 45 CFR S. 155.305(f)(4), the Exchange may not determine a tax filer eligible for advanced payments of the premium tax credit if the tax filer did not comply with the requirements to file an income tax return for that year as required by 26 U.S. 6011,6012 and implementing regulations. In this case, the issue presented was whether the failure to assert that the Appellant would file an income tax return was the correct determination. Based upon the Appellant's indication of non-tax filer on her application and her response to a request for information sent by the Health Connector Appeals Unit, Appellant does not appear to intend to file income taxes for TY2017 and is not eligible for Advanced Premium Tax Credits. The determination of the Connector regarding eligibility for APTC and the Massachusetts subsidy was correct.

ORDER

The appeal is denied. Appellant, if she wishes to amend her application should file with the Health Connector the appropriate form indicating that she will file a joint tax return, even though she has no income, in order to be eligible for Advanced Premium Tax Credits

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Denied

Hearing Issue: Eligibility for Subsidized Insurance

Hearing Date: September 19, 2017

Decision Date: November 30, 2017

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 9, 2017, the Health Connector determined that the Appellant was eligible for Health Connector Plans but did not qualify for help paying for coverage through a ConnectorCare plan.

ISSUE

Whether the Health Connector correctly determined on August 9, 2017, that the Appellant was eligible for Health Connector Plans only, based on the information provided on the application.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 19, 2017. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit
- Exhibit 2: 8/9/17 Eligibility Approval Notice (12 pages)
- Exhibit 3: 8/18/17 Appeal
- Exhibit 4: 8/21/17 Outreach Notes

Massachusetts Health Connector Appeals Unit

- Exhibit 5: 8/21/17 Eligibility Results for 8/9/17 Application (4 pages)
Exhibit 6: 8/21/17 Application Summary (2 pages)
Exhibit 7: 4/17/17 Request for Information (7 pages)
Exhibit 8: 8/25/17 Hearing Notice (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On August 9, 2017, the Appellant submitted an application for health insurance coverage through the Health Connector. Based on the Appellant's self-reported income, the Appellant's income was 324.78% of the Federal Poverty Level (FPL). Based on data from other sources, the Appellant's income was 770.66% of FPL, and the Connector used this FPL to determine the Appellant's program eligibility. (Exhibit 5)
2. By letter dated August 9, 2017, the Health Connector notified the Appellant that he qualified for Health Connector Plans only for 2017, with a first available start date of September 1, 2017. The letter stated that the Appellant's coverage type may have changed because he had not submitted the proof of eligibility that the Connector had requested. (Exhibit 2)
3. On August 18, 2017, the Appellant appealed online the Connector's 8/9/17 decision, checking "Income" as the reason for his appeal and stating in the comment section, "My insurance ended on 6/30/17 which is a qualifying event." (Exhibit 3)
4. On August 21, 2017, the Appeals Unit called the Appellant by phone and left a voice-mail message for the Appellant to call the Appeals Unit about submitting an "end certificate" for his recently terminated health insurance coverage. (Exhibit 4)
5. The Appellant lost his full-time job on February 10, 2017. The Appellant has received unemployment benefits of \$742 weekly since February 2017. These benefits will end on February 18, 2018. (Appellant's testimony)
6. The Appellant had health insurance coverage through his job, until it ended in February 2017. The Appellant later obtained coverage by agreement with his ex-wife, through her employer-provided coverage, through June 2017. (Appellant's testimony)
7. Since 2006, the Appellant has worked part time at a college. The Appellant is paid per course he teaches. The number of courses that the Appellant teaches varies from semester to semester. Some semesters, he is not offered any courses to teach. The college offers the Appellant courses well in advance of the start of the semester. When the college pays the Appellant for his work, the Appellant notifies DUA, and DUA deducts the amount from his unemployment benefits. (Appellant's testimony)
8. By letter dated April 17, 2017, the Connector thanked the Appellant for applying for health insurance coverage but notified the Appellant that the Connector needed him to provide proof of his income in order to verify that he qualified for a Health Connector plan. The letter included a list of acceptable documents that the Appellant could provide as proof and set a due date of July 16, 2017, for the Appellant to provide this proof. (Exhibit 7)
9. The Appellant did not provide proof of his income to the Connector by July 16, 2017. The Appellant does not recall receiving the Connector's 4/17/17 letter requesting proof of income. The Appellant was receiving mail at this address in April 2017 and continues to receive mail there. The Appellant was in transition at that time and had just recently rented a room in the house at this address. (Appellant's testimony)

Massachusetts Health Connector Appeals Unit

ANALYSIS AND CONCLUSIONS OF LAW

While the Connector's 8/9/17 determination letter does not specify what proof the Appellant had failed to submit as of that date, the Appellant stated in his appeal that he was appealing based on income as well as on qualifying for a Special Enrollment Period. Although failure to have provided proof of either would support a denial of this appeal, I will address both of the Appellant's contentions.

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

In this case, as the Connector checked electronic data sources and could not confirm that the income information provided by the Appellant was correct as of April 17, 2017, the Connector sent a letter to the Appellant, requesting that he provide proof of his income within sixty days. The Appellant failed to respond to the letter. While the Appellant testified that he does not recall receiving the 4/17/17 request for information, the letter was sent to the address provided by the Appellant and the Appellant is still receiving his mail at this address. In addition, as by that date the Appellant had insurance coverage through his former wife's employer until the end of June 2017, he may no longer have been concerned about obtaining coverage through the Connector immediately. In any case, when the Appellant applied for coverage on August 9, 2017, the Appellant had provided no proof of income to support an FPL of 324.78% in 2017, instead of the FPL of 770.66% shown by the data sources checked by the Connector. As a result, it was appropriate for the Connector to base their 8/9/17 program eligibility determination on the income provided by electronic data sources.

Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage.

While the Appellant contends in his appeal that he qualified for a Special Enrollment Period due to losing his insurance coverage through his ex-wife's employer at the end of June 2017, the Appellant had not submitted to the Connector proof of the termination of this coverage by August 9, 2017. It was the Appellant's responsibility to provide proof of an event that qualified him for a Special Enrollment Period.

Therefore, the Health Connector correctly determined on August 9, 2017, that the Appellant was eligible for Health Connector Plans only, based on the information provided on his application.

Massachusetts Health Connector Appeals Unit

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Addendum: If you have any change in your circumstances during the year, whether a change in address, income, employment status, or other change affecting your application for health insurance coverage, I encourage you to make that change in your Health Connector application/account, as soon as possible and as often as necessary, by going to your online Health Connector account or contacting Health Connector Customer Service.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

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

Hearing Date: October 17, 2017

Decision Date: December 22, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 10, 2017, the Appellants were determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellants were not eligible for Health Connector plans, based on the Appellants' failure to establish lawful presence to the Health Connector.

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on October 17, 2017.

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

- Exhibit 1: Affidavit
- Exhibit 2: 8/10/17 Eligibility Denial Notice (6 pages)
- Exhibit 3: 8/22/17 Appeal (5 pages)
- Exhibit 4: 8/22/17 Appeal (screenshot)
- Exhibit 5: 8/25/17 Appeal Ack. (6 pages)
- Exhibit 6: 2017 Eligibility Results for 8/10/17 Application (3 pages)

Massachusetts Health Connector Appeals Unit

- Exhibit 7: 2017 Application Summary (7 pages)
- Exhibit 8: Appeals Data (3 pages)
- Exhibit 9: 9/13/17 Connector myWorkSpace (9 pages)
- Exhibit 10: 9/13/17 Receipt of Appellants' Certification to file joint tax return in 2017 (2 pages)
- Exhibit 11: 9/25/17 Email from Appeals to Appellants w/List of Proof of Immigration Status (2 pages)
- Exhibit 12: 9/26/17 Hearing Notice (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By letter dated August 10, 2017, the Health Connector notified the Appellants that they did not qualify for health insurance coverage through the Connector because Connector records indicated that they were not lawfully present in the United States. The letter stated that this determination was based on information that the Connector had received from the Department of Homeland Security (DHS); and, explained how to contact DHS to correct this information, if the information was wrong. (Exhibit 2)
2. On August 10, 2017, the Appellants submitted to the Connector copies of their Brazilian passports and an attestation that they resided in Massachusetts. (Exhibit 9)
3. On August 22, 2017, the Appellants appealed the Connector's 8/10/17 decision, circling "Residency" as the reason for their appeal and attaching a copy of a residential rental agreement, commencing on July 1, 2017, and signed by the Appellants on August 10, 2017. (Exhibit 3)
4. By letter dated August 25, 2017, to the Appellants, the Appeals Unit acknowledged receiving their appeal and provided information on what the Appellants needed to submit as acceptable proof of immigration status and tax filer status. (Exhibits 5 and 8)
5. On September 7, 2017, the Appeals Unit called the Appellants and left a voice-mail message to contact the Appeals Unit. (Exhibit 8)
6. On September 13, 2017, the Appellants submitted to the Connector separate attestations that they intended to file a joint tax return for 2017. In response, the Appeals Unit called the Appellants and left a message, reminding the Appellants that they still needed to submit documents regarding their immigration status. (Exhibit 10)
7. On September 25, 2017, the Appeals Unit sent an email to the Appellants, requesting to speak with either of them by phone to assist them with their application for coverage. (Exhibit 11)
8. The Appellants did not respond to any of the Appeals Unit's requests to speak by phone because neither of them speaks English very well. (Appellants' testimony)
9. Currently, the Appellants have no proof of immigration status, other than a tourist visa that expires on December 1, 2017. They are trying to obtain an extension of their tourist visa or a student visa. (Appellants' testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellants were found ineligible for Health Connector Plans based on failing to establish lawful presence. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector.

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On August 10, 2017, the Appellants applied for health insurance through the Health Connector. As information from DHS indicated that the Appellants were not lawfully present in the United States and the Appellants provided no proof of lawful presence, the Connector determined, on August 10, 2017, that the Appellants were ineligible for Health Connector plans. While the Appellants submitted to the Connector copies of their Brazilian passports that day, apparently because they considered the passports proof of lawful presence, these documents are not proof of lawful presence in the United States. Because the Appellant did not present any evidence of being lawfully present, on August 10, 2017, the Health Connector correctly determined that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

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

Appeal Decision: Appeal Denied

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

Hearing Date: October 17, 2017

Decision Date: December 21, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 8, 2017, the Appellant was determined ineligible for a special enrollment period due to failure to have a qualifying life event.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 17, 2017. The Appellant's mother served as his representative at the hearing. The Appellant and his mother testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit
- Exhibit 2: 8/8/17 Special Enrollment Period Decision (12 pages)
- Exhibit 3: 8/24/17 Appeal
- Exhibit 4: 8/24/17 Appeal - Screenshot
- Exhibit 5: 2017 Eligibility Results (4 pages)
- Exhibit 6: 2017 Review Application (4 pages)

Massachusetts Health Connector Appeals Unit

Exhibit 7: Appeals Data (2 pages)
Exhibit 8: 9/26/17 Hearing Notice (7 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was last employed in March 2017. (Appellant's testimony)
2. The Appellant turned 26 years old in August 2015. (Exhibit 3)
3. The Appellant's mother turned 65 years old in September 2017. (Exhibit 6)
4. On May 16, 2017, the Appellant submitted an application to the Connector for health insurance coverage for himself, as the primary applicant, and his mother. The application showed the Appellant's tax filing status as Tax Dependent and his mother's tax filing status as Tax Filer. The Connector determined the Appellant eligible for Health Connector Plans with Advance Premium Tax Credit (APTC). The application showed a self-reported family income of 54.09% of Federal Poverty Level (FPL). The determination was based on a family income of 304.86% of FPL, using income information from other data sources because the Appellant had failed to provide proof of income as requested by the Connector previously. The 5/16/17 determination again requested the Appellant to submit Proof of Income to the Connector. (Exhibit 5)
5. The Appellant never provided proof of income to the Connector and did not enroll in a Health Connector Plan with APTC, after receiving the 5/16/17 determination. (Appellant's testimony; Exhibit 2)
6. On August 8, 2017, the Appellant submitted to the Connector a second application for health insurance coverage, using a different Email ID than he used for his 5/16/17 application. In the Special Enrollment Period Decision Notice, dated August 8, 2017, the Connector determined that the Appellant was not eligible to enroll in coverage at that time "because you did not tell us that you had a qualifying event," and that he would have to wait until the next open enrollment period. The Notice also provided examples of qualifying events; informed him where a full list of qualifying events was available; and, stated that he should call Health Connector Customer Service, if he thought that he had experienced a qualifying event. (Exhibits 2 and 7)
7. On August 24, 2017, the Appellant submitted his appeal of the Connector's 8/8/17 determination, circling "Qualifying Event to Enroll" and explaining, "The head of household, my mother, Mariel Priant, has healthcare coverage; we get coverage simultaneously, always."

ANALYSIS AND CONCLUSIONS OF LAW

I note first that the only issue before me in this appeal is the Connector's 8/8/17 Special Enrollment Period Decision, based on the Appellant's 8/8/17 application for coverage.

The Appellant was found ineligible for health insurance coverage through Health Connector Plan on August 8, 2017, because he had not shown that he qualified for a Special Enrollment Period. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2017 was from November 1, 2016, to January 31, 2017. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event. 45 CFR §155.420. In his appeal, the Appellant does not contend that he experienced a qualifying event. Rather, he takes

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the position that his mother is the head of household and that they always get health insurance coverage together. While this may be so, this is not a qualifying life event, under 45 CFR §155.420(e)(1).

On August 8, 2017, the Appellant was determined not eligible for a special enrollment period due to failure to have a qualifying life event. Because the Appellant did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR §155.420. Accordingly, the Appellant's appeal is denied.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

The Appellant indicated at the end of the hearing that he would be meeting with a Health Connector Customer Representative on the following day to provide proof of income and discuss submitting another application for 2017 coverage. I hope that he took that step and also learned about what he needed to do to apply for 2018 coverage. If not, it is open enrollment for 2018 coverage right now, until January 23, 2018, so now is the time to apply to ensure coverage in 2018.

Massachusetts Health Connector Appeals Unit

Appeal Decision: Appeal denied.

With the information available to the Massachusetts Health Connector (Connector) at the time it made its eligibility determination, in September 2017, the Connector correctly determined that the Appellant was not eligible to enroll in health insurance through the Connector, based on his immigration status.

Hearing Issue: Whether the Connector correctly determined in September 2017, that the Appellant was not eligible to enroll in health insurance through the Connector, based on his immigration status.

Hearing Date: November 28, 2017 Decision Date: November 30, 2017

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

ORIGINAL ACTION TAKEN BY THE CONNECTOR

In September 2017, the Connector determined that the Appellant was not eligible to enroll in health insurance through the Connector based on his immigration status.

ISSUE:

Whether the Connector correctly determined in September 2017, that the Appellant was not eligible to enroll in health insurance through the Connector based on his immigration status.

HEARING RECORD

The Appellant appeared at the hearing; which was held by telephone on November 28, 2017. An interpreter was also present. Testimony was recorded electronically. The hearing record consists of the Appellant's testimony and the following documents, which were admitted into evidence.

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1. Affidavit of Record Verification
2. Letter from the Health Connector to the Appellant dated 9/6/2017 and Entitled Eligibility Denial
3. Appellant's Hearing Request Form dated 9/23/2017
4. Letter from the Health Connector Appeals Unit to the Appellant dated 10/2/2017, acknowledging his appeal
5. Memorandum to the Appellant from the Connector Appeals Unit dated 10/2/2017, asking the Appellant whether he planned to file taxes for 2016 and asking him for unexpired proof of immigration status
6. List of Documents to verify immigration status
7. Letter to the Appellant from the Connector Appeals Unit regarding "Next Steps in the Appeals Process"
8. Informal Dispute Resolution Notes
9. Letter to the Appellant from Office of Medicaid, Board of Hearings dated 9/14/17, dismissing his appeal
10. Appellant's paycheck dated 9/7/2017
11. Connector Computer Printout with 2017 Eligibility Results, based on an application submitted on 9/6/2017
12. Connector Computer Printout with Appellant's Application Summary
13. Connector Computer Printout from the "AVV" tool showing the Appellant's information from the application database
14. Connector's Notice of Hearing dated 10/30/2017

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated September 6, 2017, the Appellant was informed that he was not eligible to enroll in health insurance coverage through the Connector. This determination was based on Health Connector's records that the Appellant was not lawfully present in the United States. (Exhibit 2)
2. The Appellant filed a Hearing Request Form dated September 23, 2017, appealing the Connector's decision. On this form the Appellant indicated that the reason he was appealing was "income", and that his income was only \$210 per week. (Exhibit 3)
3. A paycheck issued to the Appellant on September 7, 2017, was for \$166.96. His gross pay was \$210, since he worked 20 hours for the week at a pay rate of \$10.50 per hour. (Exhibit 10)
4. The Appellant does not have a Social Security Number. (Exhibits 10 and 12)
5. Connector records indicate that the Appellant was not lawfully present in the United States. (Exhibits 2)
6. The Appellant came to the United States in 2008 on a student visa. His visa has expired. (Appellant testimony)

Massachusetts Health Connector Appeals Unit

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether in September 2017, the Connector made the correct eligibility decision in regard to the Appellant's eligibility for health insurance through the Connector. In order to be eligible to enroll in health insurance through the Health Connector, the Appellant must show that he, "(I)s a citizen or national of the United States, or is a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought." [45 CFR 155.305 (a) (1)]. Relying on the information from Connector records, the Connector determined that the Appellant was not lawfully present in the United States. This determination is consistent with the Appellant's testimony. The Appellant testified that he came to the United States on a student visa in 2008, and that his visa had expired.

The Connector correctly determined that the Appellant was not eligible to enroll in health insurance through the Health Connector, based on his immigration status. Therefore the Connector's determination is upheld and the Appellant's appeal is denied.

ORDER

The Connector's decision is upheld and the Appellant's appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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 decision.

Cc: Connector Appeals Unit

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

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

Hearing Issue: Whether Appellant was properly excluded from obtaining health insurance through the Connector because Appellant is not lawfully present in the United States.

Hearing Date: December 4, 2017 Decision Date: December 14, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE CONNECTOR

On October 2, 2017, Appellant was denied eligibility to obtain health insurance through the Connector because Appellant was found not to be lawfully present in the United States.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on December 4, 2017. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. 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 October 12, 2017

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- Exhibit 4: Appeals Unit outreach and customer service notes
- Exhibit 5: Connector letter dated October 2, 2017, denying Appellant's eligibility to obtain health insurance through the Connector
- Exhibit 6: Eligibility Results and application summary
- Exhibit 7: Historic eligibility results

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector in October 2017 (Exhibit 5).
2. Appellant's eligibility to obtain health insurance through the Connector was denied on October 2, 2017 because Appellant was determined not to be lawfully present in the United States (Exhibit 5).
3. Appellant appealed the Connector's action on October 12, 2017 (Exhibit3).
4. Appellant does have legal status but did not submit requested documents to the Health Connector at the time of the Application (Testimony of Appellant).
5. Appellant submitted documents showing lawful presence with the Notice of Appeal (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied for health insurance coverage through the Connector in October 2017. On October 16, 2017 the Connector denied Appellant's eligibility for health insurance because Appellant was determined not to be lawfully present in the United States. Appellant appealed the Connector's denial on October 12, 2017. Appellant submitted documents showing lawful presence at the time of the Hearing Request. Appellant testified that Appellant is lawfully present. 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, 5 and 6.

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.

CONNECTOR APPEALS UNIT

The Connector's action in denying Appellant eligibility to purchase health insurance through the agency is affirmed based upon the information supplied by Appellant in the application.

ORDER: The action taken by the Connector at the time of Appellant's application denying Appellant's eligibility 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. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

ADDENDUM If Appellant has not already done so, Appellant should call customer service at Massachusetts Health Connector at 1 877 623-6765 to find out what other documents are required to complete Appellant's application.

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

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

Hearing Issue: Whether Appellant was properly excluded from obtaining health insurance through the Connector because Appellant is not lawfully present in the United States.

Hearing Date: December 4, 2017 Decision Date: December 14, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE CONNECTOR

On September 26, 2017, Appellant was denied eligibility to obtain health insurance through the Connector because Appellant was found not to be lawfully present in the United States.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on December 4, 2017. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. 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 October 19, 2017

CONNECTOR APPEALS UNIT

Exhibit 4: Connector letter dated September 26, 2017, denying Appellant's eligibility to obtain health insurance through the Connector

Exhibit 5: Eligibility Results and application summary

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector in September 2017 (Exhibit 5).
2. Appellant's eligibility to obtain health insurance through the Connector was denied on September 26, 2017 because Appellant was determined not to be lawfully present in the United States (Exhibit 5).
3. Appellant appealed the Connector's action on October 19, 2017 (Exhibit3).
4. Appellant does have legal status but did not submit requested documents to the Health Connector at the time of the Application(Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied for health insurance coverage through the Connector in September 2017. On September 26, 2017 the Connector denied Appellant's eligibility for health insurance because Appellant was determined not to be lawfully present in the United States. Appellant appealed the Connector's denial on October 19, 2017. Appellant testified that Appellant is lawfully present. 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, 4 and 5.

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 eligibility to purchase health insurance through the agency is affirmed based upon the information supplied by Appellant in the application.

ORDER: The action taken by the Connector at the time of Appellant's application denying Appellant's eligibility is affirmed.

CONNECTOR APPEALS UNIT

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.

ADDENDUM If Appellant has not already done so, Appellant should call customer service at Massachusetts Health Connector at 1 877 623-6765 to find out what documents are required to complete Appellant's application.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: December 13, 2017

Decision Date: December 18, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 25, 2017, the Appellant was determined ineligible for Health Connector plans because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant attended the hearing, which was held by telephone, on December 13, 2017. The Appellant appointed their Spouse as their Authorized Representative for the

Massachusetts Health Connector Appeals Unit

hearing. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing with attachments dated November 21, 2017.
- Exhibit 3: Health Connector's Eligibility Denial notice dated October 25, 2017.
- Exhibit 4: The Appellant's Hearing Request Form with an attachment dated November 9, 2017.
- Exhibit 5: Health Connector's 2018 Eligibility Results computer printout with an Application Summary dated October 25, 2017.
- Exhibit 6: Health Connector's 2017 Eligibility Results computer printout with an Application Summary dated April 17, 2017.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant submitted an eligibility review/application to the Health Connector on October 25, 2017 (Exhibit 5).
2. Information provided to the Health Connector from the federal government verified that the Appellant and their spouse are eligible for Medicare (Exhibit 5).
3. On October 25, 2017 the Health Connector determined that the Appellant was ineligible for Health Connector plans because the Appellant is eligible for Medicare (Exhibit 3).
4. The Appellant filed an appeal on November 9, 2017 requesting secondary insurance to supplement their Medicare (Exhibit 4).
5. The Appellant acknowledges that both spouses are enrolled in Medicare. The Appellant testified that when the appeal was filed, the couple was trying to purchase a secondary plan. The Appellant testified that prior to the Hearing they contacted the SHINE program and have enrolled in a supplemental health plan.
6. The 2017 Health Connector Eligibility Results printout indicates that the Appellant may be eligible for a MassHealth benefit and would receive a separate notice from MassHealth (Exhibit 3).
7. The Appellant was given the MassHealth customer service contact information.

Massachusetts Health Connector Appeals Unit

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant submitted an eligibility review/application to the Health Connector on October 25, 2017. The Health Connector received information from the federal government which indicated that the Appellant and their spouse are eligible for Medicare. Under 42 USC 1395ss(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare. Because the Appellant and their spouse are eligible for Medicare, the Health Connector correctly determined on October 25, 2017 that the Appellant and their spouse are not eligible for Health Connector Plans. This appeal is therefore denied.

ORDER

The appeal is denied.

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

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

Cc: Health Connector Appeals Unit

Addendum

The Appellant is advised to contact MassHealth customer service at 1-800-841-2900. The Appellant may also contact the Serving the Health Insurance Needs of Everyone (SHINE) program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.