

**FINAL APPEAL DECISION-ACA 20-12669**

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

**Hearing Issue:** Eligibility for ConnectorCare, based on failure to reconcile prior tax credits

**Hearing Date:** December 17, 2020

**Decision Date:** December 21, 2020

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**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 September 25, 2020, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant’s determination came after failing to reconcile any previous Advance Tax Credits she had received.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare since she did not verify that she had provided documentation that she had reconciled any previous Advance Tax Credits she had received.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on December 17, 2020. A Spanish interpreter as requested by the Appellant translated for the Appellant. Both the Appellant and Interpreter were sworn in.

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

- |            |   |                               |
|------------|---|-------------------------------|
| Exhibit 1: | Health Connector’s Hearing Record Affidavit | ( 1 page, undated )           |
| Exhibit 2: | Health Connector’s Notice of Hearing        | (3 pages, dated 11/19/2020)   |
| Exhibit 3: | Health Connector’s Acknowledgment of Appeal | ( 4 pages, dated 11/17/ 2020) |

# Massachusetts Health Connector Appeals Unit



Exhibit 3(a)	Health Connector’s Appeals Unit Staff Notes	( 2 pages, dated	10/19/ 2020)
Exhibit 4:	Health Connector’s Notice to Appellant-Eligibility Approval	(8 pages, dated	9/25/ 2020)
Exhibit 5:	Appellant’s Appeal Request Form	( 6 page, received	10/28/2020)
Exhibit 6:	Health Connector’s Application Summary	( 3 pages, dated	9/4/2020)
Exhibit 7:	Health Connector’s Eligibility Results	( 4 pages, dated	9/4/2020)
Exhibit 8	Health Connector Eligibility Approval	(8 page, dated	9/25/2020)
Exhibit 9:	Health Connector’s Application Summary	( 3 pages, dated	11/25/2020)
Exhibit 10:	Health Connector’s Eligibility Results	( 4 pages, dated	11/25/2020)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who plans to file a federal income tax return in 2020, testified she filed a 2019 tax return. (Appellant Testimony).
2. The Appellant testified she did not file the IRS Form 8962 with the tax return. (Appellant Testimony).
3. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 (Exhibit 6, Appellant Testimony).
4. The Appellant’s plan changed to an unsubsidized plan for November 2020. (Exhibits 1, 3(a), 4).
5. The Appellant filed a federal income tax return for 2020 but did not send in IRS Form 8962 with the tax return. (Appellant Testimony).
6. The Appellant did not reconcile receipt of advance premium tax credits received in 2020 because the Appellant did not file the IRS Form 8962 with her tax returns used to reconcile APTC. (Appellant Testimony).
7. The Appellant filed the IRS Form 8962 on October 15, 2020. (Appellant Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect because she has no income. (Appellant Testimony). The Appellants income was 99.88 % of the Federal Poverty Level in 2020 and is otherwise eligible for subsidies. (Exhibits 4 and 5). Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector’s ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On September 25, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2019, the Appellant was eligible for ConnectorCare and received APTC. However, although the Appellant timely filed an income tax return for 2020, she did not file the required IRS Form 8962 with the tax return. Because the Appellant did not reconcile receipt of APTC from a prior year, the Appellant was determined not to be eligible to receive APTC in 2020. 45 CFR § 155.305(f)(4).

The Appellant testified she complied with the requirement to reconcile receipt of 2020 premium tax credits by filing a 2019 federal income tax return but did not file the Form 8962. Based on the Appellant's failure to provide evidence that she had filed taxes reconciling her past Advance Premium Tax Credits, the Connector's decision to deny the Appellant access to those credits is upheld. The Appellant was encouraged to contact the Health Connector to renew current eligibility and to seek assistance on completing the Form 8962 in order to comply with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2020 federal income tax return with Form 8962 and reconciling any APTC received in 2020.

### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2020 will be paid to you when you file your 2020 federal income tax return.

**FINAL APPEAL DECISION: ACA20-12117**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Whether the Health Connector correctly determined the appropriate amount of the Appellant Spouse’s Advanced Premium Tax Credit (“APTC”) based on the Appellant becoming eligible for Medicare.

**Hearing Date:** October 19, 2020

**Decision Date:** November 16, 2020

**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 September 2, 2020, the Appellant was notified that his Spouse qualified for Health Connector Plans with Advance Premium Tax Credit based on a household income of 347.79% of the Federal Poverty Level (“FPL”) based on income information from the Appellant’s application and the most recent information received from income data sources. (Ex. 4). The Appellant filed an appeal which was received on September 23, 2020. (Ex. 5). The matter was referred to a hearing after receipt of the appeal. (Ex. 2).

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 19, 2020.

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

- Exhibit 1: Health Connector’s Hearing Record Affidavit ( 1 page, undated )
- Exhibit 2: Health Connector’s Hearing Notice of Hearing (3 pages, dated 9/23/2020)
- Exhibit 3: Health Connector’s Acknowledgment of Appeal ( 1 page, dated 9/23/ 2020)
- Exhibit 3(a) Health Connector’s Appeals Unit Staff Notes ( 2 pages, dated 10/15/ 2020)

Exhibit 4:	Health Connector's Notice to Appellant re: Eligibility Notice ( 9 pages, dated	9/2/ 2020)
Exhibit 5:	Appellant's Appeal Request with Appellant Statement ( 7 pages, received	9/16/2020)
Exhibit 6:	Health Connector's Eligibility Summary Results ( 4 pages, dated	9/2/2020)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 65 and became eligible for Medicare in October 2020. (Exhibits 1, 5, and 6).
2. The Appellant testified that he and his Spouse were on a subsidized Health Connector Plan with an APTC of \$633 month and paid a premium of \$412.26 prior to the Appellant becoming eligible for Medicare. (Appellant Testimony and Exhibit 5).
3. The Appellant and his Spouse's income did not change. (Appellant's Testimony).
4. The Appellant and Spouse have a tax household size of two (2) and file their taxes as married jointly. (Exhibits 1 and 6).
5. By notice dated September 2, 2020, The Health Connector found, based on the Appellant's eligibility for Medicare and their verified income and household size, that the that the Appellant Spouse's APTC was \$93 per month. (Exhibits 1, 4-6).
6. The Health Connector found the Appellant's projected MAGI would place them at approximately 347.79% of the 2020 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the Affordable Care Act ("ACA"), because subsidies under the ACA are available only to individuals whose household income is below 400% FPL. (Exhibits 1 and 6).
7. By letter dated September 2, 2020, the Health Connector notified the Appellant that the Appellant's Spouse was eligible for Health Connector Plans (with APTC's) based on household income of 347.79% of the Federal Poverty Level("FPL"). The letter further stated that the Connector's determination was based Appellant's application and the most recent information received from income data sources. (Ex. 4).
8. The Health Connector correctly determined the Appellant Spouse's Advanced Premium Tax Credit ("APTC") as a result of the Appellant becoming eligible for Medicare. (Exhibits 1, 3-7).

## 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 Connector must calculate advance payments of the premium tax credit in accordance with section 36B of the IRC. 45 CFR 155.305(f)(5). APTC is calculated based on the size of the household, age, income, where the Appellants reside, and what the Federal Government determines what coverage is affordable. The premium tax credit is a refundable tax credit designed to help eligible individuals and families with low or moderate income afford health insurance purchased through the [Health Insurance Marketplace](#), also known as the Exchange. The size of the premium tax credit is based on a sliding scale. The amount of the premium tax credit is generally equal to the premium for the second lowest cost silver plan available through the Marketplace that applies to the

members of coverage family, minus a certain percentage of household income. However, the credit cannot be more than the premiums for the Marketplace plan or plans in which a family can enroll (called your enrollment premiums). Coverage for a family consists of the members of your family who are enrolled in coverage through the Marketplace and ineligible for non-Marketplace coverage such as Medicare, Medicaid or affordable employer-sponsored coverage. 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).

Medicare eligibility determines how the Health Connector must treat those members. In this case, when the Appellant became eligible for Medicare during the plan year for which he was enrolled, he became ineligible for APTC. See 45 CFR 155.305(f)(1)(ii)(B) (barring access to APTC where an individual is eligible for minimum essential coverage). When the Appellant Spouse's eligibility for 2020 coverage was preliminarily determined on September 2, 2020, the Appellant provided information to the Health Connector that the Appellant was eligible for Medicare. When a household member becomes Medicare eligible, the APTC is recalculated for the remaining household members but the income counted to determine FPL remains the same. The Health Connector found, based on this verified income and household size, that the Appellant's projected MAGI would place them at approximately 347.79% of the 2020 Federal Poverty Level (FPL). This means the Appellant's household income was less than the 400% limit for eligibility for subsidies, and therefore the Health Connector correctly found that the Appellant was eligible for subsidies.

Based upon the totality of the evidence, it is concluded that the Connector's determination on September 2, 2020 and calculation of the Appellants' Advanced Premium Tax Credit ("APTC") used to determine eligibility for subsidized Health Connector plan for the Appellant's Spouse was correct according to the regulations as a result of the Appellant's spouse becoming eligible for Medicare, 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 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 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 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2020 will be paid to you when you file your 2020 federal income tax

**FINAL APPEAL DECISION-ACA 20-12403**

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

**Hearing Issue:** Eligibility for ConnectorCare, based on failure to reconcile prior tax credits

**Hearing Date:** November 25, 2020

**Decision Date:** December 14, 2020

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**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 October 7, 2020, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant’s determination came after failing to reconciled any previous Advance Tax Credits he had received.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare since she did not verify that he had provided documentation that she had filed reconciled any previous Advance Tax Credits he had received.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on November 25, 2020.

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

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Health Connector’s Notice of Hearing	(3 pages, dated 10/28/2020)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 4 pages, dated 10/22/ 2020)
Exhibit 3(a)	Health Connector’s Appeals Unit Staff Notes	( 2 pages, dated 10/20/ 2020)
Exhibit 4:	Health Connector’s Notice to Appellant re: Eligibility	( 9 pages, dated 10/7/ 2020)



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Exhibit 5:	Appellant's Appeal Request Form	( 1 page, received	10/9/2020)
Exhibit 6:	Health Connector's Eligibility Approval	( 9 pages, dated	10/7/2020)
Exhibit 7:	Health Connector's Application Summary	( 2 pages, dated	10/ 6/2020)
Exhibit 8:	IRS Form 1095A-2017, 2018, 2019		

The record was left open until December 11, 2020 for the Appellant to submit copies of the IRS Form 8962 that she had filed.

Exhibit 9;	2018 IRS Form 8962	(6 pages, received	12/4/2020)
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### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who plans to file a federal income tax return in 2020, testified she filed a 2019 tax return. (Appellant Testimony).
2. The Appellant testified she filed the IRS Form 8962 was submitted on October 15, 2020. (Appellant Testimony).
3. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 (Exhibit 6, Appellant Testimony).
4. The Appellant's plan changeD to an unsubsidized plan for November 2020. (Exhibits 1, 3(a), 4).
5. The Appellant filed a federal income tax return for 2020 but did not send in IRS Form 8962 with the tax return. (Appellant Testimony).
6. The Appellant did not reconcile receipt of advance premium tax credits received in 2020 because the Appellant did not file the IRS Form 8962 with her tax returns used to reconcile APTC. (Appellant Testimony).
7. The Appellant filed the IRS Form 8962 on October 15, 2020. (Appellant Testimony).

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellants income was 166.56 % of the Federal Poverty Level in 2020 and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On October 7, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2020, the Appellant was eligible for ConnectorCare and received APTC. However, although the Appellant timely filed an income tax return for 2020, she did not file the required IRS Form 8962 with the tax return. Because the Appellant did not reconcile receipt of APTC from a prior year, the Appellant was determined not to be eligible to receive APTC in 2020. 45 CFR § 155.305(f)(4).

The Appellant testified she complied with the requirement to reconcile receipt of 2020 premium tax credits by filing a 2019 federal income tax return, and recently filed the Form 8962. Based on the Appellant's failure to provide evidence that she had filed taxes reconciling her past Advance Premium Tax Credits, the Connector's decision to deny the Appellant access to those credits is upheld. The Appellant was encouraged to contact the Health Connector to report a change to her application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2020 federal income tax return with Form 8962 and reconciling any APTC received in 2020.

### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2020 will be paid to you when you file your 2020 federal income tax return.

## FINAL APPEAL DECISION

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

**Hearing Issue:** Eligibility for ConnectorCare, based on failure to verify income

**Hearing Date:** November 30, 2020

**Decision Date:** December 14, 2020

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### **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 October 9, 2020, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income and Spouse and family member's social security numbers.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare based on the Appellant's failure to verify income and family member's social security numbers.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 30, 2020.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page,	undated )
Exhibit 2:	Health Connector's Notice of Hearing of Appeal	(3 pages, dated	11/2 /2020 )
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 4 pages, dated	10/7/ 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated	10/19/ 2020)
Exhibit 4:	Health Connector's Notice to Appellant re: Eligibility	( 4 pages, dated	9/27/ 2020)

Exhibit 5:	Appellant's Appeal Request Form	( 1 page, received	10/13/2020)
Exhibit 6:	Health Connector's Request for Information	(6 pages, dated	3/11/2020)
Exhibit 7:	Health Connector's Eligibility Approval	( 9 pages, dated	10/9/2020)
Exhibit 8:	Health Connector's Application Summary	( 4 pages, dated	10/9/2020)
Exhibit 9:	Health Connector's Eligibility Results	( 4 pages, dated	11/24/2020)
Exhibit 10	Health Connector's Proof of Income Request email		(1 page, dated 10/21/2020)
Exhibit 11	Correspondence to Appellant from Health Connector to proof of income		(1 page, dated 12/14/2020)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a married individual, who plans to file a federal income tax return for tax year 2020. (Exhibit 8).
2. The Appellant lost the Connectorcare Plan on September 30, 2020 due to an unknown Federal Poverty Level("FPL") determination. (Exhibit 5)
3. The Appellant testified his family's income has not changed. (Appellant Testimony).
4. The Appellant's unemployment has recently ended. (Appellant Testimony).
5. In a prior eligibility determination, the Appellant was found eligible for ConnectorCare and was asked to send in documents verifying the Appellant's income for him and his spouse, his spouse's social security number, and family members on March 11, 2020, with a deadline of June 9, 2020. (Exhibit 5).
6. Although the Appellant testified that he sent in proof of income and a letter from his Spouse of no income, as well as his Wife's Social Security Number in May 2020, the Connector does not have receipt. (Exhibit 1, Appellant Testimony).
7. The Connector did not receive the required documents to review the verification of income and other information. (Exhibit 1).
8. The Connector emailed the Appellant requesting that he update his and his Spouse's income and send in proof of income to the Health Insurance Processing Center. (Exhibit 10)
9. The Appellant testified he did not receive the email from the Connector although the email address he testified was the same email the Connector had on file and used. (Exhibit 1, Exhibit 10, Appellant Testimony).
10. The Appellant was determined for Health Connector plans without subsidies on October 9, 2020, after failing to send in documents verifying income and other requested information. (Exhibits 1, 6-9).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies based on failing to verify income and other requested information. (Exhibits 1, 6 and 7). The Appellant asserts that this determination was incorrect because the Appellant's family's income did not change. The Appellant's self-reported income was equivalent to approximately 112.36 % of the Federal Poverty. 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

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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).

The Appellant was asked to send in documents verifying the Appellant's income for him and his spouse, his spouse's social security number and for family members on March 11, 2020, with a deadline for submission of June 9, 2020. The Appellant was also asked to verify his family's income, and was provided with a list of acceptable documents to verify income. I find that the Connector does not have any record of receipt of any of the requested documents. I find that the Appellant failed to send in additional documents by the deadline. On October 9, 2020, because the Appellant failed to verify income, the Appellant was notified he was eligible for Health Connector Plans without subsidies for failing to provide proof of income. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). Even though the Appellant now asserts that Appellant's income for 2020 has not changed, the Appellant failed to verify this income and the Health Connector, as required by law, relied on data it had available in other sources to issue a new determination. The Appellant was found eligible for Health Connector plans, without subsidy, and is the correct determination for a person whose household income is 400% of the Federal Poverty Level. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

I find that the Health Connector correctly found that the Appellant was eligible for Health Connector plans without subsidies, based on electronic data sources after the Appellant failed to verify income, and that determination is upheld.

The Appellant was encouraged to contact the Connector and provide any updates to their income and submit documents verifying income.

### **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

## Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2020 will be paid to you when you file your 2020 federal income tax.

FINAL APPEAL DECISION

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

**Hearing Issue:** Eligibility for Health Connector plans, based on failure to verify spouse’s social security number (SSN)

**Hearing Date:** December 2, 2020

**Decision Date:** January 11, 2021

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**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 September 4, 2020, the Appellant’s Spouse was determined ineligible for Health Connector plans due to failure to verify proof of a Social Security Number (SSN).

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for Health Connector plans, based on the Appellant’s failure to verify Spouse’s Social Security Number (SSN).

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on December 2, 2020.

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

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Health Connector’s Notice of Hearing	(3 pages, dated 11/5/2020)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 4 pages, dated 10/24/ 2020)
Exhibit 3(a)	Health Connector’s Appeals Unit Staff Notes	( 2 pages, dated 10/19/ 2020)
Exhibit 4:	Health Connector’s Notice to Appellant re: Termination	( 6 pages, dated 9/4/ 2020)
Exhibit 5:	Appellant’s Appeal Request Form	( 1 page, received 10/5/2020)
Exhibit 6:	Health Connector’s Request for Information	(3 pages, dated 7/ 30/2020)

Exhibit 7:	Health Connector's Application Summary	( 3 pages, dated	9/4/2020)
Exhibit 8:	Health Connector's Eligibility Results	( 4 pages, dated	9/4/2020)
Exhibit 9:	Email to Appellant from Health Connector Spouse's SS No.	(1 page, dated	10/24/2020)
Exhibit 10:	2 pages of Applicant's Form 7972		

The record was left open until January 8, 2021 for the Appellant to submit documents for the Appellant's Spouses application documents for social security number submitted. The Appellant submitted the following documents on December 9, 2020:

Exhibit 11:	Appellant Spouse's Application for Employment Authorization	(7 pages, dated	May 12, 2020)
Exhibit 12:	Form I-797C-Application for Employment Authorization-receipt)	1 page, dated	May 19, 2020)

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant testified her spouse moved to the United States on March 16, 2020 on a K-1 fiancé visa. (Appellant Testimony, Exhibit 5).
2. The Appellant and her spouse were married on March 22, 2020. (Appellant Testimony, Exhibit 5).
3. The Appellant's Spouse testified she was unable to apply for a social security number(SSN) at the local Social Security office because the office was closed due to Covid-19. (Appellant Testimony, Exhibit 5).
4. The Appellant and Spouse were advised to apply for the Spouse's Social Security Card through an Application for Employment Authorization through the United States Citizenship and Immigration Services("USCIS"). (Appellant Testimony, Exhibit 5).
5. On May 12, 2020, the Appellant's Spouse submitted an Application (I-765) for Employment Authorization through the United States Citizenship and Immigration Services("USCIS"). (Appellant Testimony, Exs. 5, 11 and 12).
6. The Appellant's Spouse completed the section on the application requesting a social security card using the I-765. (Exhibits 1, 5, and 11).
7. If USCIS approves the I-765, then USCIS will send the Social Security Administration the data needed to issue an SSN card. (Exs. 1, 5, and 11).
8. The Appellant did not submit evidence that USCIS approved the I-765 application.
9. In June 2020, the Appellant testified she sent the Spouse's Application for Employment Authorization and proof of receipt of application to the Health Connector. (Appellant Testimony, Exs. 5, 11, and 12).
10. On July 30, 2020, the Appellant was informed that effective September 30, 2020 the Spouse would lose ConnectorCare Plan Type 3A benefits unless the Appellant sent in in documents of proof of the Spouse's social security number due August 29, 2020. (Exhibit 7).
11. The Appellant Spouse was determined ineligible for Health Connector plans on September 4, 2020, after failing to send in documents verifying proof of Social Security Number. (Exhibits 1, 4)
12. The Appellant Spouse's application for an SSN is still pending. (Appellant Testimony)

**ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found ineligible for Health Connector Plans based on failing to obtain a social security number and because the Connector was not able to verify with date source that they have applied for a social security



number. Under 45 CFR 155.310(a)(3)(i) which states, “The Exchange must require an applicant who has a Social Security number to provide such number to the Exchange.”

In this case, the Appellant was issued a Request for Information (“RFI”) to verify either that they have a social security number that the Connectorcare could not verify with data sources, or if they indicate that they have applied for an SSN. If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

The Appellant spouse was determined ineligible for Health Connector plans on September 4, 2020, after failing to send in documents verifying proof of Social Security Number. On July 30, 2020, the Appellant was informed that effective September 30, 2020 the Spouse would lose ConnectorCare Plan Type 3A benefits unless the Appellant sent in in documents of proof of the Spouse’s Social Security Number due August 29, 2020. in response to this Request for Information (“RFI”), the Appellant submitted an I-797 application and also marriage certificate but did not submit an application for a social security number.

I find the Appellant’s submission of the I-765 Application for Employment Authorization is not proof of receipt of the Appellant’s social security number, or an application for proof of the Appellant’s spouse’s social security number. The Appellant failed to send in documents verifying proof of receipt of the Spouse’s Social Security Number, or proof of application which would have included proof of an application to the Social Security Administration, or confirmation that the Appellant’s Spouse’s I-765 was approved. The Connector’s decision that the Appellant’s Spouse was determined ineligible for Health Connector plans on September 4, 2020 for failing to provide information, to wit: the Spouse’s Social Security Number which is needed to verify eligibility to purchase a Health Connector Plan. This process complied with federal law at 45 CFR §155.310(a)(3)(i) and is the correct determination for a person who has not verified compliance with the requirement to have a social security number

The Appellant is encouraged to check the status of the pending Social Security Number Application and the I-765, and upon receipt contact the Connector and reapply. The Health Connector correctly found that the Appellant’s Spouse was no longer eligible for Health Connector plans on September 4, 2020, and that determination is upheld.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2020 will be paid to you when you file your 2020 federal income tax return.

**FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Approved, Eligibility determination overturned.

**Hearing Issue:** Eligibility for ConnectorCare, based on failure to reconcile prior tax credits

**Hearing Date:** November 30, 2020

**Decision Date:** December 14, 2020

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**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 October 7, 2020, Appellant was determined eligible for Health Connector plans without subsidies since he did not verify that he had provided evidence and documentation that he had filed tax returns and other reconciliation forms to reconcile any previous Advance Tax Credits he had received.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare since he did not provide evidence that he had provided documentation that he had filed reconciled any previous Advance Tax Credits he had received.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 30, 2020.

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

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Health Connector’s Notice of Hearing of Appeal	(3 pages, dated 11/2 /2020)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 4 pages, dated 10/7/ 2020)
Exhibit 3(a)	Health Connector’s Appeals Unit Staff Notes	( 2 pages, dated 10/19/ 2020)

Exhibit 4:	Health Connector's Notice to Appellant Eligibility Approval (9 pages, dated	10/3/ 2020)
Exhibit 5:	Appellant's Appeal Request Form	( 8 pages, received 10/21/2020)
Exhibit 6:	Health Connector's Request for Information	(6 pages, dated 5/19/2020)
Exhibit 7:	Health Connector's Eligibility Results	( 2 pages, dated 10/2/2020)
Exhibit 8:	Health Connector's Application Summary	( 4 pages, dated 10/2/2020)
Exhibit 9:	Appellant's IRS Form 1095A- 2018 and 2019	
Exhibit 10:	Recent Determination: Eligibility Results	( 4 pages, dated 10/30/2020)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is married and plan a federal income tax return as joint tax filers for tax year 2020. (Exhibits 1, 10).
2. The Appellants' income is expected to be reduced as the Spouse retired and her income is reduced. (Appellant testimony).
3. The Appellant filed their 2019 taxes in July and submitted the IRS Form 8962. (Appellant testimony).
4. The Appellant is not eligible for employer-sponsored insurance that meets federal affordability standards. (Exhibit 10, Appellant Testimony).
5. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 (Exhibit 6, Appellant Testimony).
6. The Appellant received notice on October 3, 2020 that they would be eligible for a Health Connector Plan with no financial help. (Exhibit 4).
7. The Appellant filed a federal income tax return for 2020 and did reconcile receipt of advance premium tax credits received in 2020, because the Appellant did file the IRS Form 8962 with their tax returns used to reconcile APTC. (Appellant Testimony, Exhibits 9 and 10).
8. At the time of the hearing, the Appellant was encouraged to contact the Health Connector to report they had reconciled their APTC's, attesting to compliance with the reconciliation requirement and testified their coverage was reinstated and were eligible for ConnectorCare with subsidies. (Appellant Testimony, Exhibits 9 and 10).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect because the Appellant and his Spouse's income was reduced after his wife retired and is otherwise eligible for subsidies. (Appellant Testimony). Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

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On October 3, 2020, the Appellant and his Spouse were determined eligible for Health Connector plans without subsidies. In 2020, the Appellant was eligible for ConnectorCare and received APTC. Where the Appellant did file an income tax return for 2020 including the IRS Form 8962 and did attest to reconciling their receipt of APTC from a prior year, the Appellant is eligible to continue to receive APTC in 2020. 45 CFR § 155.305(f)(4).

The Appellant credibly testified he and his Spouse complied with the requirement to reconcile receipt of 2020 premium tax credits by filing a 2019 federal income tax return including the IRS Form 8962. Based on the Appellant's testimony that they had filed taxes reconciling their past Advance Premium Tax Credits and attested to same on their application, the Connector's decision to deny the Appellant access to those credits is reversed. The Appellant was encouraged to contact the Health Connector to report they had reconciled their APTC's, attesting to compliance with the reconciliation requirement and testified their coverage was reinstated and were eligible for ConnectorCare with subsidies. The Appellant is also reminded to report any income changes or reductions to the Connectorcare.

### **ORDER**

The appeal is granted.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified

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adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2020 will be paid to you when you file your 2020 federal income tax return.

# Massachusetts Health Connector Appeals Unit



## FINAL APPEAL DECISION-ACA 20-12662

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

**Hearing Issue:** Eligibility for ConnectorCare, based on the Appellant's age being over 65, MAGI less than 100% of FPL, and Lawful Presence.

**Hearing Date:** November 30, 2020

**Decision Date:** December 15, 2020

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### 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 October 8, 2020, the Connector denied the Appellant's eligibility for health insurance coverage through the Connector where the Appellant is age 65 or older, the Appellant's projected modified adjusted gross income for 2020 is less than 100% of the federal poverty level, and the Connectorcare did not have information the Appellant was lawfully present.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant was not eligible for Health Connector plans and Advanced Premium Tax Credit based on the Appellant's being over age 65, his projected modified adjusted gross income, and failure to establish lawful presence.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 30, 2020. A Portuguese/Brazilian interpreter as requested by the Appellant translated for the Appellant. Both the Appellant and Interpreter were sworn in.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Health Connector's Notice of Hearing of Appeal	(3 pages, dated 11/2 /2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 4 pages, dated 11/2/ 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated 10/19/ 2020)
Exhibit 4:	Health Connector's Notice to Appellant re: Denial	( 7 pages, dated 10/8/ 2020)
Exhibit 5:	Appellant's Appeal Request Form	(6 pages, received 10/28/2020)

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Exhibit 6:	Health Connector's Eligibility Results	( 2 pages, dated	10/8/2020)
Exhibit 7:	Health Connector's Application Summary	( 4 pages, dated	10/15/2020)
Exhibit 8	MMIS Document Connector	(30 pages, dated	10/8/20202)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is 69 years old. He is not eligible for Social Security or Medicare. (Appellant Testimony and Exhibit 5).
2. The Appellant applied for subsidized health insurance through the Health Connector on October 8, 2002. (Exhibits 1, 6).
3. Based on the Appellant's application for subsidized health insurance, the Health Connector found that the Appellant was not eligible for Health Connector plans because the Connectorcare did not have information needed to show the Appellant was lawfully present in the United States. (Exhibits 1, 4, 7, and 8).
4. The Appellant filed a Hearing Request Form dated October 21, 2020 appealing the Health Connector's decision. (Exhibit 5).
5. The Appellant stated on his appeal that he is a permanent resident for over five (5) years and submitted a permanent resident card with the Appeal. (Appellant Testimony, Exhibit 5).
6. The Appellant is age 65 or older since May 12, 2017. (Exhibit 3(a)).
7. The Appellant testified he has no income. (Appellant Testimony).
8. The Appellant's projected yearly income on his application for subsidized health insurance was \$10,000 annual, which is 80.06 % of the federal poverty level. (Exhibits 1, 6, 7, and 8).
9. The Appellant's application was closed due to him being age 65 or older. (Exhibit 3(a)).
10. The Appellant intends to file taxes for 2020. (Exhibit 7).
11. The Appellant has never been enrolled in ConnectorCare. (Exhibit 3(b)).
12. The Appellant has submitted an Application for Health Coverage for Seniors through MassHealth on October 8, 2020 and has been working with an advocate with respect to the application. (Exhibit 11).
13. Where the Appellant's reported his income at 80.06% of Federal Poverty Level ("FPL") is under 100% of the Federal Poverty Level ("FPL"), the Connector cannot offer him coverage.
14. The Appellant did not provide a lawful presence status on his application. (Exhibits 1, 6, and 7).



## **ANALYSIS AND CONCLUSIONS OF LAW**

In his application to the Health Connector the Appellant's projected yearly income on his application for subsidized health insurance was \$10,000 annual, which is 80.06 % of the federal poverty level. Although the the Appellant is 69 years old and over the age of 65, he is not eligible for Medicare or Social Security.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). The Appellant's expected income is only 80.06% of the federal poverty level. Therefore, the Appellant is not eligible for the APTC.

In addition, the Appellant did not provide a lawful presence status on his application. The Appellant was found ineligible for Health Connector Plans based on failing to establish lawful presence. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector.

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for Connector Care an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In addition, the individual must be eligible for the federal Advance Premium Tax Credit pursuant to 45 CFR sec. 155.305 (f). Since the Appellant is not eligible for the federal Advance Premium Tax Credit, he is also not eligible to enroll in ConnectorCare. The Appellant was encouraged to follow up with the advocate regarding the Application for Health Coverage for Seniors through MassHealth on October 8, 2020.

## **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.

Hearing Officer

Cc: Health Connector Appeals Unit

**FINAL APPEAL DECISION**

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

**Hearing Issue:** Eligibility for ConnectorCare, based on annual renewal

**Hearing Date:** December 2, 2020

**Decision Date:** December 14, 2020

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**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 13, 2020, Appellant was determined eligible for ConnectorCare Plan Type 3A. The Appellant's determination was a result of the Health Connector's review of the Appellant's application.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant eligible for ConnectorCare Plan Type 3A, based on the information provided on the application.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 2, 2020. The Appellant's authorized representative assisted 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	( 1 page, undated )
Exhibit 2:	Health Connector's Notice of Hearing	(3 pages, dated 11/5/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 4 pages, dated 11/5/ 2020)

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Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated	10/19/ 2020)
Exhibit 4:	Health Connector's Notice to Appellant: Approval	( 10 pages, dated	10/13/ 2020)
Exhibit 5:	Appellant's Appeal Request Form w/ 2019 1040 Schedule C	(4 pages, received	10/30/2020)
Exhibit 6:	Health Connector's Application Summary	( 4 pages, dated	9/4/2020)
Exhibit 7:	Health Connector's Eligibility Results	( 4 pages, dated	10/13/2020)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a married individual, who plans to file a federal income tax return for tax year 2020. (Exhibit 7)
2. The Appellant has a tax household size of two. (Exhibit 1, Exhibit 6)
3. The Appellant is self-employed. (Appellant Testimony).
4. The Appellant self-attested monthly income was \$1,624.99, with a projected yearly income of \$19,499.92. (Exhibits 1, 7).
5. The Appellant's Spouse's income consists of Social Security and employment. (Appellant Representative Testimony).
6. The Appellant's Spouse self-attested income was \$ 1,262.42 per month with a projected income of \$15,149. (Exhibit 1, Exhibit 7).
7. The Appellant testified he submitted tax information including a 2019 income including W2's, on or about September or October 2020. (Appellant Testimony).
8. The Appellant's Representative testified the Appellant's work was seasonal and his 2020 actual year to date income was approximately \$10,455. (Appellant Representative Testimony).
9. The Appellant also had business expenses which further reduced his income and submitted a 2019 in support of the appeal. (Exhibit 1, Exhibit 5, Appellant Representative Testimony).
10. On October 13, 2020, the Health Connector sent the Appellant an eligibility approval, pursuant to the Health Connector's review of the Appellant's application, which stated that the Appellant's eligibility was going to change from ConnectorCare Plan Type 2 to ConnectorCare Plan Type 3A. This notice stated that the Health Connector's determination was based on an income equivalent to 204.90% of the Federal Poverty Level. The notice instructed the Appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibit 1, Exhibit 4)

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for ConnectorCare Plan Type 3A effective November 1, 2020 based on the Health Connector's review of the Appellant's application, which used an income and family size equivalent to 204.90% of the Federal Poverty Level. The Appellant asserts that this determination was incorrect, because the Appellant actual year to date income is only approximately \$10,455 in 2020, which is substantially less than attested to projected annual income of \$19,499, and the Appellant should therefore have remained eligible for ConnectorCare Plan Type 2, as he was in 2020.

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

## Massachusetts Health Connector Appeals Unit



300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On October 13, 2020, the Health Connector sent the Appellant an eligibility approval, pursuant to the Health Connector's review of the Appellant's application, which stated that the Appellant's eligibility was going to change from ConnectorCare Plan Type 2 to ConnectorCare Plan Type 3A. This notice stated that the Health Connector's determination was based on an income equivalent to 204.90% of the Federal Poverty. The final determination was correct for the Appellant, based on a household income equivalent to 204.90% of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. Even though the Appellant now asserts that Appellant's income for 2020 will be substantially less for a household size of two, the determination issued by the Health Connector was correct.

The Appellant is advised to report any changes to their income or any other information on their application.

### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2020 (meaning the modified

## Massachusetts Health Connector Appeals Unit



adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2020 will be paid to you when you file your 2020 federal income tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 21-12654

**Appeal Decision:** Appeal denied

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

**Hearing Date:** December 15, 2020

**Decision Date:** December 28, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 11, 2020, the appellant was advised that in 2021 she qualified for Health Connector Plans (with no financial help). (Ex. 4). The appellant filed an appeal dated October 28, 2020 (Ex. 5). The matter was referred to a hearing after receipt of the appeal. (Ex.9)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare, the Connector did not have enough income information from the Appellant to determine the appellant's federal poverty level("FPL").

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 15, 2020, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Health Connector's Notice of Hearing	(3 pages, dated 11/19/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 4 pages, dated 10/31/ 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated 10/19/ 2020)
Exhibit 4:	Health Connector's Eligibility Approval	(9 pages, dated 10/11/ 2020)

Exhibit 5:	Appellant's Appeal Request Form	( 2 pages, received	10/28/2020)
Exhibit 6:	Health Connector's Application Summary	( 3 pages, dated	9/4/2020)
Exhibit 7:	Health Connector's Eligibility Results	( 4 pages, dated	8/28/2020)
Exhibit 8:	Health Connector's Email to appellant	( 1 pages, dated	11/17/2020)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 26 years-old and has been unemployed since May 2020. (Testimony, Ex.5)
2. The appellant has not had health Connectorcare. (Testimony).
3. The appellant applied for Connectorcare in October 2020 and was found eligible on October 11, 2020 for Connectorcare without financial help. (Testimony, Exs. 1 and 4 )
4. By letter dated October 11, 2020, the Health Connector notified the appellant that she qualified for Health Connector Plans (without financial help) because Connector did not have enough recent income information for the appellant to qualify for lower cost coverage at this time. (Exs. 1,4)
5. The Connector emailed the Appellant on November 17, 2020 requesting the appellant contact customer service to update her income for 2020 and 2021. (Exs. 1,8).
6. The Appellant was encouraged at the hearing to contact customer service to update her income for 2020 and 2021.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector Plans without subsidies based on failing to provide proof of current and projected 2021 income, and the Connector was unable to ascertain the appellant's Federal Poverty Level. The Appellant asserts that this determination was incorrect, because the Appellant has been unemployed since May 2020 and the Appellant should therefore have remained eligible for subsidies. 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).

The appellant was determined eligible for Health Connector Plans without financial help because Connector did not have enough 2020 and projected 2021 income information for the appellant. The Appellant was encouraged at the hearing to contact customer service to update her income for 2020 and 2021.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 11, 2020, regarding the appellant's eligibility for Health Connector Plans without subsidies was correct.

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 21-12732

**Appeal Decision:** Appeal denied

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

**Hearing Date:** December 17, 2020

**Decision Date:** December 21, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 14, 2020, the appellant was advised that in 2021 he qualified for Health Connector Plans (with financial help). (Ex. 3). The appellant filed an appeal dated October 30, 2020 (Ex. 5) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex.9)

### ISSUE

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on October 14, 2020, 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 December 20, 2018, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Health Connector's Notice of Hearing	(3 pages, dated 11/19/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated 10/30/ 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated 10/19/ 2020)
Exhibit 4:	Health Connector's Eligibility Approval	(10 pages, dated 10/14/ 2020)
Exhibit 5:	Appellant's Appeal Request Form	(4 page,s received 10/30/2020)
Exhibit 6:	Health Connector's Application Summary	( 3 pages, dated 12/1/2020)

Exhibit 7:	Health Connector's Eligibility Results	( 4 pages, dated	12/1/2020)
Exhibit 8:	Email to Appellant from Health Connector	(1 page, dated	)
Exhibit 9:	Health Connector's Application Summary	( 3 pages, dated	12/1/2020)
Exhibit 10:	Health Connector's Eligibility Results	( 4 pages, dated	12/1/2020)

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 49 years-old and has 2 children ages 21 and 18 who he supports. (Testimony, Exs. 1, 5)
2. The appellant is self-employed and previously had Connectorcare in 2019. (Testimony)
3. The appellant did not have Connectorcare in 2020 because he could not afford the premiums which he testified were approximately \$400/month. (Testimony)
4. The appellant applied for Connectorcare in October 2020 and was found eligible on October 14, 2020 for Connectorcare Plan with advanced premium tax credits. (Testimony, Exs. 1 and 4 )
5. The appellant testified that based on the October 14, 2020 approval his premium was \$321 which is the APTC and has not enrolled in a Health Connector. (Testimony, Ex. 1)
6. By letter dated October 14, 2020, the Health Connector notified the appellant that he qualified for Health Connector Plans (with financial help) for 2021. The appellant was further notified that the federal poverty level (FPL) used based on his self-reported income was 188%". (Exs. 1,4)
7. The appellant filed an appeal of the Health Connector's October 30, 2020 on and stated that he could not afford the \$321 month. (Exs. 1 and 5)
8. The appellant was informed that the \$321 was not the amount of the premium but was an APTC to reduce his premiums and he was encouraged to call the Connector to pick a plan.

## ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an APTC (advanced premium tax credit) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if a) their household income does not exceed 300 percent of the FPL and b) they are eligible for an APTC. See 956 CMR 12.09(1). The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h). If electronic data sources have no information to report, the response is "unknown".

An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those

terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

The appellant was determined eligible for Health Connector Plans with financial help. He was advised at the commencement of, and the conclusion of the hearing that he could confirm the amount of a premium based on eligibility for Connectorcare and subsidies, and enroll in a plan by following up with the Connector.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 14, 2020, regarding the appellant's eligibility for Health Connector Plans was correct.

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 21-12766

**Appeal Decision:** Appeal denied

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

**Hearing Date:** December 15, 2020

**Decision Date:** December 21, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 11, 2020, the appellant was advised that in 2021 she qualified for Health Connector Plans (with no financial help). (Ex. 4). The Appellant's determination came after failing to verify income.

### ISSUE

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 15, 2020, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Health Connector's Notice of Hearing	(3 pages, dated 11/19/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 4 pages, dated 10/31/ 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated 10/19/ 2020)
Exhibit 4:	Appellant's Appeal Request Form	( 2 pages, received 11/3/2020)

Exhibit 5:	Health Connector's Request for Information	(4 pages, dated	7/ 23/2020)
Exhibit 6:	Health Connector's Application Summary	( 3 pages, dated	10/9/2020)
Exhibit 7:	Health Connector's Eligibility Results	( 3 pages, dated	9/9/2020)
Exhibit 8:	Health Connector's Application Summary	( 3 pages, dated	11/9/2020)
Exhibit 9:	Health Connector's Eligibility Results	( 3 pages, dated	9/9/2020)
Exhibit 10:	Health Connector's Email to Appellant request updated income	( 1 page, dated	11/6/2020).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 62 years-old and has not worked since January 2020. (Testimony, Exs. 1, Ex.5)
2. The appellant lost her subsidized plan on September 30, 2020 based in information provided by the Appellant in her application on August 20, 2020. (Exs. 1, 3(a),4, 7 and 8).
3. In a prior eligibility determination, the Appellant was found eligible for ConnectorCare Plan based on having an income and household size equivalent under 300 % of the Federal Poverty Level and was asked to send in documents verifying the Appellant's residency. (Exhibit 2, Exhibit 6)
4. The appellant was sent a request for income information on July 23, 2020 with a due date of August 22, 2020.
5. The Connector did not receive the requested information by the deadline. (Exhibits 1, 3(a),6,7, and Testimony).
6. The appellant testified she has been receiving social security in the amount of \$810 per month.
7. The appellant stated that because of unexpected expenses for which she was assisting her daughter she sold and received stock distributions which does not reflect her true income.
8. The Connector emailed the Appellant on November 6, 2020 requesting the appellant contact customer service to update her income for 2020 and 2021. (Exs. 1,8).
9. The Appellant was encouraged at the hearing to contact customer service to update her income for 2020 and 2021.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector Plans without subsidies based on failing to provide proof of current and projected 2021 income. The Appellant asserts that this determination was incorrect because the Appellant has not worked since January 2020 and is receiving social secure and investment income, and the Appellant should therefore have remained eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify

applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

On July 23, 2020, the Appellant was asked to verify her income, and was provided with a list of acceptable documents to verify income. Because the Appellant that because Appellant failed to send in additional documents by the deadline the Health Connector reverted to electronic data sources and found that the Appellant's household income was equivalent to 540% of the Federal Poverty Level. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). Even though the Appellant now asserts that Appellant's income for 2020 will only 275% of the Federal Poverty Level for a household size of one, the Appellant failed to verify this income and the Health Connector, as required by law, relied on data it had available in other sources to issue a new determination. The Appellant was found eligible for Health Connector plans, without subsidy, and is the correct determination for a person whose household income is 540% of the Federal Poverty Level. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

The appellant was determined eligible for Health Connector Plans without financial help because Connector did not have enough 2020 and projected 2021 income information for the appellant. Based upon the totality of the evidence, it is concluded that the Connector's determination regarding the appellant's eligibility for Health Connector Plans without subsidies was correct. The Appellant was encouraged at the hearing to contact customer service to update her income for 2020 and 2021.

#### **ORDER**

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 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

**FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** December 17, 2020

**Decision Date:** December 21, 2020

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**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 21, 2020, the 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 the 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 December 17, 2020. A Haitian Creole interpreter as requested by the Appellant translated for the Appellant. Both the Appellant and Interpreter were sworn in.

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

Exhibit 1: Health Connector’s Hearing Record Affidavit ( 1 page, undated )

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Exhibit 2:	Appellant's Appeal Request Form	( 6 page, received	10/7/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated	11/9/ 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated	10/19/ 2020)
Exhibit 4:	Health Connector's Notice of Hearing	(3 pages, dated	11/19/2020)
Exhibit 5:	Health Connector's Notice of Denial	(6 pages, dated	10/21/ 2020)
Exhibit 6:	Health Connector's Application Summary	( 3 pages, dated	12/1/2020)
Exhibit 7	Health Connector's Medicare Letter	( 1 page	)
Exhibit 8:	Health Connector's Eligibility Results	( 4 pages, dated	10/21/2020)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on October 21, 2020, based on being eligible for Medicare. (Exhibit 1, Exhibit 3, Exhibit 3(a), Exhibits 5-8)
2. The Appellant is eligible for Medicare. (Exhibit 4, Exhibit 3(a), Exhibits 5-8)
3. The Appellant testified she has Medicare but did not know the date she enrolled. (Appellant Testimony)
4. The Appellant testified she has not been on Medicare too long. (Appellant Testimony)

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on her appeal request form that she would like to enroll in health insurance through the Health Connector.

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.

When the Appellant's eligibility for 2021 coverage was determined on October 21, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that she is eligible for and enrolled in Medicare. Because the 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 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



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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**

The Appellant is advised to look into the **S**erving the **H**ealth **I**nsurance **N**eeds of **E**veryone (SHINE) program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Income amount used to determine eligibility for subsidized Health Connector plans

**Hearing Date:** November 18, 2020

**Decision Date:** November 27, 2020

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### **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, sections 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 September 23, 2020, Appellant provided information about his household income to the Health Connector when applying for subsidized health insurance. Based on that information, the Health Connector determined the Appellant, his spouse and his two children to be eligible for Health Connector Plan Type 2B, which entitled them to monthly subsidies of up to \$1,387. Appellant was notified by mail of this determination on September 23.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined the amount of subsidies for which Appellant and household were eligible.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 18, 2020.

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

Exhibit\_1: Hearing Request Form (dated 9/28/20 w/ attachment) (4 pages)

- Exhibit 2: Affidavit of Nancy Stehfest (1 page)
- Exhibit 3: Eligibility Notice (dated 9/23/20) (11 pages)
- Exhibit 4: Screen Shot of Eligibility Determination (9/23/20) (2 pages)
- Exhibit 5: Screen Shot of Application Summary (9/23/20) (6 pages)
- Exhibit 6: Earnings Statement (Mascom) (1 page)
- Exhibit 7: Notes from Appeals Database (11/17/20) (1 page)
- Exhibit 8: Notice of Withdrawal (10/31/20) (6 pages)
- Exhibit 9: Termination Notice (10/24/20) (2 pages)
- Exhibit 10: Hearing Notice (10/19/20) (3 pages)
- Exhibit 11: Appeals Acknowledgement Form (10/9/20) (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant sought subsidized health insurance for himself, his spouse, and his two children.
2. In filling out the application, he reported household of \$2,240 biweekly. (Exhibit 5). He reported that the income derived from his employment, and that his salary was the only household income.
3. Subsequently appellant provided an earnings statement from his employer, which confirmed that amount. (Exhibit 6).
4. In his application, Appellant projected yearly modified annual gross income (MAGI) for his household of \$45,248 for 2020.. (Exhibit 5)
5. The Health Connector found, based on this projected income and household size, that the appellant's projected MAGI would place him at approximately 167% of the 2014 Federal Poverty Level (FPL). (Exhibit 4). An individual at that income level would be eligible for the Connector Care program in Plan Type 2B, because subsidized coverage through the state's ConnectorCare program in a Plan Type 2B, is available to individuals whose household income is between 150 and 200% FPL. 956 CMR 12.04(3).
6. The Health Connector's determination of Appellant's eligibility was correct based on his self-attested income, which was verified by the earnings statement he provided.
7. The record reflects that, after Appellant filed his notice of appeal, the Health Connector eligibility system recorded that the Appellant's application had been withdrawn and subsequently his insurance was terminated. Whatever the cause for that, the withdrawal appeared to be erroneous and the problem was subsequently fixed.
8. Notes from the Health Connector staff confirmed that Appellant's family was enrolled in Connector Care as of November 17, 2020, the day before the hearing.

9. Appellant appeared at the hearing and stated that he had resolved the problem that had caused him to appeal and that he was content with his eligibility status.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 U.S.C. § 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 (FPL). 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 these advance premium tax credits 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 Connector Care program has different "plan types" which provide different levels of subsidies, based on percentage of FPL. Id.

In this case, Appellant projected and then verified projected household income that corresponded to 167% FPL. Households with income at that level are eligible for Connector Care Plan Type 2B under the governing regulations. 956 CMR 12.04(3). The Health Connector's determination regarding Appellant was therefore correct. Appellant stated at the hearing that he was content with his situation. Accordingly, there is no basis for an appeal.

## **ORDER**

The appeal is denied.

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

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

**Hearing Issue:** Eligibility for Connector Care, based on failure to reconcile prior tax credits

**Hearing Date:** December 23, 2020

**Decision Date:** December 31, 2020

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### **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 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.

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

On February 27, 2016, Appellant was determined eligible for Health Connector plans without subsidies. This determination was based on a determination that Appellant had not filed the federal income tax form required to reconcile advance premium tax credits (APTCs) that Appellant had received in a prior tax year.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was only eligible for Health Connector plans without subsidies and was not eligible for Connector Care.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 28, 2020.

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

- Exhibit 1: Hearing request form (dated 11/23/2020)
- Exhibit 2: Records affidavit of Maria Lopes
- Exhibit 3: Eligibility Notice (dated 11/3/2020) (9 pages)
- Exhibit 4: Printout of eligibility determination in Health Connector's electronic eligibility determination system (dated 11/3/2020) (2 pages)

- Exhibit 5: Printout of application summary in Health Connector's eligibility determination system (dated 11/3/2020) (3 pages)
- Exhibit 6: Printout of notes from Health Connector's appeals department database (12/5/2020) (1 page)
- Exhibit 7: Printout of eligibility determination in Health Connector's electronic eligibility determination system (dated 11/30/2020) (2 pages)
- Exhibit 8: Printout of application summary in Health Connector's eligibility determination system (dated 11/30/2020) (2 pages)
- Exhibit 9: Health Connector's hearing notice (dated 12/8/2020)
- Exhibit 10: Notice re tax filing sent by Health Connector (1 page)
- Exhibit 11: Acknowledgement of Appeal sent by Health Connector (2 pages)

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is a single individual who is self-employed.
2. For the last several years, Appellant has been enrolled in Connector Care . Connector Care is a Massachusetts program insurance, through which eligible individuals receive federal and state subsidies to offset the cost of health insurance. In order to be eligible for Connector Care, an individual must also meet the eligible requirements under the Affordable Care Act (ACA) to receive advanced premium tax credits (APTCs), which are federal subsidies.
3. Although her income has varied somewhat from year to year, Appellant has always been in the income range that qualifies her for Connector Care and for APTCs. Throughout 2020, Appellant was not required to pay a premium for her Connector Care plan, because the subsidies, including the APTCs, covered the entire cost of that plan.
4. In late September 2019, Appellant was notified by the Health Connector that she had to update the income information in her application as part of its annual redetermination of eligibility.
5. As she has in previous years, Appellant called the Health Connector customer service center to report her projected income for 2021, which would have qualified her to continue receiving Connector Care, including the APTCs.
6. On November 3, 2020, the Health Connector sent Appellant an eligibility notice stating that she was eligible only to obtain unsubsidized Health Connector plans. Exhibit 3. This notice meant that she was not deemed eligible for Connector Care. This determination went into effect as of December 1.
7. Shortly afterward, Appellant received an invoice for December 2020, charging her \$583 for a month's premium. She never paid this premium as it was unaffordable and as she believed it to be erroneous. As a result, she was not enrolled in coverage during December 2020.
8. At that time, the Health Connector's eligibility determination system showed that Appellant's income was 183 percent of the Federal Poverty Level (FPL). Exhibit 5. Persons with incomes below 300 percent of the FPL are eligible for Connector Care provided they meet the other eligibility requirements, including the requirement that they be eligible for APTCs. See 956 CMR 12.04. Thus, based on income alone, Appellant should have been eligible for Connector Care.
9. However, the eligibility determination system did not show that Appellant had filed federal income taxes with a form 8962 for 2019. Exhibit 5. Under the ACA, individuals who receive APTCs must annually file a form 8962, or else lose eligibility for those APTCs.
10. In fact, Appellant had filed a form 8962 with her 2019 taxes. Thus, the indication in the eligibility system that she had not done so was erroneous.

11. Throughout November and December 2020, Appellant called the Health Connector customer service center several times and received confusing and conflicting information. Her problem was escalated to supervisors and to a special escalation team.
12. At some point during that month, she uploaded a copy of the completed 2019 Form 8962 and transmitted that to customer service department.
13. In late November, a new eligibility determination was performed in the Health Connector's eligibility determination system. See Exhibits 7 and 8. This determination reflects that Appellant did file a Form 8962. Further, this determination reflected that her income was 202% of FPL and thus still within the range of eligibility for Connector Care.
14. By mid-December, Appellant was informed that the problem had been resolved and that she was enrolled in Connector Care effective January 1, 2021 with no monthly premium.
15. She has received a card from her health insurer for 2021.

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

Appellant was found to be ineligible for Connector Care and for APTCs effective December 1, 2020. Appellant asserts that this determination was incorrect because she met the eligibility criteria for those programs.

Under federal law, 26 CR 1.36B-2 and 45 CFR 155.305(f), individuals who are otherwise eligible to purchase Health Connector plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly income less than or equal to 300% FPL qualify for additional state subsidies through the Connector Care program. 956 CMR § 12.04. Appellant's income was well below those levels. This is demonstrated by the information in Exhibits 5 and 8, which show that the Health Connector's eligibility determination system consistently showed that her income fell within the range of eligibility for these benefits.

Under the ACA, individuals who receive APTCs are subject to an annual reconciliation. This means that the federal government will annually determine whether the income they reported on their taxes in fact qualified them to receive the APTCs that they got in the tax year. 26 U.S.C. § 36B(f). In order to implement this requirement, persons who received APTCs are required annually to file federal income taxes with a Form 8962, on which they report the amount of APTCs that they got in the tax year. If an individual who has received APTCs in a prior year does not file the required Form 8962 for that year, then under federal law that person is no longer eligible to receive APTCs. 45 CFR 155.305(f)(4).

It appears based on the record that, as part of the annual redetermination of eligibility performed by the Health Connector in fall of 2020, incorrect information was obtained indicating that Appellant had not filed a Form 8962 for 2019. As a result of that erroneous information, she was immediately determined ineligible for APTCs, and thus for Connector Care, effective December 1. This led to the issuance of the eligibility notice under appeal.

I have found that this information was incorrect because Appellant had in fact filed a Form 8962. This is established both by her credible testimony and by the fact that, as of November 23, 2020, the Health Connector's eligibility determination system reflected that she had filed taxes for 2019 and was eligible for Connector Care again.

## Massachusetts Health Connector Appeals Unit



Based on the foregoing, I conclude that the determination reflected in the eligibility notice of November 3, 2020 that Appellant was not eligible for Connector Care effective December 1, 2020 was erroneous. Appellant should be eligible for Connector Care for the month of December 2020 and ongoing.

### **ORDER**

The appeal is allowed. Appellant should be determined eligible for and enrolled in Connector Care for December 2020 and ongoing.

### **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



**FINAL APPEAL DECISION**

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

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

**Hearing Date:** November 23, 2020

**Decision Date:** December 31, 2020

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**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 September 2, 2020, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

**ISSUE**

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

**HEARING RECORD**

The Appellant's spouse appeared at the hearing, which was held by telephone, on November 23, 2020.

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

- Exhibit 1: Affidavit of Records (1 page).
- Exhibit 2: Notice of Hearing (10-28-20) (3 pages).
- Exhibit 3: Acknowledgement of Appeal (10-3-20) (1 page).
- Exhibit 4: Outreach notes and email (3 pages).
- Exhibit 5: Hearing Request (with documents) (9-20-20) (23 pages).
- Exhibit 6: Application Results and summary print outs (8 pages).

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Exhibit 7: Eligibility Denial letter (9-2-20) (7 pages).

Exhibit 8: MWS form (2 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on September 2, 2020, after failing to establish that the Appellant is lawfully present to the Health Connector. (Exhibit 6, Exhibit 7)
2. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 6)
3. Appellant came to the United States with the two children and was married to Appellant's spouse and has applied for lawful presence status but due to COVID it is taking a longer time. (Appellant's spouse's testimony; Exhibit 5).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On September 2, 2020, the Appellant applied for health insurance through the Health Connector, but did not attest to being lawfully present and was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

While the Appellant has taken steps to establish lawful presence, and the process may be taking longer than normal due to the COVID-19 pandemic, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans on September 2, 2020, based on the Appellant's attestation, and that determination is upheld.

## **ORDER**

The appeal is denied.

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

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

## Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

### **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 2016 from the federal government will be reconciled when you file your 2016 federal income tax return (usually in the spring of 2017). 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 2016 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2016 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2016 will be paid to you when you file your 2016 federal income tax return.

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

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** December 3, 2020

**Decision Date:** December 10, 2020

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### **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 8, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant stated she had access to employer sponsored insurance that was affordable and met minimum value standards.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 3, 2020.

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

Exhibit 1: Hearing Request Form (dated 10/18/20)

- Exhibit 2: Affidavit of Maria Lopes
- Exhibit 3: Renewal Notice (dated 10/9/20)
- Exhibit 4: Screen Shot of Eligibility Determination (dated 10/8/20)
- Exhibit 5: Screen Shot of Application Summary (dated 10/8/20)
- Exhibit 6: Notes from Appeals Database (dated 11/3/20)
- Exhibit 7: Screen Shot of Eligibility Determination (dated 11/20/20)
- Exhibit 8: Screen Shot of Application Summary (dated 11/20/20)
- Exhibit 9: Hearing Notice (dated 11/3/20)
- Exhibit 10: Acknowledgement of Appeal Request (10/28/20)

## FINDINGS OF FACT

The record shows, and I so find:

1. Prior to October 2018, Appellant had been enrolled in a ConnectorCare health insurance plan. ConnectorCare is a state-run program that provides subsidies to pay for most of the cost of an individual's insurance plan. These subsidies include benefits, known as Advance Premium Tax Credits, which are provided under the Affordable Care Act (ACA).
2. In October 2018, Appellant received a notice from the Health Connector informing her that she had to update the information in her application as part of an annual eligibility review.
3. On October 8, 2018, Appellant logged into her on-line account and made changes to the application information. She did this by answering a series of questions about her circumstances that were relevant to eligibility for ConnectorCare.
4. In the course of doing this, she answered "Yes" to the question asking whether she had access to employer-sponsored insurance that was affordable to her and met minimum value. Exhibit 5. This answer was incorrect because Appellant's employer did not offer her insurance. She testified that she made this mistake because she misunderstood the question and thought it was asking whether she had any kind of insurance, which she believed would include ConnectorCare.
5. Based on the information Appellant submitted, the Health Connector determined that she was not eligible for subsidies to defray the cost of her insurance plan. Exhibit 4.
6. Appellant filed a timely appeal of that determination on October 18, 2020. Exhibit 1.
7. In late October, Appellant spoke to the Health Connector's customer service office and determined the source of the error. With the assistance of a customer service representative, Appellant changed the information in her application to answer "no" to the question about access to employer-sponsored insurance.
8. As a result of that revised information, Appellant was determined again to be eligible for ConnectorCare and was notified of that new determination. Exhibits 7 and 8. At the time of the hearing, Appellant was enrolled in ConnectorCare and was satisfied with her current situation.

## ANALYSIS AND CONCLUSIONS OF LAW

Under state law, individuals are eligible for ConnectorCare if they have household income below 300 percent of the federal poverty limit and they qualify for advance premium tax credits (APTCs) under the Affordable Care Act (ACA). 956 CMR § 12.04 Under the ACA, 26 U.S.C. § 36B, an individual is eligible for APTCs if that individual has

income below the eligibility standards and if that individual does not have access to “minimum essential coverage” The term “minimum essential coverage” is defined under the statute to include other forms of subsidized insurance, including government programs, such as Medicare or Medicaid, or employer-sponsored insurance. 26 U.S.C. § 5000A(f)(1)(B). Only employer-sponsored coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. 26 U.S.C. § 36B(c)(2)(C). *See also* 26 CFR § 1.36B-2(c)(3). Employer-sponsored coverage is considered affordable if the employee’s required contribution for self-only coverage is 9.83 percent or less of the employee’s projected household modified adjusted gross income. The coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the Appellant attested on her application on October 8, 2020 that she had access to affordable employer sponsored insurance that met minimum value standards. Because of this, the Health Connector determined that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare. This was the correct determination based on the information provided and the governing law. Accordingly, the appeal must be denied.

Appellant testified at the hearing that she has subsequently corrected the information in her application and as a result has received a new determination. Based on this determination, she was back in the ConnectorCare program, receiving subsidies as of November 2020.

### **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:** Income amount used to determine eligibility for subsidized Health Connector plans

**Hearing Date:** December 3, 2020

**Decision Date:** December 10, 2020

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### **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 information on an application for subsidized health insurance in October, 2020. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 3, 2020.

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

- Exhibit 1: Hearing Request Form (dated 10/28/20)
- Exhibit 2: Affidavit of Maria Lopes
- Exhibit 3: Eligibility Notice (dated 10/15/20)

- Exhibit 4: Eligibility Data Summary (dated 10/15/20)
- Exhibit 5: Screen Shot of Eligibility Determination (dated 10/15/20)
- Exhibit 6: Screen Shot of Application Summary (dated 10/7/20)
- Exhibit 7: Notes from Appeals Database (dated 11/3/20)
- Exhibit 8: Hearing Notice (dated 11/5/20)
- Exhibit 9: Acknowledgement of Appeal Request (dated 10/29/20)

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is an unmarried individual with no dependents. Thus, Appellant has a tax household of one.
2. Appellant applied for subsidized health insurance through the Health Connector in October 2020. Exhibits 3 and 4.
3. Based on the information submitted, the Health Connector determined that her annual income was above 400 percent of the federal poverty limit. Exhibit 4 and 5.
4. The federal poverty limit is a threshold set by the federal government annually to determine eligibility for various government assistance programs. The federal poverty limit in 2020 for a household of one was \$12,760. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 percent of the federal poverty level is four times that amount or \$51,040.
5. Based on the determination that Appellant's income was above 400 percent of the federal poverty limit, the Health Connector correctly determined that she was not eligible for any financial assistance from the government in paying for health insurance.
6. Appellant was notified of this determination by letter sent on October 8, 2020. Exhibit 3.
7. Appellant filed a timely appeal of that determination. Exhibit 8.
8. Appellant testified at the hearing that she was paid on an hourly basis for the number of hours worked. In 2020, the number of hours she was working had increased significantly because of the shortage of workers in her field, which is home health care, due to the Covid-19 virus. As a result, she expected to earn approximately \$70,000 in 2020.
9. This projected earning figure was verified by a pay stub that Appellant submitted, showing that as of October her earnings in the calendar year to date had been \$56,153. Exhibit 1.
10. Appellant noted that despite her higher income in 2020, she still faced considerable expenses due to the need for automobile repair and other expenses.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether Appellant was eligible to receive financial assistance from the government to help pay for health insurance. Under the Affordable Care Act, 26 U.S.C. § 36B(b)(3)(a)(i), this financial assistance, which is Advance Premium Tax Credits (APTCs), is available to individuals whose household income is below 400 percent of the federal poverty limit. As found above, that amount for an individual, like Appellant, in a one-person tax household was \$51,040 in 2020. Persons with incomes above that amount are accordingly not eligible for APTCS.



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Appellant's income was above the eligibility threshold. This was established by her own testimony, which estimated that her earnings would be approximately \$70,000 in 2020, and by the earnings statement she submitted, Exhibit 1, which showed that she had exceeded the \$51,040 by October of 2020. Accordingly, based on her 2020 income, it was correctly determined that she was not eligible for APTCs.

Appellant stated in her appeal that she did not know if she would continue to earn at that level in 2021. To her credit, Appellant has worked long hours responding to the increased needs created by the COVID-19 virus. This shows commitment to her work and to the people she serves.

However, the high level of earnings that she experienced in 2020 was due to the due to the staffing shortage and increased demand for her work created by the virus. At this point, it appears that the conditions caused by the virus will continue in 2021. If, during the course of 2021, it appears to Appellant that her actual earnings in 2021 will be less than \$51,040 for whatever reason, she should update the information in her eligibility application and seek a new determination of eligibility. She can do this on-line at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by telephone at 1-877-623-6765.

Appellant also complained that, despite her higher income in 2020, she was experiencing considerable costs that left her with less money available to pay for health insurance. Unfortunately, under the governing law, eligibility for the government assistance program is based exclusively on income, not on expenses. The Health Connector is required to apply that law in determining eligibility. Accordingly I must deny this appeal.

### **ORDER**

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this decision. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or 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: ACA2012048

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income

**Hearing Date:** October 14, 2020

**Decision Date:** November 30, 2020

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### **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 August 20, 2020, the Appellant was determined eligible for ConnectorCare Plan Type 3A, based on income submitted by Appellant and verified by the Health Connector.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 14, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (9-17-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (9-11-20) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (9-2-20) (2 pages);
- Exhibit 6: Eligibility detail printout and application summary printout (16 pages); and

Exhibit 7: Eligibility Approval letter (8-20-20) (8 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant submitted an application for health insurance through the Health Connector, and was determined eligible for ConnectorCare Plan Type 3A on August 20, 2020 based on self-reported income projections. (Appellant Testimony, Exhibits 5, 6, 7).
2. Appellant's income was verified and the eligibility was approved for ConnectorCare Plan Type 3A based on the household income (Exhibit 6, 7).
3. Appellant believed that the eligibility should not be based on Social Security income and appealed the determination. (Appellant's Testimony, Exhibit 5).
4. Appellant's eligibility was redetermined on August 31, 2020, and Appellant was again determined eligible for ConnectorCare Plan Type 3A. (Appellant's testimony, Exhibits 6, 7).
5. Appellant appealed alleging that income determination was incorrect and that Appellant could not afford the premium. (Appellant's Testimony, Exhibit 5).
6. Appellant was mistaken that the determination should not be based on Social Security income as that income is used to determine household income for eligibility for ConnectorCare.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed eligible for ConnectorCare Plan Type 3A based on income reported and verified from other sources. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On August 20, 2020, Appellant was determined eligible for ConnectorCare Plan Type 3A based on self-reported and verified income. Appellant appealed believing that Social Security income received by Appellant's spouse should not be included in the determination of eligibility. On August 31, 2020 Appellant was again determined eligible for ConnectorCare Plan Type 3A based on the reported and verified. The Appellant appealed. The process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the information submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for ConnectorCare Plan Type 3A on August 20, 2020, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2012194

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income

**Hearing Date:** October 28, 2020

**Decision Date:** December 7, 2020

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### **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 September 5, 2020, the Appellant was determined eligible for ConnectorCare Plan Type 3A. Another household member was determined eligible for Health Connector plans with no financial help, but that member has not appealed.

### **ISSUE**

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

### **HEARING RECORD**

One of the Appellants appeared at the hearing, which was held by telephone, on October 28, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification and procedures (1 page);
- Exhibit 2: Notice of Hearing (10-1-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (9-25-20) (3 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (9-21-20) (2 pages);
- Exhibit 6: Eligibility Approval letter (9-5-20) (10 pages);

- Exhibit 7: Eligibility detail printout and application summary printout (8 pages);  
Exhibit 8: Request for Information letter (7-31-20) (4 pages); and  
Exhibit 9: Letter re income documents (10-28-20) (2 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance previously through the Health Connector. (appellant Testimony, Exhibit 8).
2. Appellant had been requested to submit information regarding their income in July 2020, due in August 2020. (Exhibit 8).
3. Appellant's eligibility was redetermined in September 2020. (Appellant testimony, Exhibit 7).
4. Based on the information available to the Health Connector, Appellant was determined eligible for ConnectorCare Plan Type 3A. (Exhibits 6, 7).
5. Appellant appealed alleging that income determination was incorrect. (Exhibits 5, 7, Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed eligible for ConnectorCare Plan Type 3A based on income reported and verified from other sources. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

In July 2020, Appellant was requested to submit information and documents regarding their income, but did not provide the information. On September 5, 2020, the Appellant was determined eligible for ConnectorCare Plan Type 3A based on other information as Appellant had not provided proof of income. The Appellant appealed. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for ConnectorCare Plan Type 3A on September 5, 2020, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2012223

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income

**Hearing Date:** October 28 2020

**Decision Date:** December 11, 2020

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### 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 September 8, 2020, the Appellants were determined eligible for Health Connector Plans with no financial assistance, based on income submitted by Appellants and verified by the Health Connector.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 28, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (10-1-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (9-28-20) (3 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (9-25-20) (2 pages);
- Exhibit 6: Eligibility detail printout and application summary printout (19 pages); and



Exhibit 7: Eligibility Approval letter (9-8-20) (9 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants submitted an application for health insurance through the Health Connector, and were determined eligible for Health Connector plans with no financial assistance on September 8, 2020 based on self-reported income projections. (Appellant Testimony, Exhibits 5, 6, 7).
2. Appellant's income was verified and the eligibility was approved for Health Connector plans with no financial assistance based on the household income and the Federal Poverty Level of 403.71%. (Exhibit 6, 7).
3. Appellant appealed alleging that the premiums were too high and that Appellant could not afford the premiums. Appellant indicated that Appellant's spouse's income varied. (Appellant's Testimony, Exhibit 5).
4. Appellants' eligibility was redetermined on September 16, 2020, and Appellant was again determined eligible for Health Connector plans with no financial assistance again with a 403.71% Federal Poverty Level. (Appellant's testimony, Exhibits 6, 7).
5. Appellant appealed alleging that Appellant could not afford the premium. (Appellant's Testimony, Exhibit 5).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellants were deemed eligible for Health Connector Plans with no financial assistance based on income reported and verified from other sources. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f).

On September 8, 2020, Appellants were determined eligible for Health Connector Plans with no financial assistance based on self-reported and verified income. Appellants appealed believing that the premiums were too high and that they could not afford them. On September 16, 2020 Appellants were again determined eligible for Health Connector Plans with no financial assistance based on the reported and verified income. The Appellant appealed. The process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the information submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellants were eligible for Health Connector Plans with no financial assistance on September 8, 2020, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2012256

**Appeal Decision:** Appeal denied. The determination of the Connector is upheld.

**Hearing Issue:** Whether the Connector correctly determined that the appellants were eligible to purchase health insurance through the Connector without financial help because of the appellants' failure to submit acceptable proof of income on time.

**Hearing Date:** November 10, 2020

**Decision Date:** December 18, 2020

### 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 30, 2020, the Connector determined that the appellants were eligible to purchase health insurance through the Connector without financial assistance.

### HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on November 10, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with the appellant, marked as exhibits, and admitted in evidence with no objection from the appellant.

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 appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 13, 2020 addressed to Appellant for a hearing on November 10, 2020
- Exhibit 3: Connector Appeals Unit letter dated September 30, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Connector Appeals Unit Staff Notes dated October 10, 2020
- Exhibit 4: Hearing Request Form submitted by Appellants on September 25, 2020
- Exhibit 5: Connector letter to Appellant dated December 11, 2019 requesting proof of income by March 10, 2020
- Exhibit 5a: Connector letter to Appellant dated August 20, 2020 requesting additional proof of income
- Exhibit 5b: Connector letter dated August 30, 2020 to Appellant regarding eligibility for a Health Connector plan without financial assistance
- Exhibit 5c: Documents received from the appellant on August 20, 2020 regarding income
- Exhibit 6: Summary and results of Appellants' application for Connector plan dated August 30, 2020
- Exhibit 7: Documents received from Appellant on September 25, 2020 regarding income
- Exhibit 8: Connector processing center print-out showing receipt of documents from

Appellant on September 25, 2020

## **FINDINGS OF FACT**

The record shows, and I so find:

1. In a letter dated December 11, 2019, the Connector notified the appellants that Appellants needed to provide proof of income by March 10, 2020. The Connector notified the appellants that if Appellants already had coverage through the Connector, the coverage was temporary and might be decreased or ended if the required proof was not submitted. A list of acceptable forms of proof was included in the letter (Exhibit 5).
2. On March 8, 2020, the Connector /MassHealth received documents from the appellants, one of whom was self-employed.. Appellants sent in proof of self-employment income. Appellant received another letter from the Connector asking for more documentation. Appellant sent in a tax return. In June or July, Appellant called the Connector and confirmed that the tax return had been received. Appellant was told that the Connector needed a copy with one of the appellant's signature and that appellant's 2019 W-2 (Testimony of Appellant).
3. On August 20, 2020, the appellants sent in some proof of income. In a letter dated the same day, the Connector informed the appellants that the Connector still needed additional proof of income (Exhibit 5a).
4. In a letter dated August 30, 2020, the Connector notified the appellants that they were eligible for Connector plans without financial assistance. The appellants at that time were covered by a ConnectorCare plan (Exhibit 5b, Testimony of Appellant).
5. Appellants sent in the required proof of income. The proof was received by the Connector on September 25, 2020 (Exhibits 7 and 8).
6. Appellants filed a request for an appeal of the Connector's August 30, 2020 determination. This request was received on September 25, 2020 (Exhibit 4).
7. Appellant also called the Connector after sending in the proof of income and learned that the proof of income had been accepted and that the appellants could continue with their ConnectorCare coverage (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on August 30, 2020 that the appellants were eligible to enroll in a Health Connector plan without financial assistance because the appellants had not submitted acceptable proof of income by the required deadline. Appellants appealed the August 30th determination on September 25, 2020. See Exhibits 5b and 4.

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 a household's projected income is between 100% and 400% of the Federal Poverty Level, the household members may be entitled to an advance premium tax credit to help cover the cost of health insurance premiums. 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), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility.

In a letter dated December 11, 2019, the Connector asked Appellants to submit proof of income by March 10, 2020. In the letter, the Connector provided a list of acceptable forms of proof. The Connector notified the appellants that if Appellants already had coverage through the Connector, the coverage was temporary and might be decreased or ended if the required proof was not submitted. See Exhibit 5. On March 8, 2020, the Connector /MassHealth received documents from the appellants, one of whom was self-employed. Appellants sent in proof of self-employment income. Appellant received another letter from the Connector asking for more documentation. Appellant sent in a tax return. In June or July, Appellant called the Connector and confirmed that the tax return had been received. Appellant was told that the Connector needed a copy with one of the appellant's signature and that appellant's 2019 W-2. In a letter dated August 20, 2020, the Connector informed the appellants that the Connector still needed additional proof of income. See Exhibit 5a and the testimony of the appellant which I find credible.

In a letter dated August 30 2020, the Connector notified the appellants that they were eligible for Connector plans without financial assistance. The appellants at that time were covered by a ConnectorCare plan.

Appellants sent in the required proof of income. The proof was received by the Connector on September 25, 2020. Appellant also called the Connector after sending in the proof of income and learned that the proof of income had been accepted and that the appellants could continue with their ConnectorCare coverage. See Exhibits 5b, 6, 7, and 8, and the testimony of the appellant which I find credible.

What is at issue here is whether the determination made by the Connector was correct on the date it was made. Under the Affordable Care Act and Massachusetts state law (Chapter 111M, Section 2) in order to obtain coverage through the Connector, an applicant, among other things, supply proof of income when requested. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility.

In this matter, Appellants made attempts to comply with the December 11, 2019 request, but did not send in acceptable proof for both appellants in a timely fashion. Proof of the income of one of the appellants was not sent in until September 25, 2020, months after the original deadline of March 10th. Based upon these facts, I find that the Connector correctly determined that the appellants were only eligible for a Connector Health plan without financial assistance in the August 30th letter.

I note that as of the date of this hearing, the appellants had resolved their issues with the Connector and were found to be eligible to continue on their ConnectorCare plan. See the testimony of the appellant.

**ORDER:** Appellants' appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention

Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc. Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-12327

**Appeal Decision:** Denied

**Hearing Issue:** Eligibility for ConnectorCare Plans

**Hearing Date:** November 24, 2020

**Decision Date:** December 1, 2020

### 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 September 18, 2020, the Appellant was determined eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credits.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's financial eligibility based on the income information provided.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 24, 2020. The hearing record consists of the testimony of the Appellants and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Affidavit of Hearing Record
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated October 28, 2020, with an attachment.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Approval notice dated September 18, 2020.
- Exhibit 5: 2020 Eligibility Results with an Application Summary dated September 18, 2020.
- Exhibit 6: The Appellant's Hearing Request Form submitted on October 2, 2020.
- Exhibit 7: My Workspace Printout of Documents submitted by the Appellant on September 1, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant completed an application for ConnectorCare on September 1, 2020 and reported receiving \$421 in weekly unemployment compensation income (Exhibit 5 and Appellant Testimony).
2. On September 1, 2020, the Appellant submitted proof of income. The Appellant was receiving gross unemployment compensation income of \$497. The \$421 figure was the Appellant's net income after taxes (Exhibits 5, 7).
3. On September 18, 2020, the Health Connector determined that the Appellant had income equal to approximately 202.52 % of the federal poverty level for their reported household of one (Exhibits 4, 5).
4. On September 18, 2020 , the Health Connector correctly found that the Appellant was eligible for state subsidized health insurance ConnectorCare Plan Type 3A with Advance Premium Tax Credits because the Appellant's verified projected income placed their household at more than 200% but less than 250% of the Federal Poverty Level (Exhibits 4, 5).
5. On October 2, 2020, the Appellant submitted a Health Connector Hearing Request Form to the Appeals Unit and reported that they had no income (Exhibit 6).
6. The Appellant testified that they do receive unemployment compensation income, but it is not enough to maintain their rent, utilities, and food. The Appellant said that when they initially applied they were determined eligible for a less expensive plan with a premium of \$45.00 The Appellant did not enroll immediately and then received the notice on September 18, 2020 which increased the premium to \$87.00. The Appellant said that they have not enrolled because they cannot afford to pay any premium amount (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant applied for subsidized health insurance for their household of one through the Health Connector in September 2020. The Appellant reported weekly unemployment compensation income of \$421.00. The Appellant submitted verification of their income on September 1, 2020. The Appellant was receiving gross unemployment compensation income of \$497.00. On September 18, 2020, the Health Connector made an eligibility determination based on the income verified. The Appellant filed an appeal on October 2, 2020.

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 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.

The Appellant's verified income was determined equivalent to approximately 202.52% of the Federal Poverty Level and rendered the Appellant financially eligible for state and federal subsidies Since the Appellant's



projected MAGI was more than 200% but less than \$250% of the Federal Poverty Level, the Health Connector determined the Appellant eligible for ConnectorCare Plan Type 3A. 956 CMR 12.04(3).

The Appellant filed an appeal on October 2, 2020. The Appellant said that prior to the September 18, 2020 determination they had been determined eligible for a ConnectorCare plan with a lower premium but did not enroll. As explained at the Hearing, the Appellant had reported a weekly net income of \$421 on their application and verified a gross weekly income of \$497 on September 1, 2020. The Health Connector uses the gross income figure when determining eligibility. 956 CMR 12.04(2). The Appellant testified that with their limited income they struggle to meet their living expenses and cannot afford to pay a monthly healthcare premium. informed that they could enroll in a ConnectorCare Type 3A plan and request a premium waiver due to financial hardship. See 956 CMR 12.11(5).

Based on the income verification submitted by the Appellant on September 1, 2020, the Health Connector's September 18, 2020 eligibility determination was correct.

**ORDER**

This appeal is denied.

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

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

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant may contact Health Connector Customer Service at 1-877-623-6765 for further assistance if needed to enroll in a plan and obtain the information needed to request a Premium Waiver.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2012374

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

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

**Hearing Date:** November 10, 2020

**Decision Date:** December 7, 2020

### 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 September 18, 2020, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because the appellant had access to Medicare or was enrolled in Medicare.

### ISSUE

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

### HEARING RECORD

Appellant appeared at the hearing which was held by telephone on November 10, 2020. 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 Appeals file, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 13, 2020 addressed to Appellant for November 10, 2020 hearing

Exhibit 3: Connector Appeals Unit letter dated October 10, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Connector Appeals Unit Staff Notes dated October 10, 2020

Exhibit 4: Hearing Request Form submitted by Appellant on October 7, 2020

Exhibit 5: Connector letter dated September 18, 2020 to Appellant denying eligibility

Exhibit 6: Summary and results of Appellant's application for Connector health plan dated September 18,

2020

Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated September 25, 2020

Exhibit 7: Connector Appeals Unit letter dated November 9, 2020 addressed to Appellant

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On September 18, 2020 the appellant applied for insurance through the Connector. The Connector determined that the appellant was ineligible for coverage through the Connector (Exhibit 5 and 6, Testimony of Appellant).
2. The Connector denied Appellant coverage because the appellant either had access to Medicare coverage or was enrolled in Medicare (Exhibit 5).
3. Appellant filed a request for an appeal of the Connector's determination on October 7, 2020 (Exhibit 4).
4. Appellant was enrolled in Medicare when the appellant applied for coverage through the Connector. Appellant also had had MassHealth to help pay for copays and other costs. Appellant recently lost the MassHealth coverage (Testimony of Appellant, Exhibit 6).
5. Appellant wanted coverage through the Connector to help him cover the costs that MassHealth had covered (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance in September, 2020. The Connector determined that Appellant were ineligible to enroll in coverage through the Connector. When determining eligibility, the Connector found that the appellant was enrolled in or had access to Medicare. See the testimony of the appellant which I find credible and Exhibits 4, 5, 6.

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

Appellant testified that he had Medicare coverage when he applied to the Connector. He had had MassHealth coverage which paid for expenses not covered by Medicare. Appellant no longer had MassHealth and he wanted to find coverage to replace what he had lost. I find this testimony to be credible. See also Exhibit 6.

The Connector correctly determined that Appellant was ineligible to obtain coverage through the Connector because he was enrolled in Medicare. See The Social Security Act, Section 1882(d)(3)(A)(i)

which provides that anyone who is eligible for Part A Medicare coverage cannot be sold coverage through the Connector, since that coverage would duplicate Part A coverage.

This determination is affirmed.

**ORDER:** The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-12418

**Appeal Decision** Appeal Allowed. The Connector's determination of Appellant's ineligibility for Advance Premium Tax Credit and ConnectorCare is overturned.

**Hearing Issue:** Whether the Connector correctly determined that Appellant was eligible to enroll in a Health Connector plan, but was ineligible for an Advance Premium Tax Credit and ConnectorCare based upon the information supplied by Appellant and other data sources.

**Hearing Date:** December 4, 2020

**Decision Date:** December 22, 2020

### 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 8, 2020, Appellants were found to be eligible to enroll in a Health Connector plan without subsidies, based upon data from Appellants' application and from other data sources.

### ISSUE

Whether the Connector correctly determined that Appellants were eligible to enroll in a Health Connector plan but were ineligible for an Advance Premium Tax Credit and ConnectorCare since Appellants had failed to provide information showing that Appellants had filed taxes and reconciled previous Advance Premium Tax Credits on Appellants' tax returns.

### HEARING RECORD

Appellant appeared at the hearing which was held by telephone on December 4, 2020. Appellant also appeared for Appellant spouse. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form dated October 9, 2020
- Exhibit 2: Eligibility results and Summary dated October 8, 2020
- Exhibit 3: Appeals Unit outreach notes
- Exhibit 4: Form 1095A
- Exhibit 5: Recent Eligibility Results and Summary
- Exhibit 6: Correspondence from Health Connector

## **FINDINGS OF FACT**

The record shows, and I so find:

- 1 Appellants were enrolled in ConnectorCare Plan Type 1 from January through October 2020 (Testimony of Appellant).
2. On October 8, 2020, Appellants received a notice that Appellants were no longer eligible for subsidies, but would continue to be eligible for Health Connector Plans without subsidies (Exhibit 2).
3. In the notification of October 8, 2020, Appellants were informed that they were not eligible for a tax credit because their income was too high; or they had access to health insurance from another source that met minimum essential coverage standards; or they did not plan to file a tax return, were married and planned to file taxes separately, or advance premium tax credits were made to lower their premium in a prior year and the Connector was not able to confirm that Appellants filed a 2019 Federal tax return and reconciled the advance premium tax credits on their tax return (Exhibit 2).
4. Appellants filed 2019 taxes in April 2020 (Testimony of Appellant).
5. At some point in May 2020, Appellants became aware that Appellants had not filed Form 8962 and the Form 1095A when the income taxes were filed. Appellants promptly filed the necessary documents with the IRS (Testimony of Appellant).
6. On October 8, 2020 Appellants were notified that they were eligible for Health Connector Plans without subsidies (Exhibit 2 and Testimony of Appellant).
7. On October 23, 2020, Appellant contacted the Health Connector and was instructed to provide a transcript of the tax return to show that the taxes had been filed and the tax credits had been reconciled (Exhibit 3).
8. When Appellants contacted the IRS about the transcript, Appellants were told that the tax return had not been processed yet due to the Covid19 pandemic (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS**

The issue on appeal is whether the Connector correctly determined on October 8, 2020 that Appellants were eligible to enroll in a Health Connector plan, but that Appellants were not eligible for an Advance Premium Tax Credit and for ConnectorCare.

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)(4), and 956 Code of Massachusetts Regulations 12.00 et. seq. If a household's projected income is between 100% and 400% of the Federal Poverty Level, the household members may be entitled to an advance premium tax credit. The recipient of tax credits must file Federal taxes, jointly if married, and must reconcile the

advance premium tax credits for the period in which the recipient's credits were received. If additional documentation is requested from an applicant and the documentation is not received, the Connector verifies data from other sources. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

Appellants had been covered by an Advance Premium Tax Credit and ConnectorCare Plan in 2020. On October 8, 2020, Appellants were notified that they were no longer eligible for Advance Premium Tax Credit and ConnectorCare plan. They were notified that they were eligible for Health Connector Plans without subsidies. Appellants were instructed to provide a transcript of the tax return to show that the taxes had been filed and the tax credits had been reconciled. Appellants had properly filed their taxes in April 2020, as married filing jointly. In May or June 2020, they also filed Form 8962 and the Form 1095A. When Appellants contacted the IRS about their tax returns, they learned that the returns had not been processed due to the Covid19 pandemic. See Exhibits 1A, 2, 3, 5 and Testimony of Appellant, which I find to be credible.

Given the delays in processing tax returns and providing information to the Appellants, I find that the decision of the Health Connector of October 8, 2020 should be overturned.

## **ORDER**

Appellants' appeal is allowed. The determination of the Connector is overturned.

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

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

## **OPTION FOR RETROACTIVE COVERAGE**

Because your appeal has been approved, you have the option to receive retroactive coverage. This means that you can have your coverage start in the past, as of the date you otherwise would have had coverage, had the Health Connector taken the correct action regarding your application. In order to receive retroactive coverage, you must pay all premiums owed for each month of coverage.

If you do not want retroactive coverage, you may instead have coverage starting on the first day of the month following the implementation of your correct eligibility, in accordance with Health Connector enrollment rules.

In order to receive retroactive coverage, please contact the Health Connector Appeals Unit within 30 days of receiving this decision. If you do not want retroactive coverage, then please contact Health Connector customer service to enroll, if you have not done so already

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-12606

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Eligibility for Health Connector Plans without subsidies based on failure to verify income.

**Hearing Date:** December 18, 2020

**Decision Date:** December 23, 2020

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### 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 September 28, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans without subsidies, based on the Appellant's failure to verify income in a timely manner.

### HEARING RECORD

The Appellant appeared at the hearing that was held by telephone on December 18, 2020. 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 Appeals Unit Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated November 19, 2020, with attachments.
- Exhibit 3: Health Connector Approval Notice dated September 28, 2020.
- Exhibit 4: 2020 Eligibility Results with an Application Summary dated September 28, 2020.
- Exhibit 5: A Medicaid Eligibility Printout for the Appellant's household.
- Exhibit 6: The Appellant's Online Hearing Request received on October 26, 2020.



Exhibit 7: Health Connector Appeals Unit Outreach Email to the Appellant dated November 16, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On September 28, 2020, the Appellant applied for health insurance through the Health Connector. The Appellant reported having income equal to 65.05% of the federal poverty level for their household of two. Health Connector was unable to verify the household income using third party data sources (Exhibits 4, 5).
2. On September 28, 2020 Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial assistance. The Appellant was advised that they were eligible for an SEP and had until November 27, 2020 to enroll in a plan (Exhibit 3).
3. The Appellant's Spouse is eligible for a Veteran's Health Plan (Exhibit 4).
4. The Appellant filed an appeal on October 26, 2020 (Exhibit 5).
5. The Appellant has been determined otherwise eligible for MassHealth pending verification of income (Exhibit 5).
6. On November 16, 2020, the Health Connector Appeals Unit contacted the Appellant via email and informed the Appellant that they needed to provide proof of income to obtain financial assistance paying for healthcare (Exhibit 7).
7. The Appellant testified that their Spouse is no longer living with them.
8. The Appellant was advised to update their application to report any change in household composition and/or income. The Appellant was given contact information to submit proof of income to the Health Insurance Processing Center.

## **ANALYSIS AND CONCLUSION OF LAW**

On September 28, 2020, the Appellant applied for health insurance through the Health Connector. The Appellant's Spouse is eligible for a Veteran's Health Plan. The Health Connector determined the Appellant eligible for Health Connector Plans with no financial assistance due to the Appellant's unknown income as well as the Appellant's MassHealth eligibility status. The Appellant filed an appeal on October 26, 2020 to dispute this determination.

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. To be eligible for ConnectorCare, individuals must not have access minimum essential coverage through other government subsidized programs such as MassHealth. 45 CFR § 155.305(f)(1)(ii).

The Appellant reported income equal to approximately 65.05% of the federal poverty level on their September 28, 2020 application. The Health Connector was unable to determine the Appellant's income using third party data sources. The Appellant is otherwise eligible for MassHealth pending verification of income. The Health Connector's September 28, 2020 determination that the Appellant is eligible for Health Connector Plans without subsidies was correct based on the Appellant's unknown income and access to MassHealth. 956 CMR § 12.04, 45 CFR § 155.305(f) and 45 CFR § 155.315(f).

The Appellant testified that their Spouse is no longer living in the home. The Appellant was advised to update their application with any changes in household composition and/or income. 956 CMR § 12.09. The Appellant was given the contact information for the Health Insurance Processing Center and MassHealth.

### **ORDER**

This appeal is denied.

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

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

Cc: Connector Appeals Unit

### **ADDENDUM**

The Appellant may contact MassHealth Customer Service at 1-800-841-2900.

Verification of income with the Appellant's name and member ID may be submitted to:

Health Insurance Processing Center  
PO Box 4405  
Taunton, MA 02780

## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA21-12501

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare based on income.

**Hearing Date:** December 21, 2020

Decision Date: December 28, 2020

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#### **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**

Appellants submitted an application for subsidized health insurance on September 10, 2020. The Health Connector determined the Appellant and her husband to be eligible for Health Connector plans.

#### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellants were eligible for Health Connector plans.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 21, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

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

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3pages, dated November 30, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal 1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (5 pages dated October 20, 2020)
- Exhibit 6: Notice of Eligibility Determination (4 pages, dated September 10, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated October 9, 2020)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (7 pages, dated November 30, 2020)
- Exhibit 9: Historical Notices & Printouts (10 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 55 year old married female and her husband is 57 years old (Exhibit7 & 8)
2. The Appellant has a household of two. (Exhibit 7 & 8)
3. On her application, dated October 9, 2020 the Appellants entered a manual verified annual modified adjusted gross income of (MAGI) of 85,510.40. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place them at 496.44 of the 2021 Federal Poverty Level (FPL). An individual at that income level would be eligible for unsubsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

5. Appellant then filed her appeal on October 20, 2020.
6. Appellant testified that she thought her income, which was through unemployment would stop before 2021 and she filed another application, indicating zero income for her husband and she. Appellant has received an extension of her and her husband's unemployment benefits.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant's application stated her projected MAGI was \$85,510.40, which for a household of two, puts the Appellant's at approximately 496.44% of the 2020 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for unsubsidized Health Connector plans. The Appellant then appealed. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

Appellant is urged to contact the Customer Service Department of the Health Connector and report changes during the year 2021 both upward and downward as their situation changes.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-12565

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Eligibility for Health Connector Plans without subsidies based on failure to verify income.

**Hearing Date:** December 11, 2020

**Decision Date:** December 16, 2020

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### 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 10, 2020, the Appellant was determined eligible for Health Connector plans without subsidies effective January 1, 2021. The Appellant's determination came after failing to verify income.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans without subsidies, based on the Appellant's failure to verify income in a timely manner.

### HEARING RECORD

The Appellant appeared at the hearing that was held by telephone on December 11, 2020. 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 Appeals Unit Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated November 12, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: 2021 Eligibility Results with an Application Summary dated October 10, 2020.
- Exhibit 5: The Appellant's Hearing Request Form, with attachments received on October 23, 2020.
- Exhibit 6: Medicaid Eligibility Printout.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Prior to March 16, 2019 the Appellant was receiving MassHealth. MassHealth had placed an administrative hold on the Appellant's account because the Appellant failed to submit a requested Job Update Form. The Appellant was not enrolled in health insurance through the Health Connector in tax year 2020 (Exhibits 3, 6).
2. On October 10, 2020, the Appellant applied for health insurance through the Health Connector. The Appellant reported having zero income. Health Connector was unable to determine the Appellant's income using third party data sources (Exhibit 4).
3. On October 11, 2020 Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial assistance for the period beginning January 1, 2021 (Exhibit 5).
4. The Appellant filed an appeal on October 23, 2020 (Exhibit 5).
5. The Appellant testified that they do have income. The Appellant said that they were having trouble updating their application online (Appellant Testimony).
6. The Appellant was advised to contact MassHealth regarding the administrative closure. The Appellant was given contact information for Health Connector Customer Service and was advised that they must verify their income.

## **ANALYSIS AND CONCLUSION OF LAW**

Prior to March 16, 2019 the Appellant was receiving MassHealth. MassHealth placed an administrative closure on the Appellant's account after the Appellant failed to return a requested Job Update form. The Appellant did not enroll in health insurance through the Health Connector in tax year 2020. On October 10, 2020, the Appellant applied for health insurance through the Health Connector for tax year 2021. On October 11, 2020, the Health Connector determined the Appellant eligible for Health Connector Plans with no financial assistance due to the Appellant's unknown income as well as the Appellant's unknown MassHealth eligibility status. The Appellant filed an appeal on October 23, 2020 to dispute this determination.

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. To be eligible for ConnectorCare, individuals must not have access minimum essential coverage through other government subsidized programs such as MassHealth. 45 CFR § 155.305(f)(1)(ii).

The Appellant reported zero income on their October 10, 2020 application. As noted above, due to the administrative hold placed on the Appellant's account by MassHealth, the Appellant's eligibility for MassHealth could not be determined. The Health Connector was unable to determine the Appellant's income using third party data sources. The Health Connector's October 10, 2020 determination that the Appellant is eligible for Health



Connector Plans without subsidies was correct based on the Appellant's unknown income and unknown access to MassHealth. 956 CMR § 12.04, 45 CFR § 155.305(f) and 45 CFR § 155.315(f).

The Appellant testified that they do have income but were unable to update their application online. The Appellant was advised to contact MassHealth regarding the Administrative closure and was also advised they could contact Health Connector Customer Service for assistance updating their application.

**ORDER**

This appeal is denied.

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

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

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant may contact MassHealth Customer Service at 1-800-841-2900.

The Appellant may also contact Health Connector Customer Service at 1-800-623-6765 for assistance updating their application.

## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA20-12444

**Appeal Decision:** Appeal Allowed

**Hearing Issue:** Eligibility for ConnectorCare based on Failure to reconcile APTC.

**Hearing Date:** December 1, 2020

**Decision Date:** December 18, 2020

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#### 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

Appellants submitted an application for subsidized health insurance on October 2, 2020. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies. The Appellant's determination was based on the Appellant's failure to establish that he had reconciled APTC'S the Appellant had received in a prior tax year

#### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans and not eligible for ConnectorCare based on the Appellant's failure to verify that he had reconciled APTC'S in the prior year.

#### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 1, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated November 5, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 35 pages dated October 13, 2020)
- Exhibit 6: Health Connector's Determination Results and Review Computer Printout (5 pages, dated October 2, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout 6 pages, dated November 28, 2020)
- Exhibit 8: Historical Notices & Printouts (8 pages)
- Exhibit 9: Applicable Customer Service Notes

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a single individual, who plans to file a federal income tax return as a single individual for tax year 2020. (Appellant testimony)
2. The Appellant expects to make \$32,000 in 2020. (Appellant testimony)
3. The Appellant is not eligible for employer-sponsored insurance that meets federal affordability standards. (Appellant Testimony)
4. The Appellant is not eligible for government-sponsored insurance. (Appellant Testimony)
5. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 until November 2020 when his premium increased to \$330.65 for the months of November & December 2020. (Appellant Testimony)
6. The Appellant made approximately \$9,021.00 in 2019. (Appellant Testimony and Exhibit 5)
7. The Appellant did file a federal income tax return for 2019, and did reconcile receipt of advance premium tax credits received in 2019. (Appellant Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant only made \$9,021.00 in 2017, and is otherwise eligible for

subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On October 2, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2020, the Appellant was eligible for ConnectorCare, and received APTC. However, the Appellant did file an income tax return for 2019 and did reconcile receipt of APTC. Because the Appellant did reconcile receipt of APTC from a prior year, the Appellant is eligible to receive APTC in 2020. 45 CFR § 155.305(f)(4).

#### **ORDER**

The appeal is allowed. The determination by the Connector is overturned. The Connector is ordered to re-determine the amount of premium the Appellant should pay for November and December 2020 and refund the difference, if any, to the Appellant.

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

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

Hearing Officer

Cc: Connector Appeals Unit

#### **ADDENDUM**

## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA20-12592

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare based on Failure to reconcile APTC.

**Hearing Date:** December 16, 2020

**Decision Date:** December 18, 2020

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#### **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**

Appellants submitted an application for subsidized health insurance on October 8, 2020. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies. The Appellant's determination was based on the Appellant's failure to establish that she had reconciled APTC'S the Appellant had received in a prior tax year

#### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans and not eligible for ConnectorCare based on the Appellant's failure to verify that she had reconciled APTC'S in the prior year.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 16, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated November 19, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (3 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 6 pages dated October 26, 2020)
- Exhibit 6: Notice of Eligibility Determination Dated October 8, 2020, 9 pages
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated December 13, 2020)
- Exhibit 87: Health Connector's Determination Results and Review Computer Printout 6 pages, dated October 7, 2020)
- Exhibit 9: Historical Notices & Printouts (35 pages)
- Exhibit 10: Applicable Customer Service Notes

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a single individual, who plans to file a federal income tax return as a single individual for tax year 2020. (Appellant testimony)
2. The Appellant expects to make \$13,918.96 in 2020. (Appellant testimony)
3. The Appellant is not eligible for employer-sponsored insurance that meets federal affordability standards. (Appellant Testimony)
4. The Appellant is not eligible for government-sponsored insurance. (Appellant Testimony)

5. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 until November 2020 when her premium increased to \$506.00 for the months of November & December 2020. (Appellant Testimony)
6. The Appellant did file a federal income tax return for 2019, and did reconcile receipt of advance premium tax credits received in 2019. (Appellant Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant only made \$9,021.00 in 2017, and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On October 2, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2020, the Appellant was eligible for ConnectorCare, and received APTC. However, the Appellant did file an income tax return for 2019 and did reconcile receipt of APTC. Because the Appellant did reconcile receipt of APTC from a prior year, the Appellant is eligible to receive APTC in 2020. 45 CFR § 155.305(f)(4).

## **ORDER**

The appeal is allowed. The determination by the Connector is overturned. The Connector is ordered to re-determine the amount of premium the Appellant should pay for November and December 2020 and allow the Appellant to pay that amount so that she has coverage for those two months.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-12973

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized insurance based on access to Medicare.

**Hearing Date:** December 21, 2020

**Decision Date:** December 28, 2020

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### 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 10, 2020, 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 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 appeared at the hearing, which was held by telephone, on December 21, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and his representative were sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (6 pages, dated November 30, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (3 Pages)
- Exhibit 4: Appeal Unit Staff Case Notes (1 Page)
- Exhibit 5: Appellant's appeal request form (4 pages dated November 6, 2020)
- Exhibit 6: Health Connector's Determination Results and Review Computer Printout (4 pages, dated November 10, 2020)
- Exhibit 7: Historical Notices & Printouts

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on October 10, 2020, based on being eligible for Medicare. (Exhibit 6 7 &, Appellant's testimony)
2. Appellant is enrolled in Medicare, Part A and now Part B which does not go into effect until July 1, 2021. (Exhibit 6, 7, & Appellant's testimony)
3. Appellant testified that he currently has Medicare Part A and has signed up for Medicare Part B but it does not go into effect until July 1, 2021. Appellant testified that he had the health Connector last year and when he signed up for Medicare the representative told him that he didn't need to sign up for Part B because he had coverage and it would be an extra cost.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant testified that he has multiple ailments and needs help in paying for treatment.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including government sponsored health insurance such as Medicare. 42 USC s. 1395ss(d)(3)(A)(i); 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i).

When the Appellant's eligibility for 2021 coverage was determined on October 10, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that he was eligible for Medicare. Because the Appellant was eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**