

## Massachusetts Health Connector Appeals Unit

### FINAL APPEAL DECISION

**Appeal Decision:** The Connector's determination of Appellant's eligibility to obtain a Health Connector plan without an advance premium tax credit is overturned.

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility to purchase a Health Connector plan without an advance premium tax credit based upon the information supplied by the appellant.

**Hearing Date** December 9, 2016      **Decision Date** February 7, 2017

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

**Jurisdiction:** Applicants and Enrollees are entitled to a hearing 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 Connector:** On October 21, 2016, the Connector determined Appellant to be eligible to purchase a Health Connector plan without an advance premium tax credit.

**Hearing Record:** The appellant appeared at the hearing which was held by telephone on December 9, 2016. The procedures to be followed during the hearing were reviewed with the appellant who was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was kept open until December 28, 2016 to give the appellant time to submit additional evidence. Appellant submitted documents which have been marked as exhibits and admitted in evidence.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 23, 2016 sent to Appellant
- Exhibit 3: Hearing Request Form submitted by Appellant on November 15, 2016
- Exhibit 4: Letter to Appellant from Connector Appeals Unit dated November 18, 2016 acknowledging receipt of request for hearing
- Exhibit 5: Health Connector's computer print-out of summaries
- Exhibit 6: Health Connector's computer print-out of results of Appellant's applications dated September 9, 2016, October 21, 2016, and November 22, 2016
- Exhibit 7: Letter to Appellant dated October 21, 2016 from the Health Connector regarding eligibility for purchase of health insurance

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Exhibit 8: Appellant's Customer Service case notes

Exhibit 9: Appeals Unit Outreach notes

Exhibit 10: E-mail to Appellant from Appeals Unit dated December 1, 2016

Exhibit 11: Health Connector letter to Appellant dated August 26, 2016 requesting updated information for 2017 eligibility

Exhibit 12: Virtual Gateway print-out showing receipt of document from Appellant on October 7, 2016

Exhibit 13: Letter from Appellant dated October 6, 2015 received by EDM on October 7, 2016

Exhibit 14: Appellant's 2015 Form 1040 with attachments

Exhibit 15: Appellant's estimate of 2016 income (on Form 1040) with attachments

### **Findings of Fact:**

The record shows, and I so find:

1. Appellant had health insurance through the Connector in 2016. In a letter sent to the appellant dated August 26, 2016 from the Connector, Appellant was asked to update information about income, household size and access to other health insurance. The information sought would be used to determine eligibility for 2017 coverage (Exhibit 11, Testimony of Appellant).
2. On September 9, 2016, the appellant entered information about income on the Connector application. Based upon the information, the Connector determined that the appellant's income was equal to 317.42% of the Federal Poverty Level and that the appellant was eligible for a Health Connector plan with an advance premium tax credit (Exhibit 6).
3. On October 6, 2016, the appellant sent a letter to the Connector with Appellant's 2015 tax return attached. Appellant also attached a tax return showing what Appellant estimated Appellant's income to be for 2016. These documents were received on October 7, 2016. Appellant explained in the letter that the form for 2016 was not available yet, but Appellant wanted the Connector to see that Appellant's 2016 income would be almost \$90,000 less than the 2015 income. The 2015 income was so much higher because Appellant had sold some property. Appellant's projected income for 2016 did not include another sale of property. Appellant did not intent to sell more property in 2016 or in 2017. The rest of Appellant's income was estimated to be essentially the same for both 2015, 2016, and 2017 (Testimony of Appellant, Exhibits 12, 13, 14, and 15).
4. On October 21, 2016, the Connector sent a letter to the appellant acknowledging the receipt of the information sent in by the appellant. Based upon the information, the Connector determined that Appellant was eligible to purchase a Health Connector plan, but without an advance premium tax credit because income was too high, the appellant was a non-tax filer, or because of access to other health insurance. The Connector determined that the appellant's income was equal to 1061.52% of the Federal Poverty Level (Exhibits 6 and 7, Testimony of the Appellant).
5. Appellant was a tax filer in 2015 and attested that Appellant would be a tax-filer in 2016 (Testimony of Appellant, Exhibits 14 and 15).
6. Appellant has no access to other health insurance (Testimony of Appellant).

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7. The determination made by the Connector on October 21, 2016 was based upon the appellant's income in 2015, not upon the appellant's projected income for 2016 and 2017 (Exhibit 5, 6, 13, 14, 15, Testimony of Appellant).

8. On November 22, 2016, after speaking with the appellant, the Connector determined that Appellant's projected income was equal to 319.46% of the Federal Poverty Level and that Appellant was, therefore, eligible for an advance premium tax credit (Exhibits 6, and 8).

9. Appellant filed an appeal in November, 2016 because Appellant felt the Connector based its determination on Appellant's 2015 income rather than the projected income for 2016 and 2017 which Appellant attested would be significantly lower (Exhibits 3, 13, Testimony of Appellant).

### **Analysis and Conclusions of Law:**

The issue on appeal is whether the Connector correctly determined on October 21, 2016 that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit. Appellant appealed this determination. See Exhibits 3, 7. Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant.

In a letter sent to the appellant dated August 26, 2016 from the Connector, Appellant was asked to update information about income, household size and access to other health insurance. The information sought would be used to determine eligibility for 2017 coverage. On September 9, 2016, the appellant entered information about income on the Connector application. Based upon the information, the Connector determined that the appellant's income was equal to 317.42% of the Federal Poverty Level and that the appellant was eligible for a Health Connector plan with an advance premium tax credit. On October 6, 2016, the appellant sent a letter to the Connector with Appellant's 2015 tax return attached. Appellant also attached a tax return showing what Appellant estimated Appellant's income to be for 2016. These documents were received on October 7, 2016. Appellant explained in the letter that the form for 2016 was not available yet, but Appellant wanted the Connector to see that Appellant's 2016 income would be almost \$90,000 less than the 2015 income. The 2015 income was so much higher because Appellant had sold some property. Appellant's projected income for 2016 did not include another sale of property. The rest of Appellant's income was estimated to be essentially the same for both 2015, 2016, and 2017.

On October 21, 2016, the Connector sent a letter to the appellant acknowledging the receipt of the information sent in by the appellant. Based upon the information, the Connector determined that Appellant was eligible to purchase a Health Connector plan, but

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without an advance premium tax credit because income was too high, the appellant was a non-tax filer, or because of access to other health insurance. The Connector determined that the appellant's income was equal to 1061.52% of the Federal Poverty Level. See the testimony of the appellant which I find to be credible and Exhibits 5, 6, 7, 11, 12, 13, 14, 15.

What is at issue here is whether the original determination made by the Connector was correct. The determination made by the Connector on October 21, 2106 was based upon the appellant's income in 2015, not upon the appellant's projected income for 2016 and 2017. Though the appellant sent in extensive information, including Appellant's 2015 and projected 2016 Federal tax returns and a letter explaining why Appellant's income varied so much from 2015 to 2016, the Connector failed to consider the information sent in. Appellant's income in 2015 was, in great part, a result of the sale of some property. As of October, 2016, Appellant had not sold another piece of property in 2016; Appellant informed the Connector of this and of the fact that Appellant had no intention of selling another property by the end of the year or in 2017. (Exhibit 5, 6, 7, 13, 14, 15, Testimony of Appellant).

I determine that the Connector incorrectly determined that Appellant was eligible to purchase a plan, but without an advance premium tax credit. Had the Connector correctly considered the information sent in by the appellant, it would have determined that the appellant was eligible for an advance premium tax credit. See Exhibits 5, 6, 13, 14, and 15. On November 22, 2016, after speaking with the appellant, the Connector changed the determination made earlier and found the appellant eligible for a Health Connector plan with an advance premium tax credit. See Exhibits 6 and 8).

**Order:** Appellants' appeal is allowed. The October 21, 2106 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. 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**

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### FINAL APPEAL DECISION

**Appeal Decision:** The Connector's determination of Appellant's eligibility to obtain a Health Connector plan during the next open enrollment period or when Appellant had a qualifying life event is affirmed.

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility to purchase of a Health Connector plan during the next open enrollment period or upon Appellant having a qualifying life event based upon the information supplied by the appellant on the application.

**Hearing Date:** December 9, 2016

**Decision Date:** January 30, 2016

**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 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 Connector:** On November 21, 2016, the Connector determined Appellant to be eligible to purchase a Health Connector plan during the next open enrollment period or when the appellant has a qualifying life event.

**Hearing Record:** The appellant's representative appeared at the hearing which was held by telephone on December 9, 2016. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the representative. The representative testified. At the end of the hearing, the record was kept open until December 28, 2016 to give the appellant time to submit additional evidence. No documents were received as of the date of this writing. The record is now closed.

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

## Massachusetts Health Connector Appeals Unit

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 25, 2016 sent to Appellant for a hearing on December 9, 2016
- Exhibit 3: Hearing Request Form submitted by Appellant on November 22, 2016
- Exhibit 4: Letter to Appellant from Connector Appeals Unit acknowledging receipt of appeal request dated November 25, 2016
- Exhibit 5: Health Connector's Review of Appellant's application computer print-out
- Exhibit 6: Health Connector's Results of Appellant's application dated November 21, 2016 computer print-out
- Exhibit 7: Letter to Appellant dated November 21, 2016 from the Health Connector regarding eligibility for purchase of health insurance in 2016
- Exhibit 8: Appellant's Connector eligibility history

### **Findings of Fact:**

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector in November , 2016 (Exhibits 3, 5, 6, 7).
2. On November 21, 2016, the Connector determined, based upon the information on the appellant's application, that the appellant was eligible to purchase a Health Connector plan, but not until the next open enrollment period, or until the appellant had a qualifying life event that would allow enrollment outside of the open enrollment period. The Connector determined that the appellant did not qualify for a special enrollment period (Exhibits 6, 7).
3. Appellant filed an appeal in November, 2016 (Exhibit 3, Testimony of Appellant's Representative).
4. Appellant had health insurance at the beginning of 2016; Appellant lost employment and health insurance in the spring, 2016 (Testimony of Appellant's Representative).
5. Appellant claimed to have applied to the Connector at the end of May, 2016 for coverage (Testimony of Appellant's Representative).

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### **Analysis and Conclusions of Law:**

The issue on appeal is whether the Connector correctly determined on November 21, 2016 that the appellant was eligible to purchase a Health Connector plan, but not until the next open enrollment period or until Appellant had a qualifying event. Appellant has appealed this determination. See Exhibits 3, 5, 6, 7.

Eligibility to purchase health insurance through the Connector 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. Among other requirements, an individual must have a projected income between 100% and 400% of the Federal Poverty Level in order to be eligible for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. 45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event. An example of a qualifying event is the loss of health insurance. If an individual loses coverage, a qualifying event, the individual may apply for coverage through the Connector within 60 days, even outside of an open enrollment period. The open enrollment period for 2016 enrollment ended on January 31, 2016.

Appellant's representative testified the the appellant applied for health insurance shortly after Appellant lost coverage in May, 2016. According to Connector records, the appellant first applied in November, 2016. See Exhibit 8. Appellant was given time to submit additional evidence to corroborate the testimony. No additional evidence was received from the appellant. I find that the appellant applied in November, 2016, more than sixty days after losing coverage.

What is at issue here is whether the Connector correctly determined that Appellant was eligible to purchase health insurance, but not until the next open enrollment period, or when Appellant had a qualifying life event. That determination was based upon the information given by the appellant on the Connector application. Appellant applied in November, after the open enrollment period for 2016 had closed. There is no evidence in the record that Appellant had a qualifying life event, such as moving into the Commonwealth, getting married or divorced at the time the application was made. There is evidence that the appellant lost coverage in the spring of 2016, but there is no credible evidence that Appellant applied for coverage within 60 days of losing this coverage. No error was made by the Connector.

The determination of the Connector is affirmed.

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**Order:** Appellant's appeal is denied. The determination of the Connector is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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

**Appeal Decision:** The Connector's determination of Appellant's eligibility to obtain a Health ConnectorCare plan with an advance premium tax credit is affirmed.

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility to purchase a Health ConnectorCare plan with an advance premium tax credit based upon the information supplied by the appellant on Appellant's application.

**Hearing Date:** December 12, 2016      **Decision Date:** January 29, 2017

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

**Jurisdiction:** Applicants and Enrollees are entitled to a hearing 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 Connector:** On October 27, 2016, the Connector determined Appellant to be eligible to purchase a Health ConnectorCare plan with an advance premium tax credit.

**Hearing Record:** The appellant's representative appeared at the hearing which was held by telephone on December 12, 2016. The procedures to be followed during the hearing were reviewed with the representative who was sworn in. Exhibits were marked and admitted in evidence with no objection from the representative. The representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 28, 2016 sent to Appellant

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- Exhibit 3: Hearing Request Form signed and dated by Appellant on November 4, 2016 with attachments
- Exhibit 4: Letter to Appellant from Connector Appeals Unit dated November 10, 2016 acknowledging receipt of request for hearing
- Exhibit 4a: December 2, 2016 letter to Appellant from Connector with representative form enclosed
- Exhibit 4b: Representative form naming Appellant's representative, received by Connector on December 8, 2016
- Exhibit 5: Health Connector's computer print-out of summary and results of Appellant's application dated May 24, 2016
- Exhibit 6: Health Connector's computer print-out of summary and results of Appellant's application dated September 3, 2016
- Exhibit 7: Letter to Appellant dated October 27, 2016 from the Health Connector regarding eligibility for purchase of health insurance in 2017

### **Findings of Fact:**

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector in May, 2016. Appellant enrolled in a ConnectorCare plan (Exhibits 3, 5).
2. In September, 2016, Appellant applied for continuing coverage in 2017. Appellant was found to be eligible to continue with the ConnectorCare plan the appellant already had (Exhibit 6).
3. On the appellant's application of September 3, 2016, Appellant attested that the appellant would have income in 2017 of \$34,170. This income amounts to 287.63% of the Federal Poverty Level. The appellant attested on the application that the appellant had a tax household size of one (Exhibit 6, and Testimony of Appellant's Representative).
4. On October 27, 2016, the Connector determined, based upon the information on the appellant's application, that the appellant was eligible to purchase a Health ConnectorCare plan with an advance premium tax credit (Exhibit 7).
5. Appellant filed an appeal on November 4, 2016 because Appellant felt the monthly premium was not affordable; the appellant had lost employment and Appellant's projected income had decreased (Exhibit 3, Testimony of Appellant's Representative).

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### **Analysis and Conclusions of Law:**

The issue on appeal is whether the Connector correctly determined on October 27, 2016 that the appellant was eligible to purchase a Health ConnectorCare plan with an advance premium tax credit. Appellant appealed this determination. See Exhibits 3, 6, 7.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant.

Appellant attested to a projected income for 2017 on the application for health insurance through the Connector. Appellant attested to a projected income of \$34,170 and a tax household size of one. Based upon this, the Connector determined that the appellant's income would be equal to 287.63% of the Federal Poverty Level and that the appellant was eligible to purchase a ConnectorCare plan with an advance premium tax credit. See Exhibits 6, and 7. Appellant filed an appeal because the appellant felt the cost of the premium was not affordable since Appellant had lost employment. See the testimony of the appellant's representative which I find to be credible and Exhibit 3.

What is at issue here is whether the original determination made by the Connector was correct. That determination was based upon the information given on the appellant's application. See Exhibit 6. No error was made by the Connector. Appellant did attest to the projected income and tax household size of one which the Connector used in making its determination. Because of this, the determination of the Connector is affirmed.

**Order:** Appellants' appeal is denied. The determination of the Connector is affirmed.

## Massachusetts Health Connector Appeals Unit

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized health insurance; income

**Hearing Date:** December 22, 2016

**Decision Date:** February 8, 2017

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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**

Eligible for Health Connector Plans with Advance Premium Tax Credit.

### **ISSUE**

Based upon the information provided by Appellant and available to the Connector, whether the Connector made the correct determination.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 22, 2016. 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 (2 pages);
- Exhibit 2: Notice of Hearing (11-28-16) (6 pages);
- Exhibit 3: Notice of bifurcated hearing re Mass Health (11-16-16) (5 pages);
- Exhibit 4: Hearing Request Form (11-7-16) (with letter) (3 pages);
- Exhibit 5: Eligibility Denial letter (10-24-16) (6 pages);

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Exhibit 6: Information from application and re results (13 pages); and  
Exhibit 7: AVV form (1 page).

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant filed an application for subsidized health insurance through the Health Connector (Exhibits 5, 6).
2. The Appellant has a tax household size of two (Exhibit 6).
3. The amount of projected yearly modified adjusted gross income (MAGI) that was listed on the application for Appellant was \$59,116.98 (Exhibit 6 and Testimony). Based upon the information provided by Appellant, the Federal Poverty Level (FPL) would be 369.02%.
4. Appellant was issued a denial letter based upon access to Medicare.
5. Appellant also had MassHealth. A separate appeal regarding termination of MassHealth was pending at the time of Appellant's appeal of the Connector determination.
6. Appellant was determined eligible for Health Connector Plans, with Advanced Premium Tax Credits (Exhibit 6). Appellant was asked to submit proof of loss of other insurance.
7. The determination of the Connector was correct based upon the information available to the Connector.

### ANALYSIS AND CONCLUSIONS OF LAW

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. 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)).

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 ConnectorCare 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 this case, the FPL is over 300% but under 400%, and, therefore, Appellant is eligible for the Health Connector Plans with the Advance Premium Tax Credits. Appellant is not eligible for ConnectorCare plans with the additional Massachusetts subsidy because Appellant is over 300% FPL. In this case, the issue presented was whether the determination of eligibility was correct based upon the information provided and available to the Connector. Based upon the information available to the Connector, the determination was correct.

### ORDER

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

## Massachusetts Health Connector Appeals Unit

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

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

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 2015 from the federal government will be reconciled when you file your taxes in 2016. 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 2015 (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 2015 (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 2015 will be paid to you when you file your taxes in 2016.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Income amount used to determine eligibility for subsidized insurance plans.

**Hearing Date:** January 3, 2017

**Decision Date:** January 4, 2017

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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 3, 2016 Appellant submitted an application for subsidized health insurance. The Health Connector determined that the Appellant was eligible for ConnectorCare Plan 2A with Advance Premium Tax Credits of \$397.00.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plan 2A with Advance Premium Tax Credits of \$397.00, based on the information provided on the application.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 3, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and an interpreter were sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

## Massachusetts Health Connector Appeals Unit

- Exhibit 1: Health Connector notice of eligibility determination (8 pages, dated October 18, 2016)
- Exhibit 2: Appellant's appeal request form (3 pages dated undated)
- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (4 pages, undated )
- Exhibit 4: Health Connector's Review Application Computer Print Out (4 pages, undated )
- Exhibit 5: Health Connector's Acknowledgement of Appeal (4 pages, dated October 31, 2016)
- Exhibit 6: Health Connector's Hearing Notice (5 pages, dated December 5, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied to obtain subsidized health insurance through the Connector on September 3, 2016. (Exhibit 3)
2. When Appellant was found eligible for ConnectorCare Plan 2A with Advance Premium Tax Credits of \$397.00 on September 3, 2016, Appellant was notified that Appellant should review Appellant's information and make any changes to the information provided in the notice. (Exhibit 3)
3. Appellant made no changes to the information on record. (Exhibit 1)
4. Appellant testified that Appellant does not work, due to ill health. Appellant has not worked since August 2016. Appellant has no source of income.
5. On October 18, 2016 Appellant was notified again to make any changes in the information provided to the Connector and was given information about the cost of the renewed plan for 2017. (Exhibit 1). Appellant made no changes to the information that the Connector had received. The new determination made on October 18, 2016 was based on data provided by the Appellant and from other sources because Appellant did not update Appellant's information. (Exhibit 4)
6. On October 28, 2016, Appellant filed for an appeal, based on Appellant's income. (Exhibit 2).

### ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant applied for health insurance through the Connector on September 3, 2016. Appellant was found eligible for Connector Care Plan 2A with Advance Premium Tax Credits. Appellant was informed that if Appellant's information had changed that Appellant should update Appellant's information. Appellant did not update

## **Massachusetts Health Connector Appeals Unit**

Appellant's information. On October 18, 2016, Appellant was informed of the cost of Appellant's renewed plan and told to make any changes in the information that Appellant provided. Appellant did not provide any changes to Appellant's information. The determination was made on information provided by the Appellant and from other sources. Appellant filed an appeal based on income. Appellant testified that Appellant stopped working in August 2016 due to ill health and had no income. Appellant had not updated Appellant's income information as of the date of the hearing. See Exhibits 1, 2 3, 4 and testimony of Appellant, which I find to be credible.

The Connector made the correct determination based upon the information supplied by Appellant and obtained from other electronic data sources. If Appellant has not already done so, Appellant should immediately provide the required documentation regarding Appellant's income.

### **ORDER**

The appeal is denied. The determination of the Connector is affirmed. If Appellant has not already done so, Appellant should immediately update Appellant's information about Appellant's income.

### **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**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

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

**Hearing Issue:** Income amount used to determine eligibility for subsidized insurance plans.

**Hearing Date:** January 3, 2017

**Decision Date:** January 4, 2017

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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 August 28, 2016 Appellant submitted an application for subsidized health insurance. The Health Connector determined that the Appellant was eligible for a Health Connector plan.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 3, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and an interpreter were sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

Exhibit 1: Health Connector notice of eligibility determination (8 pages, dated October 21, 2016)

## Massachusetts Health Connector Appeals Unit

- Exhibit 2: Appellant's appeal request form (3 pages dated, November 10, 2016)
- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (4 pages, undated )
- Exhibit 4: Health Connector's Review Application Computer Print Out (4 pages, undated )
- Exhibit 5: Health Connector's Acknowledgement of Appeal (12 pages, dated November 16, 2016)
- Exhibit 6: Health Connector's Hearing Notice (5 pages, dated November 16, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 8: Open Record document, Health Connector notice of eligibility determination (8 pages, dated August 28, 2016)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied to obtain subsidized health insurance through the Connector on August 28, 2016. (Exhibit 1, Exhibit 3, Exhibit 8)
2. When Appellant was found eligible for Health Connector plans on August 28, 2016, Appellant was notified that Appellant should review Appellant's information and make any changes to the information provided in the notice. (Exhibit 1, Exhibit 3, Exhibit 8)
3. Appellant made no changes to the information on record. (Exhibit 1, Exhibit 3, Exhibit 8)
4. Appellant testified that Appellants do work. Appellants expect to make \$69,000.00 in income in 2017 with a household size of four. (Appellant testimony)
5. On October 27, 2016 Appellant was notified again to make any changes in the information provided to the Connector and was given information about the cost of the renewed plan for 2017. (Exhibit 1). Appellant made no changes to the information that the Connector had received. The new determination made on October 27, 2016 was based on data provided by the Appellant and from other electronic data sources because Appellant did not update Appellant's information. (Exhibit 4)
6. The Appellant was determined for Health Connector plans, without subsidies on October 27, 2016, after failing to re-attest to income, based on having an income and household size equivalent to 501.98% of the Federal Poverty Level. (Exhibit 1, Exhibit 4)
7. On November 10, 2016, Appellant filed for an appeal, based on Appellant's income. (Exhibit 2).

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies based on failing to verify income, and on having an income and family size equivalent to 501.09% of the Federal Poverty Level. The Appellant asserts that this determination was incorrect, because the Appellant will only make \$69,000 in 2017, which is

## Massachusetts Health Connector Appeals Unit

equivalent to approximately 290% of the Federal Poverty Level for a household size of four, 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 August 28, 2016, the Appellant was determined eligible for Health Connector plans, based on having a household income equivalent to 270% of the Federal Poverty Level, was asked to verify their income and if Appellant disagreed to update or re-attest to Appellant's income. The Appellant was reminded on October 27, 2017 to update or re-attest to Appellant's income. The Appellant did not send in any re-attested or updated information regarding income. On October 27, 2016, because the Appellant failed to re-attest or update Appellant's income, the Health Connector reverted to electronic data sources, and found that the Appellant's household income was equivalent to 501.98% 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 2017 will only be \$69,000, or 290% of the Federal Poverty Level for a household size of four, the Appellant failed to re-attest or update 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 501.98% of the Federal Poverty Level. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

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 re-attest to income, and that determination is upheld.

### **ORDER**

The appeal is denied. The determination of the Connector is affirmed. If Appellant has not already done so, Appellant should immediately update Appellant's information about Appellant's income.

### **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: Connector Appeals Unit

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## ADDENDUM

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellants' eligibility to obtain health insurance through the Connector based on access to MassHealth.

**Hearing Date:** December 9, 2016

**Decision Date:** January 30, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

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

On October 29, 2016, the appellants were determined ineligible to purchase Health Connector plans because Appellants had access to other health insurance and had not submitted information showing that they no longer had such access.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the appellants were not eligible to obtain health insurance through the Connector based on Appellants' access to MassHealth.

### **HEARING RECORD**

One of the appellants appeared at the hearing which was held by telephone on December 9, 2016. The procedures to be followed during the hearing were explained to the appellant. The appellant was sworn in. The documents in the appellant's appeals file were reviewed with the appellant. Each was marked as an exhibit and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's

## Massachusetts Health Connector Appeals Unit

file, undated

- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 23, 2016 sent to Appellant
- Exhibit 3: Hearing Request Forms submitted by Appellants on November 9, 2016
- Exhibit 4: Letter to Appellant from Connector Appeals Unit acknowledging receipt of appeal request dated November 15, 2016
- Exhibit 5: Health Connector's Summary and Results of Appellant's October 28, 2016 application computer print-out
- Exhibit 6: Health Connector's Summary and Results of Appellant's November 12, 2016 application computer print-out
- Exhibit 7: Letter to Appellant dated October 29, 2016 from the Health Connector regarding eligibility for purchase of health insurance plans
- Exhibit 8: Connector letter to Appellant dated November 15, 2016 regarding transfer of appeal Office of Medicaid for bifurcated hearing
- Exhibit 9: Health Connector's Summary and Results of Appellant's December 18, 2015 application computer print-out
- Exhibit 10: "AVV" print-out regarding Appellant's program determination
- Exhibit 11: Print-out showing Appellant's MassHealth status
- Exhibit 12: Connector letter to Appellant dated September 3, 2015 requesting information

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant and appellant's children had MassHealth for the last six years. They were asked to send in information for renewal of their coverage. They sent the information in after the deadline and lost their coverage (Testimony of Appellant, Exhibits 3, 10).
2. Appellant applied for health insurance coverage through the Connector on October 28, 2016. The Connector determined that the appellant was eligible to purchase a Health Connector plan while MassHealth was processing the appellant's application for coverage through that program. Appellant's children, the other appellants, were determined to be ineligible for any plan through the Connector (Exhibits 5, 7).
3. Appellant and Appellant's children filed an appeal of the Connector's determination on November 9, 2016 (Exhibit 3).
4. The Connector transferred Appellants' appeal to the Office of Medicaid for a bifurcated hearing on November 15, 2016 (Exhibit 8).
5. Appellants want to have MassHealth coverage. They are not looking for coverage through a Connector plan (Testimony of Appellant, Exhibit 3).

## Massachusetts Health Connector Appeals Unit

6. On the date of this hearing, Appellant who appeared at the hearing had MassHealth coverage (Testimony of Appellant).

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

Appellants applied for health insurance in October, 2016. The Connector determined that one of the appellants was eligible to purchase in coverage through the Connector pending a determination by the Office of Medicaid regarding MassHealth coverage, but that the other appellants were ineligible to purchase any coverage through the Connector. The appellants appealed these determinations. The Connector transferred the appeal to the Office of Medicaid for a bifurcated hearing. See the testimony of the appellant and Exhibits 3, 5, 7, 8.

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).

Appellant testified that Appellants had had MassHealth, but they lost this coverage because they were late sending in requested information. They wanted to have MassHealth again. In fact, the appellant who appeared at the hearing already was back on MassHealth as of the date of the hearing. See Exhibits 5, 10, and 11, and the testimony of the appellant which I find to be credible.

The Connector correctly transferred this appeal to the Office of Medicaid for a bifurcated hearing. Given their eligibility for MassHealth but for the late return of requested paperwork, the Connector also correctly determined that most of the appellants were not eligible for Connector Health plans, and that one appellant could purchase a plan pending the outcome of the MassHealth application process. See cites above.

Appellants clearly wanted to have their MassHealth reinstated; they were not interested in purchasing coverage through the Connector. One of the appellants had already been given MassHealth coverage again as of the date of the hearing. If the others have not been put back on MassHealth they should contact the Office of Medicaid to inquire about the status of their applications. They may contact MassHealth at 1-800-841-2900.

### **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.

# Massachusetts Health Connector Appeals Unit

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

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

**Hearing Issue:** Eligibility for Health Connector plans, based on lawful presence.

**Hearing Date:** January 19, 2017

**Decision Date:** February 6, 2017

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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 25, 2016, 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 the Appellant was not eligible for Health Connector plans, based on the Appellant's failure to establish lawful presence to the Health Connector.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

Exhibit 1: Health Connector notice of eligibility approval (6 pages, dated October 25, 2016)

## **Massachusetts Health Connector Appeals Unit**

- Exhibit 2: Appellant's appeal request form (5 pages dated November 16, 2016)
- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (6 pages, undated )
- Exhibit 4: Health Connector's Review Application Computer Print Out (3 pages, undated )
- Exhibit 5: Health Connector's printout from the 'AVV' tool showing information from the application database for the appellant
- Exhibit 6: Health Connector's Hearing Notice (5 pages, dated December20, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on October 25, 2016, after failing to establish that the Appellant was lawfully present to the Health Connector. (Exhibit 1, Exhibit 5)
2. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 5)
3. The Appellant has submitted documents showing that the Appellant is lawfully present to the Health Connector and has been redetermined and is now eligible for ConnectorCare Plan Type 2A. (Exhibit 3, Appellant Testimony) but must show proof of residency

### **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 October 25, 2016, 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 now established lawful presence and is eligible for ConnectorCare Plan Type 2A, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans on October 25, 2016, based on the Appellant's attestation, and that determination is upheld.

### **ORDER**

The appeal is denied.

## **Massachusetts Health Connector Appeals Unit**

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Allowed.

**Hearing Issue:** Eligibility for ConnectorCare plans, based on tax filing status.

**Hearing Date:** January 19, 2017

**Decision Date:** February 9, 2017

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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 an application for subsidized health insurance on October 21, 2016. The Health Connector determined that the Appellant was not eligible for subsidies, based on the Appellant's tax filing status provided on the application.

### 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 tax filing status information provided on the application.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified. The record was kept open for the Health Connector to provide further documents.

Exhibit 1: Health Connector Notice of Eligibility Approval and Final Renewal Notice (14 pages, dated October 21, 2016 & October 27, 2016)

## Massachusetts Health Connector Appeals Unit

- Exhibit 2: Appellant's Appeal Request form (4 pages dated November 23, 2016)
- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (5 pages, undated)
- Exhibit 4: Health Connector's Review Application Computer Print Out (8 pages, undated)
- Exhibit 5: Health Connector's acknowledgement of appeal (4 pages, dated December 7, 2016)
- Exhibit 6: Health Connector's Hearing Notice (5 pages, dated December 20, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 8: Health Connector's records regarding Appellant's application for subsidies

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 33 year old married female who applied for subsidized health insurance through the Health Connector on October 21, 2016. (Exhibit 1, Exhibit 3, & Exhibit 4)
2. Appellant is married but does not live with her husband because of spousal abuse towards her. (Appellant's testimony)
3. On her application, the Appellant stated that she was married but that she would not file a tax return with her husband.
4. A state worker, while processing documents erroneously made changes to the Appellant's application, leading to an invalid eligibility determination.

### ANALYSIS AND CONCLUSIONS OF LAW

The appellant stated on her appeal request form that she cannot afford the insurance that was made available to her, and disputes the finding that she is not eligible for subsidies to help make her insurance more affordable.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit 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 applies to married couples. In general, married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). However, if one of the spouses is the victim of domestic abuse or spousal abandonment, that taxpayer may attest to filing as married filing separately, and still receive APTC. 26 CFR § 1.36B-2T(b)(2)(ii). To claim domestic abuse, the taxpayer must certify that he or she is living apart from the other spouse at the time of tax filing, and is unable to file a joint return because the taxpayer is a victim of "physical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate, and intimidate, or to undermine the victim's

## Massachusetts Health Connector Appeals Unit

ability to reason independently.” 26 C.F.R. § 1.36B-2T(b)(2)(ii), (b)(2)(iii). Spousal abandonment similarly requires that the taxpayer certify that he or she is living apart from the other spouse at the time of tax filing, and that the taxpayer is unable to file a joint tax return because “the taxpayer is unable to locate his or her spouse after reasonable diligence.” 26 C.F.R. § 1.36B-2T(b)(2)(iv), (b)(2)(ii), (iv). Each exception may be claimed if only if it has not been claimed in each of the three preceding taxable years. 26 CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their 2015 taxes in accordance with the required certification, which appears on Form 8962.

While processing documents, a state worker erroneously made changes to the Appellant’s application, leading to an invalid determination. The appellant testified at hearing that she currently does not live with her husband due to spousal abuse and that they do not file a joint tax return. The Appellant will not file a joint tax return, and does fall into one of the exceptions for the requirement to file a joint tax return in order to get APTC. Therefore, the Health Connector incorrectly found that the Appellant was not eligible for APTC or ConnectorCare, but is only eligible for an unsubsidized Health Connector Plan.

### ORDER

The appeal is Allowed. The Connector is ordered to re-instate the Appellant’s eligibility retroactively.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this 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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized health insurance; income

**Hearing Date:** January 11, 2017

**Decision Date:** February 13, 2017

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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**

Eligible for Health Connector Plans without subsidies.

### **ISSUE**

Based upon the information provided by Appellant and available to the Connector, whether the Connector made the correct determination.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 11, 2017. 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 (12-15-16) (7 pages);
- Exhibit 3: Outreach notes (1 page);
- Exhibit 4: Acknowledgment of Appeal (12-1-16) (6 pages);
- Exhibit 5: Hearing Request Form (11-29-16) (with fax cover) (2 pages);

## Massachusetts Health Connector Appeals Unit

- Exhibit 6: Eligibility Approval letter (10-15-16) (12 pages);  
Exhibit 7: Information from application and re results (17 pages);  
Exhibit 8: AVV form (1 page); and  
Exhibit 9: Email re reporting change in income (12-14-16) (1 page).

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant filed an application for subsidized health insurance through the Health Connector (Exhibits 6, 7).
2. The Appellant has a tax household size of four (Exhibits 6 and 7).
3. The amount of projected yearly modified adjusted gross income (MAGI) that was listed on the application for Appellant was \$69,999.96 and for Appellant's spouse it was \$63,999.96 (Exhibit 7 and Testimony).  
Based upon the information provided by Appellant, the Federal Poverty Level (FPL) would be approximately 551.44%.
4. Based upon the information available to the Connector, the Appellant was determined to be at 551.44% percent of the Federal Poverty Level (FPL) (Exhibit 7).
5. Appellant was determined eligible for Health Connector Plans, with no subsidies (Exhibit 6).
6. Appellant indicated that Appellant's income from his part-time service with the U.S. Navy was inconsistent, and was therefore lower than was originally reported. (Testimony).
7. The determination of the Connector was correct based upon the information available to the Connector.

### ANALYSIS AND CONCLUSIONS OF LAW

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. 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)).

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 ConnectorCare 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 this case, the FPL is over 400%, and, therefore, Appellant is not eligible for the Advance Premium Tax Credits or the additional Massachusetts subsidy. In this case, the issue presented was whether the determination of eligibility was correct based upon the information provided and available to the Connector. Based upon the information available to the Connector, the determination was correct.

### ORDER

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

## Massachusetts Health Connector Appeals Unit

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

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

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 2015 from the federal government will be reconciled when you file your taxes in 2016. 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 2015 (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 2015 (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 2015 will be paid to you when you file your taxes in 2016.

*Note:* Appellant was advised to re-attest to the income by contacting Customer Service or accessing the account online, and provide proof of income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

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

**Hearing Issue:** Eligibility for Health Connector plans, based on annual renewal.

**Hearing Date:** January 18, 2017

**Decision Date:** February 1, 2017

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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 November 21, 2016, Appellant was determined eligible for Health Connector plans for plan year 2017. The Appellant's determination was a result of the Health Connector's annual renewal process.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant eligible for Health Connector plans, based on the income used in the Health Connector's renewal process.

### HEARING RECORD

The Appellant appeared at the hearing through his wife, which was held by telephone, on January 18, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

Exhibit 1: Health Connector notice of eligibility approval (10 pages, dated November 21, 2016)

Exhibit 2: Appellant's appeal request form (8 pages undated)

## Massachusetts Health Connector Appeals Unit

- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (7 pages, undated )
- Exhibit 4: Health Connector's Review Application Computer Print Out (7 pages, undated )
- Exhibit 5: Health Connector's Acknowledgement of Appeal (2 pages, dated December 16, 2016)
- Exhibit 6: Health Connector's Hearing Notice (5 pages, dated December 20, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )

### 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 2017. (Exhibit 5)
2. The Appellant and spouse expected to have a total annual income for 2016 of \$75,213. (Appellant's wife's testimony and Exhibit 4)
3. The Appellants expect to make less than \$75,213.00 in 2017, due to Appellant's illness and lack of work. (Appellant's wife's testimony)
4. In a prior eligibility determination for plan year 2016, the Appellant was found eligible for Health Connector plans, based on having an income and household size equivalent to 469.49% of the Federal Poverty Level. (Exhibit 1 & 4)
5. On November 21, 2016, the Health Connector sent the Appellant an eligibility approval notice for 2017, pursuant to the Health Connector's annual renewal process, which stated that the Appellant's eligibility was going to be for Health Connector plans. This notice stated that the Health Connector's 2017 determination was based on an income equivalent to 469.49% 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)
6. The Appellant did not report any changes to their application.

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans for 2017 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 469.49% of the Federal Poverty Level. The Appellant asserts that this determination was incorrect, because the Appellant will not make as much income during 2017 due to illness and lack of work. 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

## Massachusetts Health Connector Appeals Unit

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).

On November 21, 2016, the Appellant was found eligible for Health Connector plans for plan year 2017, based on having a household income equivalent to 469.49% of the Federal Poverty Level. This determination came as part of the Health Connector's annual renewal process. The Appellant did not report any changes to income and the eligibility was finalized on November 21, 2016, with notice to the Appellant on November 21, 2016. This is consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on a household income equivalent to 469.49% 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 2017 will be less than what was put down on the application, the Appellant failed to update the information in their application to reflect this income projection, as required by law, and therefore 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 if they have not already.

### ORDER

The appeal is denied. The determination of the Connector is affirmed. If Appellant has not already done so, Appellant should immediately update Appellant's information about Appellant's income.

### 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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized health insurance; income

**Hearing Date:** January 11, 2017

**Decision Date:** February 8, 2017

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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**

Eligible for Health Connector Plans with Advance Premium Tax Credit.

### **ISSUE**

Based upon the information provided by Appellant and available to the Connector, whether the Connector made the correct determination.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 11, 2017. 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 (2 pages);
- Exhibit 2: Notice of Hearing (12-15-16) (7 pages);
- Exhibit 3: Outreach notes (1 page);
- Exhibit 4: Acknowledgment of Appeal (12-12-16) (6 pages);
- Exhibit 5: Hearing Request Form (12-3-16) (with documents) (3 pages);

## Massachusetts Health Connector Appeals Unit

Exhibit 6: Eligibility Approval letter (11-21-16) (12 pages); and  
Exhibit 7: Information from application and re results (22 pages).

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant filed an application for subsidized health insurance through the Health Connector (Exhibits 6, 7).
2. The Appellant has a tax household size of two (Exhibit 7).
3. The amount of projected yearly modified adjusted gross income (MAGI) that was listed on the application for Appellant was \$42,577.60 and for Appellant's spouse it was \$20,722.00 (Exhibit 7 and Testimony). Based upon the information provided by Appellant, the Federal Poverty Level (FPL) would be approximately 313.99%.
4. Based upon the information available to the Connector, the Appellant was determined to be at 313.99% percent of the Federal Poverty Level (FPL) (Exhibit 7).
5. Appellant was determined eligible for Health Connector Plans, with Advanced Premium Tax Credits (Exhibit 6).
6. Appellant indicated that Appellant's spouse's hours had been reduced, and the income was therefore lower than was originally reported. (Testimony).
7. The determination of the Connector was correct based upon the information available to the Connector.

### ANALYSIS AND CONCLUSIONS OF LAW

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. 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)).

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 ConnectorCare 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 this case, the FPL is over 300%, and, therefore, Appellant is not eligible for the additional Massachusetts subsidy, but only for the Advance Premium Tax Credits.

In this case, the issue presented was whether the determination of eligibility was correct based upon the information provided and available to the Connector. Based upon the information available to the Connector, the determination was correct.

### ORDER

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

## Massachusetts Health Connector Appeals Unit

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

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

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 2015 from the federal government will be reconciled when you file your taxes in 2016. 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 2015 (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 2015 (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 2015 will be paid to you when you file your taxes in 2016.

*Note:* Appellant was advised to re-attest to the income by contacting Customer Service or accessing the account online, and provide proof of income.

# Massachusetts 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:** January 27, 2017

**Decision Date:** February 7, 2017

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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 an application for subsidized health insurance on November 26, 2016. The Health Connector determined the Appellant to be eligible for Health Connector Plans with Advance Premium Tax Credits of \$0.00.

### **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 January 27, 2017. 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.

## Massachusetts Health Connector Appeals Unit

- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 10, 2017.
- Exhibit 3: Health Connector Appeals Unit Informal Dispute Resolution Notes.
- Exhibit 4: Hearing Request Form signed by Appellant on December 14, 2016 with wage stub dated December 08, 2016 attached.
- Exhibit 5: Health Connector's Eligibility Approval Notice dated November 28, 2016.
- Exhibit 6: Health Connector's 2017 Eligibility Results for Appellant's November 28, 2016 application.
- Exhibit 7: Health Connector's Review Application Computer Print Out.

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 29-year-old individual who applied for subsidized health insurance through the Health Connector on November 28, 2016 (Exhibits 5, 6, 7).
2. The Appellant has a tax household size of one (Exhibits 5, 6, 7).
3. On their application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$37,128 for 2017 (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place Appellant at approximately 312.53% of the 2016 Federal Poverty Level (FPL).
5. The Health Connector correctly found that the Appellant was ineligible for state subsidized health insurance because the Appellant's self-attested projected income placed their household at greater than 300% of the Federal Poverty Level. (Exhibits 5, 6, 7).
6. The Health Connector correctly determined the Appellant eligible for APTC of \$0.00 based on the fact that there are good high quality health insurance plans available to the Appellant through the Connector at an affordable premium given the appellant is a tax household of one with MAGI of \$37,128 (Exhibits 5, 6, 7).
7. Appellant testified that she has access to employer sponsored health insurance at a cost of \$141 per month. Appellant maintains this is not affordable.
8. The December 08, 2016 wage stub submitted by the Appellant verifies income consistent with what Appellant reported on their November 28, 2016 application (Exhibit 4).

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on November 28, 2016. 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.

## **Massachusetts Health Connector Appeals Unit**

Appellant stated on their application that their projected MAGI was \$37,128. Appellant submitted a wage stub with their appeal request that is consistent with that projected income. This income is equivalent to approximately 312.53% of the Federal Poverty Level and renders the Appellant financially ineligible for state subsidies. Appellant's projected income is less than 400% of the Federal Poverty Level. Based on this fact, Appellant argues that they should be eligible for some type of APTC.

Tax credit amounts are determined by various factors, including household income, the number of persons in the tax household and the cost of the second least-expensive Silver Plan available in the market area. 26 IRC § 36B (2). The Appellant is a tax household of one with projected MAGI of \$37,128. The Connector determined that there are good high quality health plans available to the Appellant through the Health Connector at an affordable premium, without any extra help. The Health Connector correctly determined that the appellant is eligible for an APTC amount of \$0.00.

### **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.

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### **ADDENDUM**

One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Appellant is encouraged to update their Application information.