

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld.

Hearing Issue: Eligibility for Connector Care based on income.

Hearing Date: December 15, 2017

Decision Date: January 6, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on October 3, 2017. The Health Connector determined the Appellant to be eligible for Health Connector Plans with Advance Premium Tax Credits.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 15, 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 Determination (10pages, dated October3, 2017)

Exhibit 2: Appellant's appeal request form (2 pages dated October 3, 2017)

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- Exhibit 3: Notice of Eligibility Determination dated October 3, 2017 for 2018 (12 pages)
- Exhibit 4: Health Connector's Determination Results and Review Computer Printout (7 pages, dated October 3, 2017)
- Exhibit 5: Health Connector's Determination Results and Review Computer Printout (7 pages, dated October 3, 2017)
- Exhibit 6: Health Connector's Acknowledgement of Appeal (2 Pages dated October 10, 2017)
- Exhibit 7: Health Connector's Hearing Notice (4 pages, dated November 28, 2017)
- Exhibit 8: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 9: Notice of Eligibility Determination dated September 24, 2017 Appellants request to vacate dismissal of appeal with Documents, dated May 15, 2017

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 46 year old unmarried female, who applied for subsidized health insurance, on October 3, 2017. (Exhibit 1, Exhibit 5)
2. The Appellant has a tax household of one. (Exhibit 5)
3. On her application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$36,000.00. (Exhibit 5)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 303.03% of the 2016 Federal Poverty Level (FPL). An individual at that income level would not be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL. (Exhibit 5)
5. Appellant testified that she was obtaining her employer's health insurance starting in January 2018.

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. IRC § 5000A(f)(1)(A)(i). On her application, the Appellant stated that her projected MAGI was \$36,000.00, which for a household of one, puts the Appellant at approximately 303.03% of the 2016 Federal Poverty Level. This

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means the Appellant's household income was more than the 300% limit for eligibility for subsidies, and therefore the Health Connector correctly found the Appellant eligible for Health Connector Plans.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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FINAL APPEAL DECISION: ACA17-2742

Appeal Decision: Appeal partially allowed and partially denied.

In its eligibility review of the Appellants' eligibility for subsidized insurance and health insurance subsidies, in October 2017, the Massachusetts Health Connector (Connector) correctly found that, based on the Appellants' income at that time, the Appellants were no longer eligible for ConnectorCare.

The Appellants, who had been enrolled in ConnectorCare Plan Type 3A, were not given sufficient notice of the change in their eligibility for ConnectorCare when they were switched to an unsubsidized plan by the Connector beginning on November 1, 2017, based on their exceptional circumstances at that time. Therefore, the Connector is ordered to reinstate the Appellants in ConnectorCare Plan Type 3A for the month of November 2017.

Hearing Issues:

Whether the Connector correctly determined the Appellants' eligibility for ConnectorCare.

Whether the Connector gave the Appellants sufficient notice of the change in their eligibility for ConnectorCare, for implementation to occur beginning on November 1, 2017, based on their circumstances at that time.

Hearing Date: December 5, 2017

Decision Date: January 31, 2018

AUTHORITY

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

JURISDICTION

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

On October 9, 2017, the Connector found that the Appellants, who had been enrolled in ConnectorCare Plan Type 3A, were no longer eligible for ConnectorCare. The Appellants were switched from ConnectorCare to a Health Connector Plan with Advance Premium Tax Credits, by the Connector beginning on November 1, 2017. The Appellants were notified of this change in a letter from the Connector dated October 9, 2017.

ISSUES

Whether the Connector correctly determined the Appellants' eligibility for ConnectorCare.

Whether the Connector gave the Appellants sufficient notice of the change in their eligibility for implementation occur beginning on November 1, 2017, based on their special circumstances at that time.

HEARING RECORD

The Appellants appeared at the hearing which was held on by telephone on December 5, 2017. Testimony was recorded electronically. The hearing record consists of the Appellants' testimony and the following documents that were admitted into evidence:

1. Affidavit of Record Verification
2. Letter to the Appellant from the Connector dated 10/9/2017 entitled "Eligibility Approval".
3. Letter to the Appellants from the Connector dated 11/2/2017, and entitled "Final Renewal Notice"
4. Appellants' Hearing Request Form dated 10/24/2017
5. Appeal Acknowledgment Notice dated 10/27/2017
6. Informal Dispute Resolution Notes
7. Letter to the Appellants from the Connector Appeals Unit Regarding Next Steps in the Appeal Process
8. Connector Computer Printout of Appellants' Application Results for 2017 with a verification date 10/9/2017, and based on information submitted on 10/9/2017.
9. Connector Computer Printout of Appellants' Application Summary with an attestation date of 10/9/2017
10. Connector Computer Printout of Appellants' Application Result for 2018 based on a verification date of 10/9/2017
11. Connector Computer Printout of Appellants' Application Summary
12. Connector Computer Printout of Appellants' Application Results for 2017 based on verification date 12/21/2016, and based on information submitted on 12/21/2016.
13. Connector Computer Printout of Appellants' Application Summary
14. Connector notes on phone calls from the Appellant Wife to the Connector
15. Appeals Data notes of Appeals Unit outreach to the Appellants.
16. Open Enrollment Brochure
17. Notice of Hearing dated 11/14/2017

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated October 9, 2017, and entitled "Eligibility Approval" the Appellants were informed that, beginning November 1, 2017, they were eligible for Health Connector Plans with a monthly Advance Premium Tax Credit of \$415, for 2017. Their eligibility effective date was November 1, 2017. Their eligibility was based on income for their household which the Connector found to be 316.62% of the Federal Poverty Level. (Exhibit 2)

2. In the letter from the Health Connector dated October 9, 2017, the Appellants were informed that they would “stay enrolled in (their) current type of coverage through the end of 2017, unless (their) information changes.” (Exhibit 2)
3. The Connector’s results were based on an application submitted by the Appellants on October 9, 2017. The verification date was October 9, 2017. (Exhibit 8)
4. In their application dated October 9, 2017, the Appellants indicated that the Appellant Wife’s self-attested income she received monthly was \$2,810, and that her projected yearly income was \$33,722. (Exhibit 9)
5. In their application dated October 9, 2017, the Appellants indicated that the Appellant Husband’s self-attested income he received monthly was \$1,559.88, and that his projected yearly income was \$17,000. (Exhibit 9)
6. The letter from the Connector dated October 9, 2017, acknowledged that the Appellants had supplied the documents needed as proof of their application. (Exhibit 2)
7. The Appellants’ filed a Hearing Request Form dated October 24, 2017. They indicated that their appeal was based on “income” and “other”. On that form the Appellants stated, “our income for 2017-2018 has not changed much (we have already supplied info) yet our plan has changed (a lot!) and we did not choose it!” “(Appellant Husband) already had scheduled surgery when plan was changed.” (Exhibit 4)
8. The Appellants’ eligibility results for 2017, based on an application they submitted on December 21, 2016, were ConnectorCare Plan Type 3A with a maximum monthly Advance Premium Tax Credit of \$600. These results were based on a finding that their self-reported income was 213.23% of the Federal Poverty Level. (Exhibit 12)
9. In their application dated December 21, 2016, the Appellants indicated that the Appellant Wife’s self-attested income he received monthly was \$1,430.22, and that her projected yearly income was \$17,160. (Exhibit 13)
10. In their application dated December 21, 2016, the Appellants indicated that the Appellant Husband’s self-attested income he received monthly was \$1,559.88, and that his projected yearly income was \$17,000. (Exhibit 13)
11. The Connector sent the Appellants a letter dated November 2, 2017 entitled “Final Renewal Notice”. In that letter the Connector indicated that the Appellants’ current health plan was Tufts Health Plan-Direct/NonStandard: Tufts Health Direct Silver with Coinsurance II; and that the Appellants were eligible for the same health plan beginning January 1, 2018. (Exhibit 3).
12. When the Appellants submitted their application to the Connector on October 9, 2017, they thought that the income increase would only affect their eligibility for subsidies beginning in 2018. (Appellant Wife testimony)
13. The Appellant Husband had surgery on October 30, 2017 and came home from the hospital on October 31, 2017. (Appellant Wife testimony)
14. With the change in health plans, the Appellants’ premiums increased and they were subject to a deductible. (Appellant Wife testimony)
15. At the time of the hearing in this matter, the Appellants’ income had decreased. (Appellant Wife testimony).

ANALYSIS AND CONCLUSIONS OF LAW

There are two issues in this appeal. The first was whether the Connector correctly determined the Appellants’ eligibility for ConnectorCare. The second was whether the Connector gave the Appellants sufficient notice of the change in their eligibility for subsidized health insurance for implementation to occur on November 1, 2017, based on their circumstances at that time.

The determination by the Connector that the Appellants were no longer eligible for Connector Care based on the income information they supplied in their application dated October 9, 2017 was correct. The Appellants do not dispute the accuracy of the income figures in their application dated October 9, 2017. In their Hearing Request Form they state that “our income for 2017-2018 has not changed much (we have already supplied info)”. Based on the information the Appellants supplied in their application, the Health Connector found that their income was 316.62% of the Federal Poverty Level. In order to be eligible for ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable, the Appellants must be eligible for the Advance Premium Tax Credit, and their income must be at or below 300% of the Federal Poverty Level. (956 CMR 12.08 (1) (a)) Since the Appellants’ income was more than 300% of the Federal Poverty Level they were no longer eligible for ConnectorCare. The Appellants remained income eligible for the Advance Premium Tax Credit, since their income was less than 400% of the Federal Poverty Level, pursuant to 26 CFR § 36B and 45 CFR § 155.305(f).

On November 1, 2017, the Appellants, who had been enrolled in ConnectorCare Plan Type 3A, were switched from ConnectorCare to Tufts Health Plan-Direct/NonStandard: Tufts Health Direct Silver with Coinsurance II. The Appellants were notified of this change in a letter from the Connector dated October 9, 2017.

Pursuant to 45 CFR 155.330, “Eligibility Redetermination during a Benefit Year,” the Health Connector is required to redetermine the eligibility of an enrollee in a qualified health plan if it receives and verifies new information reported by an enrollee. [45 CFR 155.330(a)] When the Appellants filed their application for health insurance for 2018 on October 9, 2017, their income had increased to 316.62% of the Federal Poverty Level. The Connector verified the reported changes on October 9, 2017, and determined that the Appellants were no longer income eligible for ConnectorCare based on this application.

In regard to the implementation of changes, pursuant to 45 CFR 155.330 (f), if the changes reported by the Appellants affect enrollment or premiums only, the changes should be implemented on the first day of the month following the date the Health Connector is notified of the change. However if the change is reported after a date the Connector determines is a reasonable point in the month, the implementation will be effective on the first day of the following month. Pursuant to Connector Policy NG-2, coverage changes will be effective the first day of the month following the event, if the change is reported prior to the 23rd day of the month. Since the Appellants reported their change in income on October 9, 2017, their change would be implemented on November 1, 2017.

In most situations a change in income reported to the Health Connector on October 9, 2017, which resulted in a change in enrollment or premiums, would be implemented on November 1, 2017. However, there is an exception. Pursuant to 45 CFR 155.30 (f) (5), if the Health Connector finds that that the Appellants have exceptional circumstances, the Health Connector may provide the effective date of the change based on the specific circumstances of their situation.

There are exceptional circumstances that affected the Appellants when the Connector found that they were no longer eligible for ConnectorCare. The Appellants did not realize that the increase in income reported on their application for health insurance in 2018, would result in a change in their eligibility for subsidized insurance in 2017. With the change in health plans, the Appellants’ premiums increased and they were subject to a deductible. At the time they were notified of the change in their eligibility, the Appellant Husband had surgery scheduled for October 30, 2017. The Appellant Husband had surgery on October 30, 2017 and came home from the hospital on October 31, 2017. The next day the change would have been implemented. Based on the Appellants’ exceptional circumstances at the time they

were to lose their subsidized health insurance, they should be allowed to continue their enrollment in ConnectorCare through the month of November.

ORDER

The Connector's decision to end the Appellants' eligibility for Connector Care on November 1, 2017 and switching them to an unsubsidized plan on that date, is reversed. Due to their exceptional circumstances at that time, the Appellants were not given sufficient notice of the change in their eligibility for ConnectorCare when they were switched. Therefore, the Connector is ordered to reinstate the Appellants in ConnectorCare Plan Type 3A for the month of November 2017.

The Connector's decision on October 9, 2017, that the Appellants were no longer income eligible for Connector Care is upheld.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Cc: Connector Appeals Unit

Addendum: The Appellants testified during the hearing in this matter, that following the submission of their application on October 9, 2017, their income had decreased. If the Appellants' income decreases, they may want to contact customer service at the Connector and report the change in income.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA17-2745

Appeal Decision: Appeal Denied.

Hearing Issue: Whether the Massachusetts Health Connector correctly determined the Appellant's income eligibility for ConnectorCare and the Advance Premium Tax Credit for 2017.

Hearing Date: December 5, 2017

Decision Date: January 29, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Based on information in the Appellant's application for subsidized health insurance, submitted to the Massachusetts Health Connector (Connector) on October 17, 2017, the Connector determined that for 2017 the Appellant was eligible for ConnectorCare Plan Type 2A with an Advance Premium Tax Credit of \$144 monthly.

ISSUE

Whether the Connector correctly determined the income eligibility of the Appellant for ConnectorCare and for the Advance Premium Tax Credit for health insurance for beginning November 1, 2017, based on the information the Connector had at the time it made its eligibility determination in October 2017.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 5, 2017. Testimony was recorded electronically. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Record Verification
- Exhibit 2: Letter to the Appellant from the Health Connector dated 10/17/2017 and entitled "Eligibility Approval"
- Exhibit 3: Appellant's Hearing Request Form dated 10/21/2017
- Exhibit 4: Connector Appeals Unit Appeal Acknowledgment Notice dated 10/27/2017
- Exhibit 5: Open Enrollment Brochure

- Exhibit 6: Letter to the Appellant from the Connector Appeals Unit to the Appeals Unit Regarding Next Steps in the Appeal Process
- Exhibit 7: Informal Dispute Resolution Notes
- Exhibit 8: AppealsData Notes of conversation between Appeals Unit Staff and the Appellant
- Exhibit 9: Patient Care summary of Appellant's doctor visit
- Exhibit 10: Health Connector Computer Printout of Appellant's 2017 Eligibility Results based on an application submitted on 10/17/2017 and verified on that date
- Exhibit 11: Health Connector Computer Printout of Appellant's Application Summary
- Exhibit 12: Notice of Hearing dated 11/14/2017

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated October 17, 2017, entitled "Eligibility Approval", the Appellant was informed that for 2017, she was eligible to enroll ConnectorCare Plan Type 2A and she was eligible for an Advance Premium Tax Credit of \$144 monthly beginning November 1, 2017. (Exhibit 2)
2. The Appellant's eligibility was based on her modified adjusted gross income, which the Connector determined to be 148.90% of the Federal Poverty Level. (Exhibit 2)
3. The Appellant appealed the Connector's determination of her income regarding her eligibility for subsidized health insurance programs. On her Hearing Request Form the Appellant stated that her salary was the "minimum allowed by the state." She said that she was going to have surgery on her knee and needed insurance. (Exhibit 3)
3. In her application, the Appellant said that she earned \$680.35 every two weeks, and that the self-attested amount she received monthly was \$1,474.32. Her projected yearly Income was \$17,689.10. The Connector verified this information on October 17, 2017, after the Appellant submitted the documents needed for verification. (Exhibits 2 and 11)
4. The Appellant is a bus monitor and she is paid the minimum wage. Her hours vary; and she has the least work in the summer. (Appellant testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined the income eligibility of the Appellant for ConnectorCare and for the Advance Premium Tax Credit for health insurance for beginning November 1, 2017, based on the information the Connector had at the time it made its eligibility determination in October 2017. Based on her application for subsidized health insurance submitted on October 17 2017, the Connector correctly determined that the Appellant was eligible for ConnectorCare Plan Type 2A and the Advance Premium Tax Credit.

The Appellant's income eligibility for subsidized health insurance and health insurance subsidies is determined by her projected Modified Adjusted Gross Income (MAGI) for 2017. Modified Adjusted Gross Income (MAGI) is defined in 26 CFR 1.36B-1 (e) (2), as "adjusted gross income (within the meaning of section 62) increased by

- (i) Amounts excluded from gross income under section 911;
- (ii) Tax-exempt interest the taxpayer receives or accrues during the taxable year; and
- (iii) Social security benefits (within the meaning of section 86(d)) not included in gross income under section 86."

MAGI is usually equivalent to Adjusted Gross Income (Center for Labor Research and Education, University of California, Berkeley). On her application, the Appellant stated that her projected income for 2017 was \$17,689.00. This income is 148% of the Federal Poverty Level.

Under 26 CFR § 36B and 45 CFR § 155.305(f), applicants are income eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels that are between 100% and 400% of the Federal Poverty Level. In order to be eligible for ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable, the Appellant must be eligible for the APTC, and her MAGI must be at or below 300% of the Federal Poverty Level. (956 CMR § 12.08).

In her application for subsidized health insurance and health insurance subsidies for 2017, the Appellant said her projected income for 2017 was \$17,689, and that her monthly income when she applied to the Connector was \$1,474.32. The Connector verified this information on October 17, 2017.

Since the Appellant's projected income for 2017 was 148% of the Federal Poverty Level, the Connector correctly determined that the Appellant was eligible for ConnectorCare Type 2A. (956 CMR 1.04 (3) (b)). The Appellant was also eligible for the Advance Premium Tax Credit since her projected income was less than 400% of the Federal Poverty Level. The Connector determined that her monthly Advance Premium Tax Credit was \$144.

This appeal is limited to a determination of whether the Connector made the correct income eligibility decision in regard to the Appellant, based on the information it had at that time. The decisive factor in the determination of income eligibility for subsidized health insurance and health insurance subsidies is projected modified adjusted gross income. The Connector based its determination on the projected income in the Appellant's application for subsidized health insurance.

ORDER

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

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA17-2760

Appeal Decision: Appeal Denied because the Health Connector correctly determined Appellant's eligibility for enrollment in subsidized health insurance coverage based on information available at the time of the determination. Additionally, Appellant subsequently enrolled in a ConnectorCare plan and does not wish to change enrollment.

Hearing Issue: Whether the Health Connector correctly determined Appellant's eligibility for subsidized health insurance coverage.

Hearing Date: January 17, 2018

Decision Date: February 16, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Health Connector issued an "Eligibility Denial" notice Appellant on October 12, 2017, stating that Appellant did not qualify for health insurance through the Health Connector because the Health Connector's records indicated that Appellant was not lawfully present in the United States.

ISSUE

Whether the Health Connector correctly determined that the Appellant was ineligible for health insurance coverage due to lack of lawful presence in the United States.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 17, 2018 with the assistance of a Spanish language interpreter. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Affidavit from Health Connector Keeper of Records;

Exhibit 2: Notice of Hearing dated November 21, 2017;

Exhibit 3: Appellant's Hearing Request dated October 25, 2017;

Exhibit 3A: U.S. Employment Authority Card (expired 9/26/2017);

Exhibit 3B: Social Security Card ("Valid for Work Only" dated 4/20/2017);

Exhibit 3C: Appellant's 2016 Federal Tax Return;

Exhibit 4: Health Connector letter dated May 18, 2017 acknowledging Appellant's hearing request;

Exhibit 5: Print-out of the Summary and Results pages from Appellant's October 12, 2017 application for subsidized health insurance coverage;

Exhibit 6: Eligibility Denial Notice dated October 12, 2017;

Exhibit 7: Appellant's letter with documentation of lawful presence received by the Health Connector on November 16, 2017;

Exhibit 8: Print-out dated November 1, 2017 from the Health Connector's "AVV" tool indicating that records show Appellant not lawfully present in the United States;

Exhibit 9: Health Connector Appeals Unit outreach notes dated November 1 and 17, 2017;

Exhibit 10: Appeal dismissal notice dated December 11, 2017;

Exhibit 11: Notice of Hearing dated December 27, 2017;

Exhibit 12: Health Connector Appeals Unit outreach notes dated December 11, 2017;

Exhibit 13: Print-out of the Summary and Results pages from Appellant's December 21, 2017 application for subsidized health insurance coverage;

Exhibit 14: Health Connector enrollment date for Appellant dated January 17, 2018;

Exhibit 15: Print-out of the Summary and Results pages from Appellant's January 11, 2018 application for subsidized health insurance coverage; and

Exhibit 16: Affidavit from Health Connector Keeper of Records.

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant is an adult resident of Massachusetts. Testimony; Exhibit 7.
2. Appellant applied for subsidized health insurance coverage on October 12, 2017, but the Health Connector determined that Appellant was not eligible for health insurance coverage because records showed that Appellant was not lawfully present in the United States. Exhibit 5.
3. The Health Connector issued an "Eligibility Denial" notice Appellant on October 12, 2017, stating that Appellant did not qualify for health insurance through the Health Connector because the Health Connector's records indicated that Appellant was not lawfully present in the United States. Exhibit 6.
4. The Appellant filed a request a hearing on October 25, 2017. Exhibit 3.
5. After outreach from the Health Connector's Appeals Unit regarding acceptable documentation of lawful presence, the Appellant submitted such documentation to the Health Connector on November 16, 2017. Exhibits 7 and 9.
6. On December 21, 2017, the Health Connector determined that Appellant is eligible to enroll in a ConnectorCare Plan Type 1 with advance premium tax credits. Exhibit 13.
7. Appellant enrolled in the Tufts Health Direct ConnectorCare HMO/Silver Plan with a monthly premium of \$0 effective February 1, 2018. Exhibit 14.
8. Appellant is satisfied with the Tufts ConnectorCare Plan and does not wish to change. Testimony.

ANALYSIS AND CONCLUSIONS OF LAW

Congress enacted the ACA in 2010 "to increase the number of Americans covered by health insurance and decrease the cost of health care." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans ("QHPs"). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans.

To further the ACA's goal of making health insurance affordable, the Internal Revenue Code was amended to make tax credits ("APTCs") available as a form of subsidy to individuals who purchase health insurance through the Exchanges. 26 U.S.C. § 36B(c)(2)(A)(i). Under the federal ACA regulations, an individual is eligible for an APTC if he or she is expected to have a household income (as defined in section 36B(d)(2) of the Internal Revenue Code) between 100 percent and 400 percent of the FPL for the benefit year for which coverage is requested. 45 C.F.R. §

155.305(f)(1). In addition to the APTC, eligible Massachusetts residents whose incomes do not exceed 300 percent of the FPL may receive additional state premium assistance by enrolling in a subsidized ConnectorCare health insurance plan. 956 Mass. Code Regs. 12.04, 12.08. In order to enroll in ConnectorCare, an individual must be eligible for the Federal APTC. 956 Code Mass. Regs. 12.04(1)(b). Eligibility for the APTC is based on several criteria including a requirement that the individual be lawfully present in the United States. 26 C.F.R. § 1.36B-2(b).

The record in this case reflects that at the time Appellant applied for health insurance coverage on October 12, 2017 there was no documentation or information available to the Health Connector to establish that Appellant is lawfully present in the United States as that term is defined in the ACA's implementing regulations. See 45 C.F.R. § 152.2. Accordingly, I conclude that there was no error in the Health Connector's October 12, 2017 determination, which is the subject of this appeal, that Appellant was not qualified to enroll in health insurance coverage. Once Appellant submitted acceptable proof of lawful presence following outreach efforts by the Appeals Unit, Appellant was found eligible for subsidized ConnectorCare coverage in which Appellant is now enrolled.

ORDER

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector's October 12, 2017 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA17-3047

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue Eligibility for subsidized Health Connector plans, based on failure to verify income

Hearing Date: January 26, 2018

Decision Date: February 20, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 26, 2017, Appellant was determined eligible for Health Connector plans, but ineligible for subsidies due to failure to verify income

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 26, 2018.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file,
- Exhibit 2: Correspondence from Connector Appeals Unit
- Exhibit 3: Hearing Request Form and support documents, signed by Appellant on November 28, 2017
- Exhibit 4: Notice on Appeal, dated October 26, 2017
- Exhibit 5: Eligibility Results and Application Summary
- Exhibit 6: Historic Eligibility Results and Application Summary

- Exhibit 7: Health Connector's Request for information and documents dated April 18, 2017 and September 4, 2017
- Exhibit 8 Updated eligibility results for 2018 coverage

FINDINGS OF FACT

The record shows, and I so find:

1. During 2017, Appellant was covered by a subsidized Health Connector Plan (Testimony of Appellant).
2. In March, 2017, April 2017 and September 2017, Appellant was sent notices to send in proof of income in order to continue the subsidized health insurance (Exhibits 5 and 7).
3. On October 18, 2017, Appellant sent the Health Connector proof of income (Exhibits 7 and Testimony of Appellant).
4. Based upon the documents sent by Appellant on October 26, 2017, Appellant was re-determined and found eligible for Health Connector Plans without subsidies, beginning on December 1, 2017 (Exhibit 5).
5. On November 30, 2017, Appellant updated the Application again and Appellant was found eligible for Health Connector Plans with Advance Premium Tax Credits beginning in January 1, 2018 (Exhibit 8).
6. At the time of the hearing, Appellant was appealing the determination regarding December 1, 2017 (Testimony of Appellant).
7. Appellant is self-employed and the income changes frequently (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Health Connector requested income information in March, April and September 2017. Appellant did not send in requested information verifying income for 2017 until October 26, 2017. Based on the information submitted by Appellant on October 26, 2017, Appellant was found eligible for Health Connector Plans without subsidies, beginning on December 1, 2017.

While the Appellant sent in documents verifying income on October 26, 2017, the Health Connector correctly found that the Appellant was eligible for Health Connector plans without subsidies, based on electronic data sources after the Appellant failed to verify income, and that determination is upheld. The determination was also the same after consideration of the updated income information. Appellant further updated the information for 2018 coverage and a new determination was made.

ORDER

The Appeal is denied.

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

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

ADDENDUM

By the time of the hearing, Appellant had updated income for 2018 coverage. Appellant was only appealing the coverage in December 2017. Appellant was advised to immediately contact the Health Connector since there may have been an issue about a payment for December that may affect Appellant's coverage.

Appellant is self-employed and was planning to consult with a tax professional regarding income. Appellant was advised to make income updates whenever there was a change in income.

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA17-3219

Appeal Decision: Appeal denied

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

Hearing Date: January 23, 2018

Decision Date: February 15, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 26, 2017, the appellant was advised that he did not qualify for Health Connector Plans with Advance Premium Tax Credits, and that his eligibility for his current coverage would end on February 28, 2017.¹ (Ex. 3) The appellant filed an appeal which was received on December 8, 2017 (Ex. 4) based on income, residency and other reason (“non-communication”). The matter was referred to a hearing after receipt of the appeal. (Exs. 10,11)

ISSUE

Was the Connector’s decision regarding the appellant’s lack of qualification for Health Connector Plans correct at the time of its determination on November 26, 2017, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 23, 2018, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence:

Ex. 1—Health Connector’s Request for Information dated January 19, 2017 (6 pages)

¹ It appears that the date of February 28, 2017 in the Connector’s notice is a typographical error, and that the correct date of termination should be February 28, 2018.

- Ex. 2—Health Connector’s Request for Information dated February 15, 2017 (6 pages)
- Ex. 3—Health Connector’s Notice of Eligibility Termination dated November 26, 2017 (6 pages)
- Ex. 4—Hearing Request Form received on December 8, 2017
- Ex. 5—Acknowledgment of Appeal dated December 11, 2017 (6 pages)
- Ex. 5A—Appeals Unit Notes (2 pages)
- Ex. 6—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for November 25, 2017 (2 pages)
- Ex. 7—Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 8—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for December 7, 2017 (2 pages)
- Ex. 9—Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 10—Notice of Hearing dated December 18, 2017 (5 pages)
- Ex. 11—Notice of Hearing dated January 5, 2018 (5 pages)
- Ex. 12—Affidavit of Connector representative

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 31-years-old, is single, and has a tax household size of one. (Testimony, Exs. 7,9)
2. The appellant was enrolled in a Health Connector plan with Advanced Premium Tax Credits (APTC) for most of 2017 for which he paid a monthly premium of approximately \$337.00. (Testimony)
3. By letter dated January 19, 2017, the Health Connector notified the appellant that it could not verify that he qualified to purchase a Health Connector plan, and requested that he submit proof of income and residency by April 19, 2017 in order to remain eligible for coverage. (Ex. 1)
4. By letter dated February 15, 2017, the Health Connector sent the same Request for Information to the appellant, and indicated that failure to submit the proof it requested by April 19, 2017 could result in loss of coverage. (Ex. 2)
5. It is not known when or if the appellant submitted the documentation requested in the Connector’s letters of January 19, 2017 and February 15, 2017.
6. By letter dated November 26, 2017, the Health Connector notified the appellant that he no longer qualified for a Health Connector Plan with APTC because he did not submit the information it needed to verify his eligibility for a Health Connector Plan. The appellant was further notified that his Federal Poverty Level (FPL) based on his self-reported income was determined to be 298.51%, but the FPL used to decide his program eligibility was 359.18%. The letter stated that the Connector’s determination was based on “data from other sources” because it did not receive the documents it had requested, and indicated that his coverage would end on February 28, 2017. (See FN 1) (Exs. 3,6)
7. On the application connected with the November 26, 2017 program determination, the appellant entered a projected yearly income of \$36,000.00. In the Contact Information, he listed an address in Town A, and in the Family and Household section, he listed an address in Town B. (Ex. 7)
8. The appellant appealed the Connector’s November 26, 2017, determination on December 8, 2017. The reason for the appeal was based on income, residency and “non-communication”. The appellant stated that “I am a

Massachusetts resident ready, willing and able to provide income information, and the health connector has accepted all monthly premium payments plus two additional payments made in error in or around September and October 2018. I hereby request that my coverage be reinstated as aid pending appeal.” (Ex. 4)

9. On December 7, 2017, the Health Connector notified the appellant that he qualified for ConnectorCare Plan Type 3A with an APTC of \$0.00, effective January 1, 2018. The FPL used to decide his program eligibility was 235.42%. The appellant enrolled in a plan beginning on January 1st and his monthly premium is \$96.00. (Testimony, Ex. 8)

10. On the application connected with the December 7, 2017 program determination, the appellant entered a projected yearly income of \$27,967.51. In both the Contact Information section and the Family and Household section, he listed an address in Town A. (Ex. 9)

11. The Health Connector’s notices dated January 19, 2017, February 15, 2017, and November 26, 2016, were sent to an address in Town B. (Exs. 1,2 ,3)

12. The appellant lived at a few different addresses and was homeless for portions of 2017. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

On November 26, 2017, the appellant was advised that he no longer qualified for a Health Connector Plan with APTC because he failed to provide the requested documentation to verify his continued eligibility. The appellant argues that this determination was incorrect because he responded to the Connector’s requests at all times.

Pursuant to 26 IRC section 36B and 45 CFR 155.305(f), certain taxpayers are eligible for an APTC if their household income is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant’s behalf, based on a projected yearly income. Taxpayers who qualify for an APTC and who have projected yearly income less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector’s ConnectorCare program, pursuant to 956 CMR 12.04. The Health Connector attempts to verify an applicant’s eligibility by checking electronic data sources to confirm the information provided by the applicant, including the applicant’s income, in accordance with 45 CFR 155.320(d). When the Connector cannot verify an applicant’s income electronically, it requests verifying information, in accordance with 45 CFR 155.315(f). If an applicant does not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR 155.315(f)(5), 155.320(c)(3)(i)(D).

On January 19, 2017 and February 15, 2017, the Health Connector requested proof of income and residency in order to determine the appellant’s eligibility to purchase a Health Connector plan. Both requests included a list of acceptable documents to verify income and residence. The Connector did not receive the information that it requested and in a notice dated November 26, 2017, advised the appellant that it could not verify his eligibility to purchase a Health Connector plan pursuant to 45 CFR 155.315(f). Since the appellant failed to provide the requested verification, the Connector relied on data it had available from other sources to issue its determination.

Subsequent to the November 26, 2017 determination, the appellant submitted documentation to verify his income, and on December 7, 2017, he was determined eligible for a ConnectorCare plan effective January 1, 2018, based on household income within 235.42% of the FPL.

It appears that some of the problems the Connector had in verifying the appellant’s information stemmed from the fact that he lived at different addresses in 2017, and either did not receive or did not pick up the letters in

which it requested specific documentation to confirm his eligibility for insurance. Moreover, the application on which the November 26, 2017 determination was based contained two different addresses. Following notification of insurance termination, the appellant evidently updated his address information and submitted sufficient income information to qualify for coverage beginning in January, 2018 .

Based upon the totality of the evidence, it is concluded that the Connector's determination on November 26, 2017, regarding the appellant's ineligibility for Health Connector Plans due to failure to provide requested information, was correct and is therefore affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility for subsidized insurance based on income at or under 100% of the federal poverty level (FPL)

Hearing Date: December 15, 2017

Decision Date: January 29, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 24, 2017, the Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant's income was 0% of the federal poverty level, which was less than the minimum income of 100% of the federal poverty level that is the minimum income to be eligible for Health Connector plans with subsidies.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant's income level.

HEARING RECORD

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Page 1 of Appeal Number: ACA 18-2934

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The Appellant appeared at the hearing, through his daughter which was held by telephone, on December 15, 2017.

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

- Exhibit 1: Health Connector notice of eligibility determination (17 pages, dated December 24, 2017)
- Exhibit 2: Appellant's appeal request form (1 page, dated November 14, 2017)
- Exhibit 3: Health Connector's Determination Results and Review Computer Printout (3 pages, dated October 2, 2017)
- Exhibit 4: Health Connector's Hearing Notice (5 pages, dated November 28, 2017)
- Exhibit 5: Health Connector's Hearing Record Affidavit undated
- Exhibit 6: Open Record Document from the Health Connector

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies on October 24, 2017. (Exhibit 1, Exhibit 3)
2. The Appellant was not found eligible for subsidized health insurance through the Health Connector because his income level was \$0.00 or 0% of the Federal Poverty Level, which is under 100% or \$11,777.00 for a single person in 2016, of the Federal Poverty Level (Exhibit 2, Exhibit 3)
3. Appellant stated through his representative that he had no income and stated the same on his appeal document. (Exhibit 2 and 3)

ANALYSIS AND CONCLUSIONS OF LAW

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

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must have an income at or above 100% of the Federal Poverty Level, which is \$11,777.00 for a single person.

The Appellant attested on his application that his income is below 100% of the Federal poverty level and verified this through his representative at the hearing. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination. The Appellant's appeal is therefore denied.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3098

Appeal Decision: Appeal Denied. The Connector's determination of Appellant's eligibility for subsidies is affirmed

Hearing Issue: Whether the Connector correctly determined Appellant's eligibility for subsidies based on income

Hearing Date: January 26, 2018

Decision Date: February 15, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 24, 2017 a determination was made based on Appellant's updated application for subsidized health insurance for coverage beginning on January 1, 2018. The Health Connector determined Appellant to be eligible for a Health Connector Plan with Advance Premium Tax Credit.

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit based on the information provided on the updated application.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on January 26, 2018. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

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

Exhibit 2: Correspondence from Appeals Unit

- Exhibit 3: Hearing Request Form
- Exhibit 4: Notice on Appeal, dated October 24, 2017
- Exhibit 5: Eligibility Results and Application Summary
- Exhibit 6: New Eligibility Results

FINDINGS OF FACT

The record shows, and I so find:

1. During 2017, Appellant had been covered by a ConnectorCare Plan Type2B with Advance Premium Tax Credit (Exhibit 6 and Testimony of Appellant).
2. In October 2017, Appellant updated the application information for 2018 coverage and provided information about projected income (Exhibit 5 and Testimony of Appellant).
3. On October 24, 2017, Appellant was notified by the Connector that Appellant was eligible for a Health Connector Plan with an Advance premium Tax Credit for 2018 (Exhibit 4).
4. The cost of the new plan increased substantially (Testimony of Appellant).
5. Appellant became unemployed in October 2017 and was still unemployed at the time of the hearing (Testimony of Appellant).
6. Appellant's income was much lower than listed on the October application, due to unemployment (Testimony of Appellant).
7. On November 30, 2017 Appellant filed for an appeal, based upon income (Exhibit 3).

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.

In 2017, Appellant had been covered by a ConnectorCare Plan Type 2B with Advance Premium Tax Credits. In October 2017, Appellant updated the application for 2018 coverage. Appellant was then found eligible for a Health Connector Plan with Advance Premium Tax Credit for 2018. The cost of the plan increased substantially. Appellant became unemployed in October 2017 and Appellant's income decreased. Appellant filed an appeal on October 24, 2017, based upon income. See Exhibits 3, 4, 5 and 6 and Testimony of Appellant, which I find to be credible.

The Connector made the correct determination based upon the information that was provided to the Connector at the time of Appellant's update and application. However, if Appellant's projected income has changed,

Appellant should update the application with new projected income information. Appellant was advised to immediately contact the Health Connector to update the application.

ORDER

Appellant's appeal is denied. The determination by the Connector is affirmed.

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

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

ADDENDUM:

Appellant was provided with the customer service phone number of 1-877-623-6765 so that Appellant could update the application with the current income.

If Appellant expects the income to be different than the amount attested to on the application for health insurance through the Connector, Appellant should contact customer service and correct the information. Appellant should note that Appellant should provide a very accurate statement of income and also should update the income amount whenever Appellant's income changes or there is a change in family size. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3132

Appeal Decision: Appeal Denied

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

Hearing Date: January 24, 2018

Decision Date: January 31, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 1, 2017, Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant had access to affordable employer sponsored insurance that met minimum value standards.

ISSUE

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

HEARING RECORD

Appellant and Representative appeared at the hearing, which was held by telephone on January 24, 2018.

The hearing record consists of the testimony of Appellant and 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: Correspondence from Appeals Unit
- Exhibit 3: Notice of Appeal and Support documents

Exhibit 4: Connector letter, dated November 1, 2017 denying Appellant's eligibility to obtain subsidized health insurance

Exhibit 5: Eligibility results and application summary

FINDINGS OF FACT

The record shows, and I so find:

1. On November 1, 2017, Appellant applied for a Health Connector Plan with subsidies (Exhibit 5).
2. Appellant was determined eligible for Health Connector plans without subsidies on November 1, 2017 (Exhibits 4 and 5).
3. Appellant was not found eligible for subsidies because Appellant indicated that Appellant had access to employer sponsored health insurance (Exhibit 5).
4. Appellant appealed the Connector's action on December 1, 2017, stating that Appellant's FPL is 202.47% and Appellant cannot afford the premium for an unsubsidized plan (Exhibit 3).
5. Appellant's employer does offer employer sponsored health insurance (Testimony of Representative).
6. Representative testified that the cost of the employer sponsored health insurance was very high, but did not know the current amount that it would cost (Testimony of Representative).

ANALYSIS AND CONCLUSIONS OF LAW

On November 1, 2017, Appellant applied for a Health Connector plan with subsidies. The Connector determined that Appellant was eligible for Health Connector plans without subsidies. Appellant was denied subsidies because Appellant's application stated that Appellant had access to employer sponsored insurance. Appellant appealed the Connector's denial on December 1, 2017, stating that Appellant had a FPL of 202.47% and should qualify for assistance. Appellant's application showed that Appellant had access to employer sponsored health insurance. Appellant testified that the cost of the employer sponsored health insurance was very high but Appellant did not know the current amount that it would cost. See Testimony of Appellant and Representative, which I find to be credible and Exhibits 3, 4, and 5.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2018 if the employee's required contribution for self-only coverage is 9.56 percent or less of the employee's projected

household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant attested on the updated application that Appellant had access to employer sponsored insurance. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination. The Appellant's appeal is therefore denied.

Since the Appellant testified at hearing that the cost of the employer sponsored health insurance was not known, Appellant was encouraged to contact the employer for information and then to update the application with the Health Connector.

ORDER

The appeal is denied.

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3178

Appeal Decision: Appeal Denied

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

Hearing Date: January 9, 2018

Decision Date: February 22, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 1, 2017, the Connector determined the Appellant eligible in 2018 for ConnectorCare Plan Type 3B with Advance Payments of the Premium Tax Credit (APTC) of \$200 monthly.

ISSUE

Whether the Health Connector correctly determined that the Appellant was eligible in 2018 for ConnectorCare Plan Type 3B with a \$200 tax credit and for renewal in his current health plan for a monthly premium of \$128, based on the Appellant's failure to verify his income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 9, 2018. At the end of the hearing, the record was closed. On January 25, 2018, the record was re-opened until February 11, 2018, for the Health Connector to submit additional evidence. The Connector provided such evidence on January 30, 2018, and the record was closed.

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

- Exhibit 1: Affidavit
- Exhibit 2: 11/1/17 Final Renewal Notice (32 pages)
- Exhibit 3: 12/6/17 Appeal (3 pages)

- Exhibit 4: 12/7/17 Appeal Acknowledgement (4 pages)
- Exhibit 5: 12/19/17 Appeals Outreach Notes (2 pages)
- Exhibit 6: 2018 Eligibility Results for 10/31/17 Application (5 pages)
- Exhibit 7: 2017 Eligibility Results for 10/18/16 Application (6 pages)
- Exhibit 8: 12/21/17 Hearing Notice (6 pages)
- Exhibit 9: 1/30/18 Statement Regarding Appellant's Renewal Process

FINDINGS OF FACT

The record shows, and I so find:

1. On October 18, 2016, the Appellant applied to the Connector for 2017 health insurance coverage. In his application, the Applicant self-reported income that equaled 218.48% of FPL. This FPL percentage was used in determining the Appellant's program eligibility for 2017. Based on this FPL, the Connector determined the Appellant eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credit of \$184. (Exhibit 7)
2. During the yearly renewal process, the Connector either relies on income verifications submitted by the applicant within the past year or on data from the Federal Data Hub. (Exhibit 9)
3. On October 31, 2017, the Appellant applied to the Connector to renew his health insurance coverage for 2018. The Appellant's application showed the same income for the same job as he had reported one year earlier, when he had applied for 2017 coverage. However, information from other data sources indicated that the Appellant's 2017 income was higher and equaled 263.86% of FPL. As the Appellant had not verified his income within the past year, the Connector relied on data from this data from other sources in determining his eligibility. (Exhibits 6 and 9)
4. By Final Renewal Notice, dated November 1, 2017, the Connector notified the Appellant that he was eligible for ConnectorCare Plan Type 3B in 2018; and, that he could renew his current health plan in 2018, using his \$200 tax credit to reduce the cost, for a \$128 monthly premium. The notice stated in the first paragraph: "If you've had any changes to your household since you last updated your account, it's important to let us know about these changes at this time." The letter also stated that the Appellant must update any changes in income and should do so within 30 days; and, that he could update his information through his online account or by calling Customer Service. The letter provided the Appellant's username for logging into his online account. (Exhibit 2)
5. On December 6, 2017, the Appellant appealed the Connector's 11/1/17 determination, circling "Income" and stating that he "got laid off," in the comment section of the Hearing Request Form. (Exhibit 3)
6. On December 7, 2017, in response to receiving the Appellant's appeal, the Appeals Unit attempted to speak with the Appellant by phone and left a voice-mail message, requesting the Appellant to update his income information on his Connector account. (Exhibit 5)
7. On December 19, 2017, the Appeals Unit spoke with the Appellant by phone. The Appellant stated that he was no longer working. The Appeals Unit advised the Appellant that his application currently stated that he was still working and that he needed to contact Customer Service to report this change on his application. (Exhibit 5)
8. On January 9, 2018, the Appellant reported an income change to the Health Connector, and the Appellant is now eligible for MassHealth. (Exhibit 9)

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, the Appellant was found eligible for ConnectorCare in 2018 but with a lower subsidy than in 2017, based on information from other sources, because the Appellant had failed to verify his income within the past year. The Appellant's income had indeed changed since October 2016, when he had last applied for coverage, and it was the Appellant's responsibility each year to verify his income and to report any changes in income to the Connector as soon as possible.

On November 1, 2017, because the Appellant had failed to verify his income, the Health Connector reverted to electronic data sources, as required by law, and found that the Appellant's household income higher than he had reported in October 2016. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). Accordingly, the Health Connector correctly determined that the Appellant was eligible in 2018 for ConnectorCare Plan Type 3B with a \$200 tax credit and for renewal in his current health plan for a monthly premium of \$128, based on the Appellant's failure to verify his income.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3292

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

Hearing Issue: Whether the Connector correctly determined that the appellants were not eligible to purchase health insurance through the Connector because of failure to establish lawful presence in the United States.

Hearing Date: January 11, 2018

Decision Date: February 12, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 13, 2017, the Connector determined that the appellants were not eligible to purchase health insurance through the Connector because Connector records indicated that the appellants were not lawfully present in the United States.

ISSUE

Whether the Connector correctly determined pursuant to 45CFR155.305(a)(1) that the appellants were ineligible to purchase a health insurance plan through the Connector because they attested on their application that they were not citizens of the United States and that they had no immigration status.

HEARING RECORD

The appellants' representative appeared at the hearing, which was held by telephone, on January 11, 2018. Neither appellant was present. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were also reviewed with the representative, marked as exhibits, and admitted in evidence with no objection from the representative. The representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellants' file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 21, 2017 addressed to Appellant for January 11, 2018 hearing
- Exhibit 3: Hearing Request Form signed by Appellant on December 8, 2017 and received by the Connector on December 13, 2017
- Exhibit 4: Connector Appeals Unit letter dated December 15, 2017 addressed to Appellant

acknowledging receipt of Appellant's Request for Hearing

- Exhibit 5: Summary and results of Appellants' application for Connector health plan dated November 13, 2017
- Exhibit 6: Connector letter to Appellant dated November 13, 2017 denying Appellants' eligibility to obtain health insurance through the Connector
- Exhibit 7: AVV print-outs regarding appellants' program determination
- Exhibit 8: Print-out regarding Appellant's limited MassHealth benefits
- Exhibit 9: Letter to Connector received January 2, 2018 with copies of Appellants' permanent resident cards issued July 28, 2017 and expiring on July 28, 2027
- Exhibit 10: Connector Appeals Unit outreach notes, December, 2017 and January, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied to purchase health insurance through the Connector in November, 2017. On the November, 2017 application, Appellants indicated that Appellants were not citizens of the United States and did not have an immigration status (Exhibit 5, Testimony of Appellants' Representative).
2. On November 13, 2017, the Health Connector determined that the appellants were not eligible to purchase health insurance through the Connector because of failure to establish lawful presence in the United States. In the determination letter, the appellants were informed that if the information about Appellants' status was incorrect, Appellants could submit additional proof (Exhibits 5 and 6).
3. The Connector's determination was based upon information received from the appellants on their application and from information received from the United States Department of Homeland Security about the applicants' immigration status (Exhibits 5, 6, and 7).
4. Appellants filed a request for an appeal of the Connector's determination on December 13, 2017. Appellants attached copies of the front and back of their permanent resident cards issued on July 28, 2017 which expire on July 28, 2027 (Exhibits 3, 9).

ANALYSIS AND CONCLUSIONS OF LAW

Appellants applied for health insurance coverage through the Connector in November, 2017. On November 13, 2017, the Connector denied Appellants' eligibility for health insurance because the appellants were determined to be unlawfully present in the United States based upon information received from the United States Department of Homeland Security and from information supplied by the appellants on their application. Appellants appealed the Connector's denial on December 13, 2017. See Exhibits 3, 5, 6, and 7.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR155.305(a)(1).

Appellants attested on their application that they were not citizens of the United States and that they had no immigration status. See Exhibit 5. The Connector then verified the attestation. See Exhibit 7.

What is at issue here is whether the Connector made the correct determination at the time it decided that appellants were ineligible for coverage. Given the information the Connector received from Homeland Security and the information supplied by the appellants on their Connector application where they attested that they were not United States citizens and had no immigration status, the Connector made the correct determination at the time it was made. See 45 CFR 155.305(a)(1).

ORDER: The action taken by the Connector denying Appellants' eligibility is affirmed.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM:

Appellants also attested on their application that they did not intend to file Federal income taxes. If they still wish to obtain health insurance through the Connector, they will need to amend their application to indicate that they intend to file the Federal tax return. They may do this on-line at MAhealthconnector.org or by calling the Connector at 1-877-623-6765. They have already sent to the Connector proof of their permanent resident status, so they do not need to amend their application regarding their lawful status.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3347

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; income; timeclock expiration

Hearing Date: January 10, 2018

Decision Date: February 2, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 25, 2017, Appellant submitted an application for subsidized insurance, and was found eligible for Health Connector Plans without subsidies.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans without subsidies, based on the information available to the Connector.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 10, 2018. The hearing was recorded. The record was left open to allow the Appellant to submit additional documents regarding proof of income submission. The hearing was further left open for the Connector to submit request for information notices. 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 (12-22-17) (9 pages);
- Exhibit 3: Acknowledgement of Appeal (12-20-17) (9 pages);
- Exhibit 4: Hearing Request form (12-15-17) (with documents) (15 pages);

- Exhibit 5: Information from application and results (8 pages);
Exhibit 6: Affidavit re procedures (1 page);
Exhibit 7: Updated eligibility results and application (7 pages);
Exhibit 8: Additional documents submitted by Appellant pursuant to open record (11 pages); and
Exhibit 9: Request for Information and other documents submitted by Connector pursuant to open record (11 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in February 2017.
2. Appellant was deemed eligible for ConnectorCare Plan Type 3A with subsidies in March 2017 and was requested to provide proof of income by May 26, 2017.
3. When Appellant submitted a renewal in November 2017, Appellant was deemed eligible for Health Connector Plans without subsidies. The Health Connector deemed Appellant's household income to be equivalent to 597.26% of the Federal Poverty Level based upon information from other sources because Appellant had not submitted the information pursuant to the Request for Information from February 2017.
4. Appellant's income based upon her self-reported income was equivalent to 142.69% FPL.
5. Appellant sent in the proof of income on December 15, 2017. However, the Health Connector did not process the information prior to the January 2018 premium becoming due.
6. Appellant appealed and stated that they could not afford the premiums.
7. Subsequently, Appellant's eligibility was re-determined, and Appellant was deemed eligible for ConnectorCare Plan Type 2A with subsidies.
8. Appellant continued the appeal based on wanting a refund of the excess premium she believed she paid for January 2018.

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, both the self-reported income and the verified income FPL is under 300%.

Appellant applied for health insurance coverage through the Connector in February 2017. In March 2017, Appellant was found eligible for ConnectorCare Plan Type 3A and was requested to provide proof of income. Appellant did not submit the documentation requested. In November 2017, Appellant was notified that Appellant

was eligible for Health Connector Plans without subsidies based on information from other sources because Appellant had not supplied the requested proof of income. Appellant filed an appeal, and submitted the required proof of income. However, the documentation was not processed prior to the January 2018 premium due date. Subsequently, based upon the information submitted, Appellant was re-determined as eligible for ConnectorCare Plan Type 2A with subsidies.

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.

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 18-3355

Appeal Decision: The Appellant was determined to be ineligible for MassHealth and Health Connector benefits based on non-residency.

Hearing Issue: Proof of residency.

Hearing Date: 1/8/2018

Decision Date: 1/22/2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 21, 2016, Appellant was determined ineligible for MassHealth and Health Connector plans. The reason the Appellant was determined ineligible was because s/he did not provide the information necessary to verify residency in accordance with 45 CFR 155.315(f).

ISSUE: Whether the Appellant was appropriately determined to be ineligible for MassHealth and Health Connector Plans.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 1/8/2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence. Exhibits 1-5 were admitted into evidence at the hearing. The record was left open until 1/29/2018 to permit the Appellant to provide additional documentation. The document was received within the specified time period, and has therefore also been entered into evidence as Exhibit 9. The record is now closed.

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

- Exhibit 1: Affidavit of Nancy Stehfest
- Exhibit 2: Notice of Hearing and Information
- Exhibit 3: Hearing Request Form and documentation

- Exhibit 4 and 5: Eligibility Determination
- Exhibit 6: Request for Information
- Exhibit 7: Health Connector Enrollment Information
- Exhibit 8: Health Connector Appeals Data
- Exhibit 9: Affidavit of Appellant

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Health Connector and, on November 4, 2017 received a notice that s/he was ineligible for health insurance coverage due to a lack of acceptable proof of residency. (Exhibits 4, 5)
2. The Appellant had provided a driver’s license to demonstrate residency, which is not one of the eleven acceptable types of acceptable documentation. (Exhibits 4, 5)
3. At the hearing, the Appellant and the Hearing Officer discussed the acceptable types of documentation.
4. The Record was held open until 1/29/2018, and the Appellant provided an Affidavit of Residency within the designated time period.

ANALYSIS AND CONCLUSIONS OF LAW

Based upon the information given by the Appellant, the Appellant was found ineligible for Health Connector Plans based on residency. Under 45 CFR §155.305(a)(3) and M.G.L. §176Q(1) and 956 CMR 12.08(1) only persons who are residents of Massachusetts are eligible for health insurance through the Massachusetts Health Connector.

ORDER

The Appeal is denied.

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

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

ADDENDUM

The Verification Department has processed your affidavit of residency, and as of the date this decision was written, you were determined to be eligible for MassHealth. This decision does not affect your current MassHealth eligibility.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3360

Appeal Decision: Appeal Denied.

Hearing Issue: Whether the Massachusetts Health Connector (Connector) correctly denied the eligibility of the Appellant to enroll in health insurance through the Connector based on the information it had at the time it made its decision.

Hearing Date: January 9, 2018

Decision Date: March 1, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

In November 2017, the Connector determined that the Appellant was denied eligibility to obtain health insurance through the Connector, since he was not lawfully present in the United States.

ISSUE

Whether the Massachusetts Health Connector correctly denied the eligibility of the Appellant to enroll in health insurance through the Connector based on the information it had at the time it made its decision.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 9, 2018. Testimony was recorded electronically. The hearing record was left open until January 23, 2018 for the submission of additional documentation by the Appellant. As of the date of this decision, no additional documentation has been submitted.

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

- Exhibit 1: Affidavit of Record Verification
- Exhibit 2: Letter to the Appellant from the Health Connector dated 11/2/2017 and entitled "Eligibility Denial"

- Exhibit 3: Appellant's Hearing Request Form received by the Connector on December 19, 2017
- Exhibit 4: Connector Appeals Unit Appeal Acknowledgment Notice dated 12/20/2017
- Exhibit 5: Memo from the Appeals Unit to the Appellant Containing form for Intent to File Taxes in 2017
- Exhibit 6: Letter to the Appellant from the Connector Appeals Unit Regarding Next Steps in the Appeal Process
- Exhibit 7: Appellant's Visa with note from the Appellant
- Exhibit 8: Appellant's Passport
- Exhibit 9: Letter verifying the Appellant's address dated November 1, 2017
- Exhibit 10: Notes from the Appellant regarding his medical condition
- Exhibit 11: After Visit Summary from medical center emergency room
- Exhibit 12: Connector Brochure "Tell Us About Changes"
- Exhibit 13: Connector Open Enrollment Brochure
- Exhibit 14: Health Connector Computer Printout of Appellant's 2017 Eligibility Results based on an application submitted on 11/2/2017
- Exhibit 15: Health Connector Computer Printout of Appellant's Application Summary
- Exhibit 16: Health Connector Computer Printout of Appellant's 2017 Eligibility Results based on an application submitted on 12/20/2017
- Exhibit 17: Health Connector Computer Printout of Appellant's Application Summary
- Exhibit 18: Health Connector AVV Form with Appellant's status
- Exhibit 19: Notice of Hearing dated 12/22/2017

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated November 2, 2017, entitled "Eligibility Denial" the Appellant was informed that he did not qualify for health insurance through the Connector because Connector records indicate that he was not lawfully present in the United States. (Exhibit 2)
2. The Appellant filed a Hearing Request Form that was received by the Connector on December 19, 2017, appealing the Health Connector's denial of eligibility for health insurance through the Connector. His appeal was based on immigration status. On the form he noted that he was lawfully present. (Exhibit 4)
3. The Appellant applied to the Health Connector for health insurance on November 2, 2017. In that application the Appellant indicated he was a "non-tax filer." He did not indicate his immigration status (Exhibits 14 and 15)
4. The Appellant was found to be eligible for "Limited + Health Safety Net." He needed to provide proof of residency. Appellant's Application Results were based on the application he submitted on November 2, 2017. (Exhibit 14)
5. The Appellant has an unexpired foreign passport. He also has a B1/B2 Visa that was issued on October 6, 2017 and expires on October 4, 2019. The Appellant submitted these documents to the Connector. (Exhibits 7 and 8)
6. The Appellant updated his application on December 20, 2017, and was found eligible to enroll in Health Connector Plans, with an eligibility effective date of January 1, 2018. (Exhibits 14 and 15)
7. On his application the Appellant indicated that he did not have a Social Security number and that his projected yearly income was \$0.00. (Exhibits 16 and 17)
8. In a letter dated December 20, 2017, from the Appeals Unit of the Health Connector, the Appellant was informed that in order to be considered for help in paying for insurance through the Health Connector, he had to state that he intended to file a tax return for 2017. There was a form for him to complete

incorporated in the letter. The Appellant had not submitted the completed form at the time of the hearing in this matter. (Appellant testimony and Exhibit 5)

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether in November 2017, the Connector correctly determined the eligibility of the Appellant to enroll in health insurance through the Health Connector. Based on the Appellant's application for subsidized health insurance submitted on November 2, 2017, the Connector correctly determined that the Appellant was not eligible to purchase health insurance through the Connector. This determination was based on the Appellant's failure to submit evidence of his lawful presence in the United States. Relying on data from other sources, the Connector found that the Appellant was not lawfully present in the United States and therefore was not eligible to enroll in health insurance through the Connector. The Appellant appealed the Connector's decision that he was ineligible to enroll in health insurance through the Connector.

In order to be eligible to enroll in health insurance through the Health Connector, the Appellant must show that he "Is a citizen or national of the United States, or is a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought." [45 CFR 155.305 (a) (1)]. The Appellant subsequently submitted a copy of his unexpired passport and visa. On December 20, 2017, the Connector found the Appellant eligible to enroll in health insurance through the Connector.

This appeal is narrowly focused and is limited to a determination of whether the Connector made the correct eligibility determination based on the information it had at the time it made its decision.

ORDER

The Connector's decision to deny the Appellant eligibility to enroll in health insurance through the Connector is upheld, and the Appellant's appeal is denied

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

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

Cc: Connector Appeals Unit

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Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3364

Appeal Decision Appeal Denied, Eligibility determination upheld

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

Hearing Date: January 11, 2018

Decision Date: February 7, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 20, 2017, Appellant was determined ineligible for Health Connector plans, due to failure to verify residency.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 11, 2018.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Correspondence from Appeals Unit of Health Connector
- Exhibit 3: Hearing Request Form and support documents sent in December, 2017
- Exhibit 4: Notice on Appeal dated November 20, 2017
- Exhibit 5: Eligibility Results and Application summary

Exhibit 6: Updated Eligibility Results

FINDINGS OF FACT

The record shows, and I so find:

1. In an eligibility determination on September 5, 2017, Appellant was found eligible for Health Connector Plans with Advance premium Tax Credits and was asked to send in documents verifying the Appellant's residency (Exhibit 5)
2. On November 20, 2017, Appellant was determined ineligible for Health Connector plans after failing to send in documents verifying residency (Exhibit 4)
3. Appellant filed an appeal on December 12, 2017 (Exhibit 3).
4. Appellant sent in documents verifying residency in December 2017, at the time that Appellant filed the Appeal (Exhibit 3).
5. On January 8, 2018, Appellant was found eligible for Health Connector Plans with Advance Premium Tax Credits (Exhibit 6)

ANALYSIS AND CONCLUSIONS OF LAW

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

On September 5, 2017, Appellant was determined eligible for Health Connector Plans and was asked to verify residency. Appellant failed to send in documents verifying residency. On November 20, 2017, Appellant was determined ineligible for Health Connector plans for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

While the Appellant has now sent in documents verifying residency, the Health Connector correctly found that the Appellant was no longer eligible for Health Connector plans on November 20, 2017, and that determination is upheld.

ORDER

The appeal is denied.

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

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

reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3367

Appeal Decision: Appeal Denied. The Connector's determination of eligibility for subsidies is affirmed.

Hearing Issue: Whether the Connector correctly determined Appellant's eligibility for subsidized insurance based upon the information supplied by the Appellant on his application.

Hearing Date: January 24, 2018

Decision Date: January 29, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance. Appellant was determined to be eligible for ConnectorCare plan type 3A and he was required to submit documents regarding proof of residency. Appellant was denied because he did not provide proof of residency.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for a ConnectorCare plan type 3A based on the information provided on the application and did the Appellants provide the information requested by the Health Connector regarding residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 24, 2018

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

Exhibit 1: Health Connector notice of eligibility determination (6 pages, dated November 25, 2017)

- Exhibit 2: Eligibility Request for Information (6 pages, dated September 28, 2017)
- Exhibit 3: Appellant's appeal request form (1 page dated December 14, 2017)
- Exhibit 4: Health Connector's Eligibility Determination Results and review Computer Printout 6 pages, dated September 28, 2017)
- Exhibit 5: Health Connector's Eligibility Determination Results and Review Application Computer Print Out (4 pages, dated November 25, 2017)
- Exhibit 6: Health Connector's Acknowledgement of Appeal (8 pages, dated December 22, 2017)
- Exhibit 7: Health Connector's Hearing Notice (4 pages, dated January 3, 2018)
- Exhibit 8: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 9: Health Connector's Eligibility Determination Results and review Computer Printout 4 pages, dated January 23, 2018)
- Exhibit 10: Notice of Eligibility Determination dated September 29, 2018, 10 pages
- Exhibit 11: Heath Connector Notes

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 35 year old single male, who applied for subsidized health insurance through the Health Connector. (Exhibit 1, Exhibit 2, Exhibit 4, Exhibit 5, Exhibit 9 & Exhibit 10)
2. The Appellant has a tax household of one. (Exhibit 1, Exhibit 4, Exhibit 5, Exhibit 9 & Exhibit 10)
3. On his application the Appellant entered a projected household income of \$19,760.00.
4. Appellant testified that he does work.
5. Appellant testified that the household income is what he thinks that he will earn in this year.
6. The Health Connector found that the Appellant's income placed him at 205.22% of the Federal Poverty Level (FPL). Appellant was eligible for ConnectorCare Plan Type 3A and he was notified that he was required to submit documentation of proof of residence to confirm his eligibility. (Exhibit 1, Exhibit 2, Exhibit 4, Exhibit 5, Exhibit 9 & Exhibit 10)
7. Appellant did not submit the documentation of proof of residence as requested. (Exhibit 1, testimony of the Appellant.)
8. The new determination made on November 25, 2017 was based on data from other sources because Appellant did not send in the documents requested. (Exhibit 1, Exhibit 2)
9. On December 14, 2017, Appellant filed an appeal (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 was required to verify certain information regarding his residency, pursuant to 45 CFR s. 155.315, 45 CFR s. 315(f), 45 CFR s. 155.320. The Appellant failed to verify the information within the designated amount of time. Therefore, the Health Connector relied on information contained in third party data sources (if available), and issued a new determination in accordance with that information, pursuant to 45 CFR s. 155.315(f)(5).

Appellant applied for health insurance coverage through the Connector. He was found to be eligible for ConnectorCare type plan 2A and he was notified that he was required to submit documentation of proof of residence to confirm his eligibility. Appellant did not submit the documentation requested. The new determination was based on data from other sources because Appellant did not send in the documents requested.

ORDER

The appeal is denied. The determination of the Connector is affirmed. If Appellant has not already done so, he should immediately update his information about his 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. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3374

Appeal Decision: Appeal Denied because the Health Connector correctly determined Appellant's eligibility for enrollment in subsidized health insurance coverage based on income information available at the time of the determination.

Hearing Issue: Whether the Health Connector correctly determined Appellant's eligibility for subsidized health insurance coverage.

Hearing Date: January 17, 2018

Decision Date: February 16, 2018

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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 16, 2017, the Health Connector determined that Appellant was qualified to enroll for 2018 in Health Connector Plans with an Advance Premium Tax Credit based on a household income at 379.83 percent of the Federal Poverty Level.

ISSUE

Whether the Health Connector correctly determined Appellant's eligibility for subsidized health insurance in 2018.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 17, 2018 with the assistance of a Spanish language interpreter. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary and Results pages from Appellant's August 26, 2016 application for subsidized health insurance coverage;

Exhibit 2: Health Connector Income Verification Disposition dated November 16, 2017;

Exhibit 3: Print-out of the Summary and Results pages from Appellant's November 16, 2017 application for subsidized health insurance coverage;

Exhibit 4: Print-out of the Summary and Results pages from Appellant's December 18, 2017 application for subsidized health insurance coverage;

Exhibit 5: Print-out of the Summary and Results pages from Appellant's December 23, 2017 application for subsidized health insurance coverage;

Exhibit 6: Eligibility Approval Notice dated December 18, 2017;

Exhibit 7: Appellant's December 15, 2017 request for hearing on the Health Connector's November 16, 2017 eligibility determination;

Exhibit 8: Notice of Hearing dated December 27, 2017;

Exhibit 9: Health Connector enrollment data for Appellant dated January 17, 2018; and

Exhibit 10: Affidavit from Health Connector Keeper of Records.

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant is an adult resident of Massachusetts with three dependent household members. Testimony; Exhibits 1 and 3-6.
2. Appellant applied for subsidized health insurance coverage on August 16, 2016, and the Health Connector made a determination of eligibility for subsidized health insurance based on reported household income at 215.49 percent of the Federal Poverty Level ("FPL"). Exhibit 1.
3. Appellant submitted an application with income documentation for 2018 subsidized health insurance coverage on November 16, 2017, and the Health Connector determined on the basis of the application and supporting documentation that Appellant and dependent members of Appellant's household were qualified to enroll for 2018 in Health Connector Plans with an Advance Premium Tax Credit based on a household income at 379.83 percent of the FPL. Exhibits 1 and 2.
4. Appellant filed a request a hearing on the Health Connector's November 16, 2017 eligibility determination, asserting that the Health Connector had incorrect income information. Exhibit 7.

5. Subsequent to filing the request for hearing, Appellant updated the income information in the Health Connector's data base which resulted in a new determination on December 23, 2017 of eligibility for subsidized health insurance coverage. Exhibit 5.
6. Based on the December 23, 2017 eligibility determination, Appellant and one dependent enrolled in a ConnectorCare Type 2 plan, the Boston Medical Center Health Plan, with a monthly premium of \$88.00 effective January 1, 2018. Exhibit 9.¹
7. Appellant is satisfied with the Boston Medical Center Health Plan and is not contesting the Health Connector's December 23, 2017 eligibility determination. Testimony. Appellant's income is derived from child care services and fluctuates based on the number of children receiving services. Testimony.
8. Appellant explained that the hearing that the issues regarding income were resolved by the December 23, 2017 eligibility determination, but Appellant is concerned with the status of a bill for \$1,299.00 received from the Health Connector in December 2017. Testimony.

ANALYSIS AND CONCLUSIONS OF LAW

Congress enacted the ACA in 2010 "to increase the number of Americans covered by health insurance and decrease the cost of health care." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans ("QHPs"). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans.

To further the ACA's goal of making health insurance affordable, the Internal Revenue Code was amended to make tax credits ("APTCs") available as a form of subsidy to individuals who purchase health insurance through the Exchanges. 26 U.S.C. § 36B(c)(2)(A)(i). Under the federal ACA regulations, an individual is eligible for an APTC if he or she is expected to have a household income (as defined in section 36B(d)(2) of the Internal Revenue Code) between 100 percent and 400 percent of the FPL for the benefit year for which coverage is requested. 45 C.F.R. § 155.305(f)(1). In addition to the APTC, eligible Massachusetts residents whose incomes do not exceed 300 percent of the FPL may receive additional state premium assistance by enrolling in a subsidized ConnectorCare health insurance plan. 956 Mass. Code Regs. 12.04, 12.08. In order to enroll in ConnectorCase, an individual must be eligible for the Federal APTC. 956 Code Mass. Regs. 12.04(1)(b).

The record in this case reflects that Appellant applied for health insurance coverage on November 16, 2017 and submitted income verification documentation consisting of two biweekly pay statements from October 2017. Exhibit 2. Based on the submitted income documentation, the Health Connector calculated Appellant's household income at 379.83 percent of the FPL which made Appellant ineligible for enrollment in a ConnectorCare plan. There was no error in this determination based on the income information then available to the Health Connector. Appellant, whose income apparently fluctuates so that the two pay statements from October 2017 are not fairly indicative of Appellant's annual household income, subsequently revised the income

¹ The other two dependent members of Appellant's household are enrolled in MassHealth.

information in the application database which resulted in a new eligibility determination and enrollment in a ConnectorCare plan that Appellant is satisfied with. Appellant's concerns regarding the bill received in December 2017 are beyond the scope of an eligibility appeal and have been referred at Appellant's request to the Health Connector's customer service branch for response

ORDER

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector's November 16, 2017 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Appellant was advised at the hearing that any changes to the income that Appellant they attested to in the December 23, 2017 application should be reported to Health Connector Customer Service as such changes may affect the amount of their APTCs and eligibility to enroll in ConnectorCare. Any advance premium tax credits you get during 2018 the tax year from the federal government will be reconciled when you file your 2018 tax return. This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you received too much in tax credits during the 2018 tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you received too little in tax credits during 2018 the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your 2018 tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3377

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; tax filing status

Hearing Date: February 6, 2018

Decision Date: February 19, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 14, 2017, Appellant was determined eligible for Health Connector plans with no subsidies, because Appellant was married but indicated filing taxes separately.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Care plans without subsidies, based on the information available to the Connector at that time.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 6, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (1-12-18) (4 pages);
- Exhibit 3: Outreach notes (2 pages);
- Exhibit 4: Acknowledgement of Appeal (12-22-17) (5 pages);
- Exhibit 5: Spanish to English translation of Appellant Statement (3 pages);

- Exhibit 6: Hearing Request form (12-15-17) (with statement and documents) (9 pages);
Exhibit 7: Information from application and results (13 pages);
Exhibit 8: Eligibility Approval letter (10-14-17) (12 pages); and
Exhibit 9: AVV form (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on October 14, 2017.
2. Appellant was deemed eligible for Health Connector plans without subsidies based upon information available to the Health Connector. Appellant was married but not indicated tax filing status as married filing jointly.
3. Appellant contacted her husband, received his permission to include his information, and updated her application on October 30, 2017. Based upon the updated information, Appellant was deemed eligible for ConnectorCare Plan Type 3B. Based upon the income reported, the Federal Poverty Level resulted in 272.56%.
4. Appellant also raised issues about payments she had made, and requested reimbursement for part of the payments.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans without subsidies based on tax filing status. 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 ability to reason independently.” 26 CFR § 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 CFR § 1.36B-2T(b)(2)(iv), (b)(2)(ii), (iv). Each exception may be claimed only if it has not been claimed in each of the three preceding taxable years. 26CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their 2017 taxes in accordance with the required certification, which appears on Form 8962.

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.

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

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

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2017 from the federal government will be reconciled when you file your taxes in 2018. 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 2017 (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 2017 (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 2017 will be paid to you when you file your taxes in 2018.

Note: Appellant also raised issues about overpayment and sought a refund. However, those issues were not a part of this appeal.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3439

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: January 31, 2018

Decision Date: February 19, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on December 15, 2017. The Health Connector determined the Appellant to be eligible for Connector Plan Type 2B with Advance Premium Tax Credits.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 31, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

Exhibit 1: Health Connector Notice of Eligibility Determination (12 pages, dated December 15, 2017)

- Exhibit 2: Appellant's appeal request form (2 pages dated December 25, 2017)
- Exhibit 3: Health Connector's Determination Results and Review Computer Printout (3 pages, dated December 15, 2017)
- Exhibit 4: Health Connector's Acknowledgement of Appeal (4 Pages dated December 29, 2017)
- Exhibit 5: Health Connector's Hearing Notice (4 pages, dated January 10, 2018)
- Exhibit 6: Health Connector's Hearing Record Affidavit (1 page, undated)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 29 year old unmarried female, who applied for subsidized health insurance on December 15, 2017. (Exhibit 1, Exhibit 3)
2. The Appellant has a household of one. (Exhibit 3)
3. On her application, the Appellant entered a projected annual modified adjusted gross income of (MAGI) of \$19,000.00.
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 157.55% of the 2017 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL. (Exhibit 3)
5. Appellant testified that her income varied and did not allow her to afford the health insurance coverage. Appellant has not updated her projected income with the Health Connector.

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 because her income varies from month to month.

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

On her application, the Appellant stated that her projected MAGI was \$19,000.00, which for a household of one, puts the Appellant at approximately 157.55% of the 2017 Federal Poverty Level. This means that the Appellant's household was less than the 300% limit for eligibility for subsidies, and therefore the Health Connector correctly found the Appellant eligible for ConnectorCare Plan 2B.for ConnectorCare. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied. The determination by the Connector is affirmed. Appellant should notify the Connector when and if her projected income changes.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3441

Appeal Decision: Appeal Denied

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

Hearing Date: January 31, 2018

Decision Date: February 19, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 30, 2017, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 31, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and Appellant's representative were sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector Notice of Eligibility Determination (6 pages, dated November 30, 2017)
- Exhibit 2: Appellant's appeal request form (2 pages dated December 26, 2017)
- Exhibit 3: Health Connector's Determination Results and Review Computer Printout (4 pages, dated November 30, 2017)
- Exhibit 4: Health Connector's Acknowledgement of Appeal (4 Pages dated December 26, 2017)
- Exhibit 5: Health Connector's Hearing Notice (4 pages, dated January 10, 2018)
- Exhibit 6: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 7: Health Connector Notes

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on November 30, 2017, based on being eligible for Medicare. (Exhibit 1, Exhibit 3, Appellant's testimony)
2. Appellant was enrolled and is enrolled in Medicare & MassHealth. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

When the Appellant's eligibility for 2017 coverage was determined on November 30, 2017, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that she was eligible for Medicare. Because the Appellant was eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3593

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; tax filing status

Hearing Date: February 15, 2018

Decision Date: February 26, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 20, 2018, Appellant was determined eligible for Health Connector plans with no subsidies, because Appellant was married but indicated filing taxes separately.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Care plans without subsidies, based on the information available to the Connector at that time.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 15, 2018. The Appellant's Representative also appeared at the hearing. The hearing was recorded. The hearing record consists of the Appellant's and the Appellant's Representative'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 (1-25-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (1-23-18) (5 pages);
- Exhibit 4: Hearing Request form (1-21-18) (1 page);

- Exhibit 5: Email re hearing and information (1-23-18) (2 pages);
Exhibit 6: Information from application and results (4 pages);
Exhibit 7: Eligibility Approval letter (1-20-18) (8 pages); and
Exhibit 8: AVV form (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on January 20, 2018.
2. Appellant was deemed eligible for Health Connector plans without subsidies based upon information available to the Health Connector. Appellant was married but had not indicated tax filing status as married filing jointly.
3. Appellant's husband is not in the country and the Appellant is pursuing a divorce. However, Appellant's husband's whereabouts and contact information is known to the Appellant.
4. Appellant did not indicate that there was domestic violence.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans without subsidies based on tax filing status. 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 ability to reason independently." 26 CFR § 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 CFR § 1.36B-2T(b)(2)(iv), (b)(2)(ii), (iv). Each exception may be claimed only if it has not been claimed in each of the three preceding taxable years. 26CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their 2017 taxes in accordance with the required certification, which appears on Form 8962.

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.

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

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

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2017 from the federal government will be reconciled when you file your taxes in 2018. 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 2017 (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 2017 (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 2017 will be paid to you when you file your taxes in 2018.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3639

Appeal Decision: Appeal Approved

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

Hearing Date: February 13, 2018

Decision Date: February 14, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Appellant submitted an application for subsidized health insurance on November 4, 2017. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies effective February 1, 2018.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's eligibility based on the income information provided by the Appellant on January 10, 2018.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 13, 2018. The Record was left open after the Hearing concluded to allow the Health Connector and the Appellant to submit additional documentation. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 26, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Hearing Request submitted by Appellant on January 23, 2018.
- Exhibit 5: Health Connector's Eligibility Approval Notice dated January 10, 2018.

- Exhibit 6: Health Connector's 2018 Eligibility Results computer printout with an Application Summary dated January 10, 2018.
- Exhibit 7: Health Connector's 2017 Eligibility Results computer printout with an Application Summary dated October 26, 2016.
- Exhibit 8: My Work Space printout of documents received by the Health Connector on January 8, 2018.
- Exhibit 9: Income verification submitted by the Appellant after the Hearing concluded on February 13, 2018.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits effective January 1, 2017 (Exhibit 7).
2. The Appellant applied for subsidized health insurance through the Health Connector on November 4, 2017 (Exhibits 6, 8).
3. The Appellant has a tax household size of five (Exhibit 6).
4. On their application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$91,800 for 2018 (Exhibit 6).
5. On November 4, 2017 the Health Connector issued a Request for Information. The Appellant was asked to submit proof of income (Exhibit 8).
6. On January 8, 2018 the Appellant submitted a copy of their 2016 Tax Return including all relevant schedules (Exhibit 8).
7. On January 10, 2018 the Health Connector determined that based on the Appellant's household size, that the Appellant's projected MAGI of \$117,340 would place Appellant at approximately 407.71% of the 2018 Federal Poverty Level (FPL) (Exhibit 6).
8. On January 10, the Health Connector determined the Appellant eligible for Health Connector Plans without Advance Premium Tax Credits effective February 1, 2018 (Exhibit 6).
9. The Appellant filed an appeal on January 23, 2018 (Exhibit 4).
10. The Appellant testified credibly that they are self-employed as Dairy Farmers. The Appellant said that when the Health Connector determined their household's income, the Health Connector failed to consider the allowable self-employment income deductions. The Appellant testified that they had submitted their 2016 tax return with all relevant schedules to the Health Connector. The Appellant testified that the family's income is expected to be approximately the same for 2018.
11. The Record was left open to allow the Health Connector to submit a copy of the documentation used to determine the Appellant's MAGI. The Appellant was also asked to submit a copy of their 2016 tax return. The Appellant was advised to update their income information on their Application.
12. The Health Connector and the Appellant submitted copies of the Appellant's 2016 tax return after the Hearing concluded (Exhibits 8, 9).
13. The Health Connector made a processing error. The Health Connector failed to consider the Appellant's allowable self-employment income deductions when calculating the Appellant's MAGI (Exhibits 6, 8).
14. The Appellant's verified MAGI of \$91,351 is less than 400% of the federal poverty level, which is \$115,120 for the Appellant's household of five (Exhibits 8, 9).
15. On January 10, 2018 the Health Connector incorrectly determined that the Appellant was eligible for Health Connector Plans without Advance Premium Tax Credit.
16. Since the Appellant's attested income of \$91,800 is less than 400% of the federal poverty level, the appellant is eligible for Advance Premium Tax Credit (Exhibits 6, 8, 9; Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on November 4, 2017. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant attested to projected income of \$91,800 for their household of five for tax year 2018. The Appellant was asked to provide verification of income. The Appellant submitted a copy of their 2016 Tax Return with attached schedules. The Health Connector processed the Appellant's income verification using the Appellant's gross income of \$117,340. The Appellant is self-employed. The Appellant is allowed certain income deductions associated with the costs of income production. Line 37 from the Appellant's Form 1040 verifies Adjusted Gross income of \$91,351. MAGI is defined under Internal Revenue Code section 36B. The Appellant did not have foreign income, tax exempt interest or Social Security benefits. In Accordance with 26 U.S.C. § 36B(d)(2)(b), the Appellant's MAGI is \$91,351. This is consistent with the Appellant's attested income of \$91,800 as reported on their November 2017 application. This income is less than 400% of the Federal Poverty Level, which is \$115,120 for the Appellant's household of five.

Based on the information provided by the Appellant on their November 4, 2017 application and the income verification submitted by the Appellant on January 9, 2018 the Health Connector incorrectly determined on January 10, 2018 that the Appellant is not financially eligible for Advance Premium Tax Credit.

ORDER

This Appeal is Approved. The Health Connector should determine the amount of the Appellant's Advance Premium Tax Credit for the period beginning February 1, 2018.

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

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

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3647

Appeal Decision: Appeal Denied

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

Hearing Date: February 13, 2018

Decision Date: February 22, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Appellant submitted an application for subsidized health insurance on December 7, 2017. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies effective February 1, 2018.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's eligibility based on the income information provided by the Appellant on December 7, 2018 and January 18, 2018.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 13, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 26, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes with attachments.
- Exhibit 4: The Hearing Request submitted by Appellant on January 18, 2018.
- Exhibit 5: Health Connector's Eligibility Approval Notice dated December 7, 2017.
- Exhibit 6: Health Connector's 2018 Eligibility Results computer printout with an Application Summary dated January 18, 2018.

Exhibit 7: Health Connector's 2018 Eligibility Results computer printout with an Application Summary dated December 7, 2017.

Exhibit 8: Health Connector's 2018 Eligibility Results computer printout with an Application Summary dated November 16, 2017.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is seventy years old. The Appellant is not a United States citizen. The Appellant has been a Legal Permanent Resident for six years (Exhibits 6, 7 and Appellant Testimony).
2. The Appellant is not eligible for Social Security or Medicare (Exhibits 6, 7 and Appellant Testimony).
3. The Appellant applied for subsidized health insurance through the Health Connector on December 7, 2017 (Exhibit 7).
4. On their application, the Appellant entered a projected annual income of \$1,034 for 2018. The Health Connector calculated that this income is equal to 8.57% of the federal poverty level (Exhibit 7).
5. On December 7, 2017 the Health Connector determined that the Appellant was eligible for Health Connector plans without subsidies because the Appellant's projected income was less than 100% of the federal poverty level (Exhibits 5, 7).
6. On January 18, 2018 the Appellant reported a change in income. The Appellant reported a projected annual income of \$11,880 for 2018. The Health Connector calculated that this income is equal to 98.5% of the federal poverty level (Exhibit 6).
7. The Appellant filed an appeal on January 24, 2018 (Exhibit 4).
8. The Appellant testified that they did not understand that it is possible to have income too low to receive subsidized health insurance. The Appellant said that they received ConnectorCare in the past.
9. The Appellant plans to file taxes in 2018.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on December 7, 2017. The Appellant has been a Legal Permanent Resident of the United States for six years. The Appellant is 70 years old but is not eligible for Medicare or Social Security. The Appellant reported a projected annual income of \$1,034 for tax year 2018. The Health Connector calculated that this income is equal to 8.75% of the federal poverty level. The Appellant was determined eligible for Health Connector Plans without subsidies. The Appellant updated their projected income on January 18, 2018. The Appellant reported a projected annual income of \$11,880 for 2018. This income is equal to 98.5% of the federal poverty level.

ConnectorCare is a Massachusetts based program that provides subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, to be eligible for ConnectorCare an individual must be a resident of Massachusetts with a modified adjusted gross income of less than 300% of the federal poverty level. In addition, the individual must be eligible for the federal Advance Premium Tax Credit pursuant to 45 CFR § 155.305(f).

In order to be eligible for the Advance Premium Tax Credit, a tax filer must have expected household income greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. 45 CFR § 155.305(f)(1)(i). The Appellant's projected income for 2018 was reported to be 8.75% of the federal poverty level on December 7, 2017. The Appellant updated their income on

January 18, 2018. The projected income is equal to 98.51% of the federal poverty level. Since the Appellant's projected income for 2018 is less than 100% of the federal poverty level, the Appellant is not eligible for Advance Premium Tax Credit. Since the Appellant is not eligible for Advance Premium Tax Credit, they are also not eligible for ConnectorCare.

ORDER

The Health Connector correctly determined the Appellant's eligibility for Health Connector Plans. This Appeal is Denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

If the Appellant's situation changes and their projected modified adjusted gross income exceeds 100% of the federal poverty level, which is \$12,060 in 2018, the Appellant may update their application for subsidized health insurance through the Health Connector.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3738

Appeal Decision Appeal Allowed. The Connector's determination of Appellant's ineligibility for a Special Enrollment Period outside of Open Enrollment is overturned

Hearing Issue: Whether the Connector correctly determined that Appellant did not meet the criteria for a Special Enrollment Period so that Appellant could enroll outside of Open Enrollment.

Hearing Date: February 5, 2018

Decision Date: February 7, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 2, 2017, Appellant was sent a determination for renewal of Health Insurance. The Health Connector determined Appellant to be eligible for a ConnectorCare Plan Type 3A with Advance Premium Tax Credits. Appellant picked a new plan for 2018. Appellant paid the Health Connector Enrollment Bill, dated 11/30/17, by mailing a check on December 17, 2017. The payment did not post to Appellant's account at the Health Connector until January 2, 2018, and Appellant's enrollment was terminated. On January 24, 2018, Appellant was determined not eligible for a Special Enrollment Period and was not permitted to enroll. On January 30, 2018, Appellant was granted a special enrollment period for enrollment to begin in March 2018. Appellant was denied a special enrollment period for enrollment to begin in February.

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant did not meet the criteria for a Special Enrollment Period so that Appellant could enroll in a plan outside of Open Enrollment Period.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on February 5, 2018. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Correspondence from Appeals Unit
- Exhibit 3: Hearing Request Form and supporting documents, signed by Appellant on January 28, 2018
- Exhibit 4: Eligibility Letters on appeal and customer service notes
- Exhibit 5: Eligibility Results and Application summary

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was covered by a Connector Care plan in 2017 (Testimony of Appellant).
2. Appellant was sent a renewal letter regarding Health Connector Plans for 2017 on November 2, 2017 (Exhibit 4).
3. On November 2, 2017, Appellant was found to be eligible for a ConnectorCare Plan Type 3A with Advance Premium Tax Credits (Exhibit 5).
4. Appellant's insurer for 2017 was not included in the choices offered for Appellant in 2018 (Testimony of Appellant).
5. In November 2017, Appellant picked a new plan for 2018 (Testimony of Appellant).
6. Appellant originally received a Health Connector Bill for a different plan than the one Appellant had chosen (Testimony of Appellant).
7. Appellant contacted the Health Connector again in November asking for the Connector to enroll Appellant in the plan Appellant had chosen. The Health Connector made the correction (Testimony of Appellant).
8. Appellant received a Health Connector Enrollment Bill, with a quote date of 11/30/17 for Appellant's chosen plan for coverage to begin in January 2018. The bill notified Appellant that the amount was due by December 23, 2017 (Exhibit 3).
9. On December 17, 2017, Appellant wrote and mailed a check for the total amount due on the bill (Testimony of Appellant).
10. In January, Appellant called the Health Connector looking for insurance cards and was notified that Appellant was not enrolled in insurance since payment had not been received by December 23rd. Appellant was informed that the premium payment was not posted with the Health Connector until January 2, 2018 (Testimony of Appellant and Exhibit 4).

11. Appellant made many calls to the Health Connector in January 2018 to try to get the insurance that Appellant had chosen and paid for (Testimony of Appellant).

12. On January 24, 2018, Appellant was informed that Appellant could not enroll because open enrollment had ended and Appellant was not eligible for an enrollment waiver to enroll outside of the open enrollment period (Testimony of Appellant and Exhibit 4).

13. On January 28, 2018, Appellant filed for an appeal (Exhibit 3).

14. On January 30, 2018, Appellant was granted a special enrollment period for enrollment to begin in March 2018 but was not granted a special enrollment period beginning in February (Exhibit 4).

15. Appellant is requesting a special enrollment period for enrollment to begin in February 2018 (Exhibit 4 and Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

In general, qualified individuals must enroll in health plans or change health plans during open enrollment periods, unless the individual meets one of the criteria to qualify for a special enrollment period. 45 CFR 155.410 and 45 CFR 155.420.

Appellant had been enrolled in a ConnectorCare Plan in 2017. Appellant received a new Enrollment Bill with a quote date of November 30, 2017 for coverage to begin in January 2018. The new Enrollment bill had a due date of December 23, 2017. Appellant wrote and mailed a check for the total amount of the bill on December 17, 2018 but Appellant's check was not posted with the Health Connector until January 2, 2018. Appellant was not enrolled in a Health Connector Plan for 2018. On January 24, 2018 Appellant was informed that Appellant's request for a Special Enrollment Period was denied. On January 30, 2018, Appellant was granted a special enrollment period beginning in March, but was denied a special enrollment period beginning in February. Since Appellant had mailed the payment in a timely manner, I find that Appellant should have been granted a Special Enrollment period in order to enroll in a ConnectorCare plan beginning in February. See 45 CFR 155.420 (d) (4) and Health Connector Policy NG-1E 7, and Exhibits 3, 4, and 5 and Testimony of Appellant, which I find to be credible.

ORDER

Appellant's appeal is allowed. The determination by the Connector denying Appellant a Special Enrollment Period for February is overturned. Appellant should be allowed to enroll in the requested Health Connector Plan.

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

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

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

OPTION FOR RETROACTIVE COVERAGE

The Health Connector made an incorrect determination about your eligibility. Normally, you would be eligible for the correct coverage type beginning on the first day of the month following the date of this decision. However, you may also choose to have retroactive coverage. Your eligibility for this coverage would go back to the date of you should have had that coverage.

In order to receive retroactive coverage, YOU MUST PAY ANY ADDITIONAL PREMIUM FOR THOSE MONTHS THAT WOULD OTHERWISE HAVE BEEN NECESSARY. In order to select retroactive coverage, you must submit a Request for Retroactive Coverage form to the Health Connector within 30 days of receiving this decision.

If you do not wish to have retroactive coverage, then you do not need to take any additional action at this time. Your coverage will be effective on the first day of the month following the implementation of your decision, as long as you pay the premium for that month by the 23rd day of the prior month.