

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10384

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 13, 2020

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### AUTHORITY

This matter was considered 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 23, 2019, the Appellant was determined eligible for Health Connector plans with no financial assistance because the Appellant failed to verify their income in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 12, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form, with attachments, dated November 7, 2019.
- Exhibit 5: Health Connector's Eligibility Approval Notice with an Application Summary dated October 23, 2019.
- Exhibit 6: Eligibility Results with an Application Summary dated November 15, 2019.
- Exhibit 7: A My Workspace printout of documents received dated October 28, 2019.
- Exhibit 8: A My Workspace printout of documents received dated November 1, 2019.
- Exhibit 9: Eligibility Results with an Application Summary dated November 15, 2019.
- Exhibit 10: An Agent Portal Printout of the Appellant's eligibility and enrollment.

- Exhibit 11: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.
- Exhibit 12: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 23, 2019 the Appellant was determined eligible for Health Connector Plans with no financial help. The decision came after the Appellant failed to submit documentation of their income (Exhibit 5).
2. On November 7, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to update their income information (Exhibits 3, 11).
4. The Appellant updated their information and submitted documentation to Health Connector Customer Service on October 28, 2019 and November 1, 2019 (Exhibits 7, 8).
5. On November 15, 2019 Health Connector determined that the Appellant was eligible for ConnectorCare with Advance Premium Tax Credits (APTC) (Exhibits 6, 9, 11).
6. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 7, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 11).
7. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
8. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 12).
9. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 23, 2019 determination that the Appellant was ineligible for ConnectorCare with Advance Premium Tax Credits (APTC) based on their failure to verify their income in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibit 11). These efforts led to the Appellant's being determined eligible for ConnectorCare with APTC on November 15, 2019 (Exhibits 6, 11). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so. I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 12). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA19-10422

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

**Decision Date:** February 19, 2020

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### AUTHORITY

This matter was considered 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 22, 2019, Health Connector terminated the Appellant's eligibility for ConnectorCare after the Appellant failed to verify their lawful presence in Massachusetts.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 14, 2019.
- Exhibit 3: The Appellant's Hearing Request form with an attachment dated November 13, 2019.
- Exhibit 4: Health Connector Eligibility Denial notice dated October 22, 2019.
- Exhibit 5: An Application Summary dated October 22, 2019.
- Exhibit 6: 2019 Eligibility Results with an Application Summary dated November 14, 2019.
- Exhibit 7: An Agent Portal printout of Medicaid eligibility.
- Exhibit 8: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.
- Exhibit 9: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 22, 2019 the Health Connector denied the Appellant's application for health insurance coverage. The decision came after the Appellant failed to submit proof of their lawful presence in Massachusetts (Exhibits 4, 5).
2. On November 13, 2019 the Appellant filed an appeal. The Appellant submitted proof of their lawful presence with the Appeal request (Exhibit 4).
3. Health Connector processed the documentation submitted by the Appellant on November 13, 2019 (Exhibit 8).
4. On November 14, 2019 the Appellant was determined eligible for MassHealth (Exhibits 6, 7).
5. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for MassHealth. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 13, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 8).
6. As of January 7, 2020, the Appellant failed to respond to the December 26, 2019 letter.
7. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 9).
8. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 22, 2019 denial of the Appellant's request for assistance to pay for healthcare benefits based on their failure to verify their lawful presence in Massachusetts. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 6, 8). These efforts led to the Appellant being determined eligible for MassHealth on November 14, 2019 (Exhibits 6, 7, 8). The Health Connector issued a notice to the

Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 8). I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 9). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA19-10569

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their loss of subsidies to help pay for health insurance should be dismissed for failure to prosecute.

**Decision Date:** February 18, 2020

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### AUTHORITY

This matter was considered 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 23, 2019, the Appellant was determined eligible for Health Connector plans with no financial assistance because the Appellant failed to verify their income in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 26, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online appeal request, dated November 24, 2019.
- Exhibit 5: Health Connector's Eligibility Approval Notice with an Application Summary dated October 23, 2019.
- Exhibit 6: Health Connector's Request for Information dated May 26, 2019.
- Exhibit 7: Health Connector's Notice of Termination for Nonpayment of Premium dated December 10, 2019.
- Exhibit 8: An Application Summary dated November 19, 2019.
- Exhibit 9: My Workspace printout of documents received on November 17, 2019.
- Exhibit 10: Health Connector Customer Service Sales Force notes.

- Exhibit 11: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.
- Exhibit 12: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 23, 2019 the Appellant was determined eligible for Health Connector Plans with no financial help. The decision came after the Appellant failed to submit documentation of their income (Exhibit 5).
2. On November 24, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to update their income information. The Appellant requested that their unsubsidized coverage for the month of November be voided (Exhibits 3, 11).
4. The Appellant updated their information and submitted documentation to Health Connector Customer Service on November 17, 2019 (Exhibit 9).
5. The Health Connector voided the Appellant's unsubsidized insurance for the month of November 2019 (Exhibit 11).
6. On November 19, 2019 the Appellant was determined eligible for MassHealth (Exhibits 8, 11).
7. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 24, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 11).
8. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
9. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 12).
10. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an

order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 23, 2019 determination that the Appellant was ineligible for subsidies to help pay for their healthcare based on their failure to verify their income in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 11). These efforts led to the Appellant's being determined eligible for MassHealth. The Health Connector voided the Appellant's unsubsidized insurance for the month of November 2019 as requested by the Appellant (Exhibits 8, 11). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so. I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 12). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA19-10661

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

**Decision Date:** February 19, 2020

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### AUTHORITY

This matter was considered 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 27, 2019, Health Connector terminated the Appellant's eligibility for ConnectorCare after the Appellant failed to verify their residency in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated December 9, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Appeal request dated December 6, 2019.
- Exhibit 5: Health Connector Eligibility Termination notice dated November 27, 2019.
- Exhibit 6: Health Connector Eligibility Termination notice for another household member dated November 27, 2019.
- Exhibit 7: An Application Summary dated November 27, 2019.
- Exhibit 8: Health Connector's Request for Information dated August 22, 2019.
- Exhibit 9: An Application Summary dated December 9, 2019.
- Exhibit 10: A Customer Service Salesforce printout.
- Exhibit 11: My WorkSpace printout of documents submitted on September 30, 2019.

- Exhibit 12: An Agent Portal Printout of enrollment.
- Exhibit 13: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.
- Exhibit 14: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On November 27, 2019 the Health Connector terminated ConnectorCare for the Appellant's household. The decision came after the Appellant failed to submit adequate proof of Massachusetts residency (Exhibits 3, 5, 6, 8, 10, 11).
2. On December 6, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in adequate proof of Massachusetts residency (Exhibits 3, 13).
4. On December 9, 2019 the Appellant and another household member were determined eligible for ConnectorCare Plan Type 2B. Other household members were determined eligible for MassHealth (Exhibits 9, 12, 13).
5. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the December 6, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 13).
6. As of January 7, 2020, the Appellant failed to respond to the December 26, 2019 letter.
7. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 14).
8. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's November 27, 2019 action to terminate the Appellant's ConnectorCare based on their failure to adequately verify their residency in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 13). These efforts led to the Appellant and another household member being determined eligible for ConnectorCare Plan Type 2B and all other household members being determined eligible for MassHealth on December 9, 2019 (Exhibits 9, 13). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 13). I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 14). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

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You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10276

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 13, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 21, 2019, the Appellant was determined eligible for Health Connector plans with no financial assistance because the Appellant failed to verify their income in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated October 30, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form dated October 30, 2019.
- Exhibit 5: Health Connector's Final Renewal Notice with an Application Summary dated October 21, 2019.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated October 21, 2019.
- Exhibit 7: 2020 Eligibility Results with an Application Summary dated November 1, 2019.
- Exhibit 8: An Account Dashboard printout of the Appellant's eligibility and enrollment effective January 1, 2020.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.

Exhibit 10: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 21, 2019 the Appellant was determined eligible for Health Connector Plans with no financial help. The decision came after the Appellant failed to submit documentation of their income (Exhibit 5).
2. On October 30, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to update their income information (Exhibits 3, 9).
4. On November 1, 2019 the Appellant updated their information (Exhibits 7, 9).
5. On November 1, 2019 Health Connector determined that the Appellant was eligible for ConnectorCare with Advance Premium Tax Credits (APTC) (Exhibits 6, 9).
6. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 7, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
7. The Appellant enrolled in a ConnectorCare plan effective January 1, 2020 (Exhibit 8).
8. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
9. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
10. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 21, 2019 determination that the Appellant was ineligible for ConnectorCare with Advance Premium Tax Credits (APTC) based on their failure to

verify their income in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 9). These efforts led to the Appellant's being determined eligible for ConnectorCare with APTC on November 1, 2019 (Exhibits 7, 9). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so. I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 8). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10324

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 18, 2020

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### AUTHORITY

This matter was considered 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, 2019, the Appellant and their spouse were determined eligible for Health Connector plans with no financial assistance because the Appellant failed to verify their income in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 6, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form dated November 4, 2019.
- Exhibit 5: Health Connector's Eligibility Approval Notice with an Application Summary dated October 26, 2019.
- Exhibit 6: An Application Summary dated October 26, 2019.
- Exhibit 7: 2020 Eligibility Results with an Application Summary dated December 19, 2019.
- Exhibit 8: A Customer Service Printout of Enrollment effective January 1, 2020.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.

Exhibit 10: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 26, 2019 the Appellant and their spouse were determined eligible for Health Connector Plans with no financial help. The decision came after the Appellant failed to submit documentation of their income (Exhibits 5, 6).
2. On November 4, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to contact Customer Service and update their income information (Exhibits 3, 9).
4. The Appellant updated their information and submitted documentation to Health Connector Customer Service (Exhibits 3, 7, 9).
5. On December 19, 2019 Health Connector determined that the Appellant and their spouse were eligible for ConnectorCare Plan Type 2A with Advance Premium Tax Credits (APTC). Other family members were determined eligible for MassHealth (Exhibits 7, 9).
6. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 6, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
7. The Appellant and their spouse enrolled in ConnectorCare effective January 2020. Other family members are eligible for MassHealth (Exhibits 8, 9).
8. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
9. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
10. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an

order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 26, 2019 determination that the Appellant and their spouse were ineligible for ConnectorCare with Advance Premium Tax Credits (APTC) based on their failure to verify their income in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 9). These efforts led to the Appellant and their spouse being determined eligible for ConnectorCare Plan Type 2A with APTC on December 19, 2019 (Exhibits 7, 9). The Appellant and their spouse enrolled in a ConnectorCare plan effective January 2020. The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 9). I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 10). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10356

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 18, 2020

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### AUTHORITY

This matter was considered 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, 2019, the Appellant was determined eligible for Health Connector plans with no financial assistance because the Appellant failed to verify their income in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 6, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form, with attachments, dated November 6, 2019.
- Exhibit 5: Health Connector's Final Eligibility Determination Notice with an Application Summary dated October 26, 2019.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated October 26, 2019.
- Exhibit 7: 2020 Eligibility Results with an Application Summary dated November 14, 2019.
- Exhibit 8: 2019 Eligibility Results with an Application Summary dated April 7, 2019.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.

Exhibit 12: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 26, 2019 the Appellant was determined eligible for Health Connector Plans with no financial help. The decision came after the Appellant failed to submit documentation of their income (Exhibits 5, 6).
2. On November 6, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to contact Customer Service and update their income information (Exhibits 3, 9).
4. The Appellant updated their information and submitted documentation to Health Connector Customer Service (Exhibits 3, 7, 9).
5. On November 14, 2019 Health Connector determined that the Appellant was eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credits (APTC) (Exhibits 7, 9).
6. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 6, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
7. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
8. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
9. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 26, 2019 determination that the Appellant was ineligible for ConnectorCare with Advance Premium Tax Credits (APTC) based on their failure to

verify their income in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 11). These efforts led to the Appellant's being determined eligible for ConnectorCare Plan Type 3A with APTC on November 14, 2019 (Exhibits 7, 9). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 9). I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 10). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10369

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 13, 2020

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### AUTHORITY

This matter was considered 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 18, 2019, the Appellant was determined eligible for Health Connector plans with no financial assistance because the Appellant failed to verify their income in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 12, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form dated November 7, 2019.
- Exhibit 5: Health Connector's Final Renewal Notice dated October 18, 2019 with an Application Summary dated October 17, 2019.
- Exhibit 6: 2020 Eligibility Results with an Application Summary dated November 21, 2019.
- Exhibit 7: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.
- Exhibit 8: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## FINDINGS OF FACT

The record shows, and I so find:

1. On October 18, 2019 the Appellant was determined eligible for Health Connector Plans with no financial help. The decision came after the Appellant failed to submit documentation of their income (Exhibit 5).
2. On November 7, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to update their income information (Exhibits 3, 7).
4. On November 21, 2019 the Appellant updated their information (Exhibits 6, 7).
5. On November 21, 2019 Health Connector determined that the Appellant was eligible for ConnectorCare with Advance Premium Tax Credits (APTC) (Exhibits 6, 7).
6. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 7, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 7).
7. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
8. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 8).
9. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 18, 2019 determination that the Appellant was ineligible for ConnectorCare with Advance Premium Tax Credits (APTC) based on their failure to verify their income in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibit 7). These efforts led to the Appellant's being determined eligible for ConnectorCare with APTC on November 21, 2019 (Exhibits 6, 7). The Health

Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so. I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 8). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10444

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 19, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 13, 2019, the Appellant was determined eligible for ConnectorCare with Advance Premium Tax Credits (APTC).

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 15, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Appeal request dated November 13, 2019.
- Exhibit 5: Health Connector's Eligibility Approval Notice with an Application Summary dated October 13, 2019.
- Exhibit 6: An Application Summary dated October 12, 2019.
- Exhibit 7: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.
- Exhibit 8: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## FINDINGS OF FACT

The record shows, and I so find:

1. On October 13, 2019 the Appellant was determined eligible for ConnectorCare Plan Type 2A with APTC (Exhibits 5, 6).
2. On November 13, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant to explain their healthcare coverage options (Exhibits 3).
4. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare Plan Type 2A with APTC and was eligible to enroll in a Plan with a zero premium. The Appellant was advised to contact Customer Service before Open Enrollment ends on January 23, 2020. The Appeals Unit informed the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 13, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 7).
5. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
6. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 8).
7. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's October 13, 2019 determination that the Appellant was eligible for ConnectorCare with Advance Premium Tax Credits (APTC). The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 7). The Appellant was informed that they were eligible for ConnectorCare Plan Type 2A and could select a plan with a zero-monthly premium (Exhibits 5, 7). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten

days to respond to this letter but failed to do so. I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 12). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10521

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

**Decision Date:** February 19, 2020

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### AUTHORITY

This matter was considered 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, 2019, Health Connector determined that the Appellant was eligible to purchase Health Connector Plans with no financial assistance. The decision came after an Administrative Closure was placed on the Appellant's case.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 21, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form dated November 20, 2019.
- Exhibit 5: Health Connector Eligibility Approval notice dated November 1, 2019.
- Exhibit 6: An Application Summary dated October 13, 2019.
- Exhibit 7: An MMIS printout dated November 21, 2019.
- Exhibit 8: An Application Summary dated November 21, 2019.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.

Exhibit 10: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On November 1, 2019 the Health Connector determined that the Appellant was eligible for Health Connector plans with no financial assistance. The decision came after MassHealth placed an administrative closure on the Appellant's account on December 14, 2016 (Exhibits 5, 6, 7).
2. On November 20, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to contact MassHealth regarding the administrative closure (Exhibit 3).
4. On November 29, 2019 the administrative closure was removed, and the Appellant was determined eligible for MassHealth (Exhibits 3, 8, 9).
5. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for MassHealth. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 20, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
6. As of January 7, 2020, the Appellant failed to respond to the December 26, 2019 letter.
7. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
8. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's November 1, 2019 determination that the Appellant was eligible for Health Connector Plans with no financial assistance. The decision was a result of an administrative closure of the Appellant's MassHealth on December 14, 2016. The Appellant and the Health

Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 9). These efforts led to the Appellant being determined eligible for MassHealth on November 29, 2019 (Exhibits 8, 9). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 9). I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 10). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10546

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

**Decision Date:** February 19, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 28, 2019, Health Connector determined that the Appellant was eligible to purchase Health Connector Plans with no financial assistance. The decision came after the Appellant failed to attest that they planned to file a tax return.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated November 22, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Hearing Request November 21, 2019.
- Exhibit 5: Health Connector Eligibility Approval notice dated September 28, 2019.
- Exhibit 6: An Application Summary dated September 28, 2019.
- Exhibit 7: 2019 Eligibility Results with an Application Summary dated November 25, 2019.
- Exhibit 8: 2020 Eligibility Results with an Application Summary dated November 25, 2019.
- Exhibit 9: A Customer Service printout of the Appellant's Administrative Closing History.
- Exhibit 10: Health Connector Agent Portal printout of Enrollments in tax year 2019.
- Exhibit 11: Health Connector's Account Dashboard printout of Enrollment as of January 1, 2020.

- Exhibit 12: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.
- Exhibit 13: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On September 28, 2019 the Health Connector determined that the Appellant was eligible for Health Connector plans with no financial assistance. The decision came after the Appellant failed to attest on their Application that they planned to file a tax return (Exhibits 5, 6).
2. On November 21, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to amend their Application and indicate that they would file a tax return as required by Health Connector policy (Exhibit 3).
4. The Health Connector Appeals Unit removed a 2018 administrative closing of the Appellant's MassHealth for failure to respond to a data match (Exhibits 9, 12).
5. On November 25, 2019 the Appellant was determined eligible for ConnectorCare Plan Type 2B for tax year 2020 (Exhibits 7, 8).
6. The Appellant enrolled in ConnectorCare effective January 1, 2020 (Exhibit 11).
7. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for MassHealth. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 21, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 12).
8. As of January 7, 2020, the Appellant failed to respond to the December 26, 2019 letter.
9. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 13).
10. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an

order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's September 28, 2019 denial of the Appellant's request for assistance to pay for healthcare benefits based on their failure to state on their application that they planned to file their taxes as required by Health Connector policy. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 12). These efforts led to the Appellant being determined eligible for ConnectorCare Plan Type 2B on November 25, 2019 (Exhibits 7, 8). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 12). I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 13). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10708

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for health insurance subsidies should be dismissed for failure to prosecute.

**Decision Date:** February 18, 2020

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### AUTHORITY

This matter was considered 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 18, 2019, Health Connector terminated the Appellant's eligibility for ConnectorCare after the Appellant failed to verify their residency in a timely manner.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated December 18, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Appeal request dated December 12, 2019.
- Exhibit 5: Health Connector Eligibility Termination notice dated November 18, 2019.
- Exhibit 6: 2019 Eligibility Results with an Application Summary dated November 17, 2019.
- Exhibit 7: 2020 Eligibility Results effective January 6, 2020.
- Exhibit 8: A Medicaid Eligibility printout.
- Exhibit 9: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated January 9, 2020.
- Exhibit 10: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## FINDINGS OF FACT

The record shows, and I so find:

1. On November 18, 2019 the Health Connector terminated the Appellant's ConnectorCare effective November 30, 2019. The decision came after the Appellant failed to verify their residency (Exhibits 3, 5, 6).
2. On December 12, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant and advised them to send in proof of Massachusetts residency (Exhibits 3, 9).
4. The Appellant submitted an Affidavit of Residency on January 6, 2020 (Exhibits 3, 7, 9).
5. On January 6, 2020 the Appellant was determined eligible for MassHealth retroactive to December 27, 2019 (Exhibits 7, 8, 9).
6. On January 9, 2020 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the December 12, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the January 9, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 9).
7. As of January 20, 2020, the Appellant failed to respond to the January 9, 2020 letter.
8. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
9. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's November 18, 2019 action to terminate the Appellant's ConnectorCare effective November 30, 2019 based on their failure to verify their residency in a timely manner. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 9). These efforts led to the Appellant being determined eligible for MassHealth effective December 27, 2019 on January 6, 2020 (Exhibits 7, 8, 9). The Health Connector

issued a notice to the Appellant on January 9, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so (Exhibit 9). I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 10). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10781

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 19, 2020

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### AUTHORITY

This matter was considered 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 December 2, 2019, the Appellant was determined eligible for ConnectorCare with Advance Premium Tax Credits (APTC).

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Acknowledgement of Appeal dated December 23, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form dated December 20, 2019.
- Exhibit 5: Health Connector's Eligibility Approval Notice with an Application Summary dated December 2, 2019.
- Exhibit 6: A Notice of Ineligibility for MassHealth dated December 2, 2019.
- Exhibit 7: 2020 Eligibility Results with an Application Summary dated December 2, 2019.
- Exhibit 8: Health Connector Agent Portal printout of Medicaid eligibility.
- Exhibit 9: A Health Connector Account Dashboard printout of enrollment.
- Exhibit 10: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated December 26, 2019.

Exhibit 11: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On December 2, 2019 the Appellant was determined eligible for ConnectorCare Plan Type 2A with APTC. The Appellant was also determined ineligible for MassHealth (Exhibits 5, 6).
2. On December 20, 2019 the Appellant filed an appeal (Exhibit 4).
3. The Health Connector Appeals Unit contacted the Appellant to explain their healthcare coverage options (Exhibits 3, 10).
4. The Appellant enrolled in a ConnectorCare plan with a zero premium (Exhibits 9, 10).
5. On December 26, 2019 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal-Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC and enrolled in a Plan with a zero premium. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the December 2, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the December 26, 2019 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 11).
6. As of January 6, 2020, the Appellant failed to respond to the December 26, 2019 letter.
7. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 11).
8. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's December 2, 2019 determination that the Appellant was eligible for ConnectorCare with Advance Premium Tax Credits (APTC) and ineligible for MassHealth. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibits 3, 10). These efforts led to the Appellant's selecting a ConnectorCare Plan with

a zero-monthly premium. The Appellant was advised to contact MassHealth for all MassHealth eligibility issues (Exhibits 7, 9, 10). The Health Connector issued a notice to the Appellant on December 26, 2019 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so. I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 12). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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: ACA20-10784

**Appeal Decision:** Appeal Dismissed.

**Hearing Issue:** Whether the Appellant's appeal of their eligibility for ConnectorCare should be dismissed for failure to prosecute.

**Decision Date:** February 14, 2020

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### AUTHORITY

This matter was considered 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 22, 2019, the Appellant's family was determined eligible for ConnectorCare with APTC.

### ISSUE

The issue addressed on this appeal is whether the appeal should be dismissed for failure to prosecute.

### SUMMARY OF EVIDENCE

- Exhibit 1: Health Connector Eligibility Approval Notice with an Application Summary dated November 22, 2019.
- Exhibit 2: The Appellant's Hearing Request Form dated December 20, 2019.
- Exhibit 3: A My Workspace printout of documents received by the Health Connector on December 31, 2019.
- Exhibit 4: 2020 Eligibility Results with an Application Summary dated January 10, 2020.
- Exhibit 5: Health Connector Appeals Unit Notice of Informal Resolution of Appeal- Notice of Need for Further Action dated January 13, 2020.
- Exhibit 6: Order to Show Cause why this appeal should not be dismissed for failure to prosecute dated January 28, 2020.

## FINDINGS OF FACT

The record shows, and I so find:

1. On November 22, 2019 the Appellant's family was determined eligible for ConnectorCare with Advance Premium Tax Credits for December 2019 (Exhibit 1).
2. On December 20, 2019 the Appellant filed an appeal (Exhibit 2).
3. The Health Connector Appeals Unit advised the Appellant to contact Health Connector Customer Service to update their projected income for tax year 2020 (Exhibit 5).
4. On December 24, 2019 the Appellant updated their Application and the Appellant's family, including one child became eligible for ConnectorCare Plan Type 2B with APTC (Exhibit 5).
5. On December 31, 2019 the Appellant submitted updated income information to the Health Connector (Exhibit 3).
6. On January 10, 2020 the Health Connector determined that the Appellant was eligible for ConnectorCare with Advance Premium Tax Credits (APTC) Plan Type 2B for tax year 2020 and their children were eligible for MassHealth (Exhibits 4, 5).
7. On January 13, 2020 the Health Connector Appeals Unit issued a notice of Informal Resolution of Appeal- Notice of Need for Further Action. The Appellant was advised that based on the information in the appeal request and the documents submitted by the Appellant after the appeal was filed, the Health Connector determined that the Appellant was eligible for ConnectorCare with APTC. The Appeals Unit advised the Appellant that this appeared to have resolved the issue raised by the Appellant in the November 22, 2019 appeal. The Appeals Unit asked the Appellant to complete the attached "Do You Still Need a Hearing?" document and return it to the Appeals Unit or call the Appeals Unit to confirm that they still need a hearing or withdraw the appeal, as applicable. The Appellant was also informed that if they failed to respond to the January 13, 2020 letter within ten days, the appeal may be dismissed for failure to prosecute after a Hearing Officer's review of the record (Exhibit 5).
8. As of January 24, 2020, the Appellant failed to respond to the January 13, 2020 letter.
9. On January 28, 2020 the Hearing Officer assigned to review this matter considered the evidence in the record, including the interactions and outcomes of the Informal Dispute Resolution Process, and *sua sponte* issued an Order to Show Good Cause why this appeal should not be dismissed for failure to prosecute. The Order required a response from the Appellant by February 7, 2020 to indicate the need to have a hearing on the matter underlying their appeal (Exhibit 10).
10. As of February 10, 2020, the Appellant failed to respond to the Order issued on January 28, 2020.

## ANALYSIS AND CONCLUSIONS OF LAW

An agency or authority may, "make informal disposition of any adjudicator proceeding by stipulation, agreed settlement, consent order or default." M.G.L. c. 30A §10. In particular, the implementing regulations at 801 CMR 1.01(7)(g)3 provide that "[t]he Agency or the Presiding Officer may order dismissal for failure to prosecute in accordance with the provisions of 801 CMR 1.01(7)(g)2." That referenced standard provides the grounds upon which an appeal may be dismissed for failure to prosecute, including when a party has otherwise indicated an intention not to continue with the prosecution of a claim. In such a case, the Hearing Officer may issue such an order *sua sponte*. Failure to respond to such an order within ten days may be grounds for a Hearing Officer to dismiss the claim. See 801 CMR 1.01(7)(g)2.

In this case the issue underlying the appeal was the Health Connector's November 22, 2019 determination that the Appellant's family was eligible for ConnectorCare with Advance Premium Tax Credits (APTC) Effective

December 2019. The Appellant and the Health Connector engaged in an Informal Dispute Resolution Process to resolve the issue giving rise to their appeal (Exhibit 5). These efforts led to the Health Connector determining on January 10, 2020 that the Appellant was eligible for ConnectorCare Plan Type 2B with APTC and their children being determined eligible for MassHealth (Exhibits 4, 5). The Health Connector issued a notice to the Appellant on January 13, 2020 informing them that further action on their part would be needed to proceed to a hearing on their appeal since the underlying issue appeared to have been resolved. The Appellant was given ten days to respond to this letter but failed to do so. I have reviewed the evidence in the record and *sua sponte* on January 28, 2020 issued an Order to Show Good Cause why the appeal should not be dismissed for lack of prosecution. The Appellant was given ten days to respond (Exhibit 8). Again, the Appellant failed to respond by February 7, 2020.

The record reflects that the Appellant failed to indicate their intent to prosecute the appeal. 801 CMR 1.01(g)(2). However, resolution of an appeal on matters of process and not the merits should be exercised with caution. While it is my decision to do so rests primarily on the procedural facts in the record, I would note that the approval of the Appellant's application for ConnectorCare with APTC obtained from the Informal Dispute Resolution Process appears to have addressed the issue giving rise to this appeal. While the Appellant has failed to take the steps necessary to pursue relief through their appeal, they have otherwise obtained redress through that parallel process.

## **ORDER**

### **DISMISSED for failure to prosecute.**

#### **You may request to vacate this dismissal**

You may request that this dismissal be vacated (canceled) by establishing good cause, stating your reason in writing to the Health Connector Appeals Unit at P.O. Box 960189, Boston, MA 02196. Only written requests are considered. Your written request must be signed by you or your appeal representative and must be received by the Health Connector Appeals Unit within thirty (30) days of the date of this decision.

#### **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 155.545, 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



## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA19-10440

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 8, 2020

Decision Date: February 17, 2020

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#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

Appellants submitted an application for subsidized health insurance on October 30, 2019. The Health Connector determined the Appellant and her husband to be eligible for Health Connector plans with APTC.

#### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plans .

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 8, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

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

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (5 pages, dated December 2, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (5 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 2 pages dated November 4, 2019)
- Exhibit 6: Notice of Eligibility Determination (20 pages, dated October 30, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (12 pages, dated October 30, 2019)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (8 pages, dated November 13, 2019)
- Exhibit 9: Historical Notices & Printouts (8 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 34 year old married female (Exhibit7 & 8)
2. The Appellant has a household of two. (Exhibit 7 & 8 and Appellant testimony )
3. On their application, dated October 31, 2019 the Appellants entered a manual verified annual modified adjusted gross income of (MAGI) of \$55,240.56. (Exhibit 7 and Appellant's testimony)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place them at 326.67% of the 2019 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 and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

5. Appellant then filed her appeal on November 9, 2019.
6. On November 13, 2019, Appellant file a new application. On her application, Appellant entered a manual verified modified adjusted gross incomed of \$45,000.00. (Exhibit 8 and Appellant's testimony)
7. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place them at 273.39% of the 2019 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 and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Exchange must determine an applicant eligible for enrollment in a QHP through the Exchange if he or she meets the following requirements:

Appellant's first application stated their projected MAGI was \$55,240.56, which for a household of two, puts the Appellant's at approximately 326.67% of the 2019 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for Health Connector plans with APTC. The Appellant the appealed. This was the correct determination and the Appellant's appeal is therefore denied.

On their latest application, the Appellant stated that their projected MAGI was \$45,000.00, which for a household of two, puts the Appellants at approximately 273.39% of the 2019 Federal Poverty Level. The Health Connector correctly found the Appellant eligible for subsidized ConnectorCare 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. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

Appellant has signed up for a ConnectorCare Plan 3B and is currently enrolled.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10113

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare

**Hearing Date:** December 2, 2019

**Decision Date:** February 4, 2020

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On September 23, 2019, the Appellant was determined eligible for ConnectorCare Plan Type 2A with Advance Premium Tax Credit.

### **ISSUE**

Whether the Health Connector made the correction determination on September 23, 2019, on the Appellant's application for health insurance coverage.

### **HEARING RECORD**

On December 2, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 9/23/19 Eligibility Approval Notice (10 pages)
- Exhibit 2: 10/9/19 Appeal (1 page)
- Exhibit 3: 9/23/19 2020 Application Results (2 pages)
- Exhibit 4: 9/23/19 Application Summary (3 pages)
- Exhibit 5: 10/16/19 Appeals Contact Notes (1 page)
- Exhibit 6: 9/23/19 MassHealth Termination Notice (4 pages)

- Exhibit 7: 10/16/19 Appeal Acknowledgment (2 pages)  
Exhibit 8: 10/19/19 Eligibility Approval Notice (10 pages)  
Exhibit 9: 10/28/19 Email from Appeals Unit (1 page)  
Exhibit 10: 11/4/19 Hearing Notice (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. By letter dated September 23, 2019, the Health Connector notified the Appellant that he qualified for ConnectorCare Plan Type 2A with an Advance Premium Tax Credit, based on a household income that is 128.10% of the Federal Poverty Level. (Exhibit 1)
2. By letter dated September 23, 2019, MassHealth notified the Appellant that his MassHealth coverage was ending on October 7, 2019, because his income was too high. (Exhibit 6)
3. On October 9, 2019, the Appellant submitted an online appeal to the Health Connector, leaving empty the "Notice Date" box and checking off income as the reason for his appeal. (Exhibit 2)
4. At hearing, the Appellant acknowledged that he had intended to appeal MassHealth's 9/23/19 termination notice, not the Health Connector's 9/23/19 determination, qualifying the Appellant for ConnectorCare. (Appellant's testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

As the Appellant had not meant to appeal the Health Connector's 9/23/19 determination and did not contest the Health Connector's 9/23/19 determination at hearing, I conclude that the Health Connector correctly determined on September 23, 2019, that the Appellant qualified for ConnectorCare Plan Type 2A with APTC.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10145

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 7, 2020

**Decision Date:** February 6, 2020

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On October 4, 2019, the Appellant was determined eligible for ConnectorCare Plan Type 3B with Advance Premium Tax Credit and Massachusetts subsidy. Appellant was redetermined on January 3, 2020, and was determined eligible for ConnectorCare Plan Type 2B.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 7, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (12-2-19) (5 pages);
- Exhibit 3: Notice of Hearing (10-28-19) (5 pages);
- Exhibit 4: Acknowledgement of Appeal (10-16-19) (4 pages);
- Exhibit 5: Outreach notes and email (2 pages);

- Exhibit 6: Hearing Request form (10-11-19) (with letter and documents) (7 pages);  
Exhibit 7: Eligibility Approval letter (10-4-19) (8 pages); and  
Exhibit 8: Eligibility detail printout and application summary printout (13 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance previously through the Health Connector. Appellant submitted an application for health insurance on October 4, 2019, and was determined eligible for ConnectorCare Plan Type 3B. (Exhibits 5 and 7).
2. Appellant appealed alleging that they could not afford the premiums and that based on income, there should be more of a subsidy. (Exhibit 6, Appellant Testimony).
3. Appellant submitted additional documents and updated income and was redetermined on January 3, 2020 as eligible for ConnectorCare Plan Type 2B. (Exhibit 8).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On October 4, 2019, the Appellant was determined eligible ConnectorCare Plan Type 3B based on verifying income from other sources. The Appellant appealed. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination for a person who has not verified income. 45 CFR § 155.305(f). Appellant did submit additional documents after the determination on October 4, 2019. The documents submitted after the determination were deemed acceptable, and Appellant was redetermined in January 2020 and was found eligible for ConnectorCare Plan Type 2B.

The Health Connector correctly found that the Appellant was eligible for ConnectorCare Plan Type 3B on October 4, 2019, and that determination is upheld.

## **ORDER**

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

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10189

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Eligibility for Health Connector Plans with subsidies based on failure to verify income.

**Hearing Date:** January 3, 2020

**Decision Date:** February 18, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On March 1, 2019, the Appellant was determined eligible for Health Connector plans without subsidies effective April 1, 2019. The Appellant's determination came after failing to verify income.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the in-person hearing held on January 3, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open until January 20, 2020 to allow the Health Connector to submit additional information. The information was submitted on January 7, 2020 and forwarded to the Appellant. The Appellant was advised that the record would remain open until February 3, 2020 if the Appellant wished to submit a written response. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated December 3, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.

- Exhibit 4: The Appellant's Hearing Request, with attachments forwarded from MassHealth on October 22, 2019.
- Exhibit 5: Health Connector's Eligibility Approval Notice dated March 1, 2019.
- Exhibit 6: 2019 Eligibility Results with an Application Summary dated March 1, 2019.
- Exhibit 7: A Health Connector Request for Information dated November 14, 2018.
- Exhibit 8: 2019 Eligibility Results with an Application Summary dated November 14, 2018.
- Exhibit 9: Health Connector Medicaid eligibility summary.
- Exhibit 10: 2019 Eligibility Results with an Application Summary dated August 26, 2019.
- Exhibit 11: Copies of medical bills incurred by the Appellant in April and May 2019 and a letter from the Appellant's doctor regarding the Appellant's scheduled medical procedure dated April 22, 2019.
- Exhibit 12: Health Connector's Eligibility Approval notice dated November 14, 2018.
- Exhibit 13: Health Connector Appeals Unit Open Record form dated January 3, 2020.
- Exhibit 14: Additional information submitted by the Health Connector on January 7, 2020 including Health Connector Customer Service Call Center Notes.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Prior to April 1, 2019 the Appellant was receiving ConnectorCare with Advance Premium Tax Credits based on the Appellant's having attested to having income equal to 299.08% of the federal poverty level for the Appellant's household of one (Exhibits 3, 6, 8).
2. On November 14, 2018 the Health Connector issued a Request for Information. The Appellant was asked to provide updated income verification by February 12, 2019. The Notice advised the Appellant of the types of documents needed to verify income as well as the contact information to submit the documentation requested by mail or fax. The notice was mailed to the Appellant's address of record (Exhibit 7).
3. As of March 1, 2019, the Health Connector had not received updated income verification from the Appellant. The Health Connector was unable to obtain proof of the Appellant's income from third party data sources (Exhibit 6).
4. On March 1, 2019 the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial help effective April 1, 2019 because the Health Connector was unable to determine the countable income for the Appellant's household. The Appellant was informed that they could enroll in a new health insurance plan and pay the premium by March 23, 2019 for coverage effective April 1, 2019. The notice was mailed to the Appellant's address of record (Exhibit 5).
5. The Appellant's ConnectorCare coverage was terminated effective March 31, 2019 (Exhibits 4, 5, 14).
6. The Appellant did not enroll in a new plan. The Appellant paid a premium of \$126.00 for the month of April 2019. This represented the premium amount for the Appellant's prior ConnectorCare coverage (Exhibits 4, 14 and Appellant Testimony).
7. The Appellant filed an appeal at MassHealth. The Appeal request and related documents were forwarded to the Health Connector Appeals Unit on October 22, 2019. The Appellant alleged that their health insurance was cancelled without notice (Exhibit 4).
8. The Appellant testified that they had no idea that their ConnectorCare insurance was cancelled at the end of March 2019. The Appellant said that they did not get the November 14, 2018 notice requesting income verification or the March 1, 2019 notice that terminated their ConnectorCare. When asked, the Appellant

testified that they did not have any other problems with their mail delivery. The Appellant said that they had a significant health issue in April 2019 and telephoned Health Connector Customer Service to be sure that their health insurance was all set before receiving treatment. The Health Connector had accepted the Appellant's premium payment of \$126 for the month of April. The Appellant said that effective May 2019 they were eligible for Medicare. The Appellant said that they were told they were all set but this was not so. The Appellant submitted copies of medical bills in excess of \$64,000 for treatment received in April and May 2019. The Appellant said that Health Connector sent a check for \$126 in July with a notation that it was for an overpayment (Exhibit 4 and Appellant Testimony).

9. The Appellant was advised that the record would be left open for two weeks to contact Health Connector Customer Service for Call Center notes (Exhibit 13).
10. According to the Call Center note dated April 4, 2019, the Appellant had telephoned Customer Service to cancel coverage effective May 2019 because the Appellant would be receiving Medicare. No information regarding current eligibility was noted. The Appellant telephoned again on July 22, 2019 to ask why their coverage terminated for the month of April. The Appellant was advised that the ConnectorCare was terminated because the Appellant did not respond to the request for income verification and did not pay the full premium due for a Health Connector Plan without financial assistance for the month of April 2019 (Exhibit 14).
11. The Customer Service Call Center logs were forwarded to the Appellant. The record was left open until February 3, 2020 to allow the Appellant to file a written response.
12. The Appellant did not submit any additional information.

## **ANALYSIS AND CONCLUSION OF LAW**

Prior to April 1, 2019 the Appellant was determined eligible for ConnectorCare with Advance Premium Tax Credits. This determination was based on the Appellant's having reported income equal to approximately 299.08% of the federal poverty level for the Appellant's household of one. On November 14, 2019 the Health Connector issued a Request for Information. The Appellant was informed, in writing, that updated income information was required to be submitted to the Health Connector by February 12, 2019. The notice was mailed to the Appellant's address of record. As of March 1, 2019, the Health Connector had not received the information requested.

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 resorted to third party data sources for information, but no information was available. On March 1, 2019 the Appellant was notified that they were eligible for Health Connector Plans without subsidies for the period beginning April 1, 2019. This notice was also sent to the Appellant's address of record. This process

complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). The Appellant was correctly found eligible for Health Connector plans, without subsidy for the period beginning April 1, 2019.

The Appellant filed an appeal to dispute the determination in August 2019. The appeal was incorrectly filed at MassHealth and was forwarded to the Health Connector on October 22, 2019. The Appellant does not dispute that they did not send income verification to the Health Connector. The Appellant alleges that they did not receive the November 14, 2018 request for information or the March 1, 2019 notice advising them that they were no longer eligible for ConnectorCare. The notices were mailed to the Appellant's address of record. The Appellant testified that they had no other problems with routine mail delivery. The Appellant also said that they telephoned Customer Service to verify their coverage on April 4, 2019. Notes obtained from Customer Service indicate that the subject of the call was the Appellant's request to terminate their coverage effective May 1, 2019.

The Health Connector's March 1, 2019 determination that the Appellant failed to provide sufficient proof of income was correct. 956 CMR § 12.04, 45 CFR § 155.305(f) and 45 CFR § 155.315(f).

#### **ORDER**

This appeal is denied.

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10321

**Appeal Decision** Appeal Denied

**Hearing Issue:** Eligibility for subsidized Health Connector plans based upon updated income information

**Hearing Date:** January 13, 2020

**Decision Date:** February 6, 2020

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On October 19, 2019, Appellant was determined eligible for ConnectorCare Plan type 3B with Advance Premium Tax Credit based upon Appellant's updated income information of September 19, 2019

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for ConnectorCare Plan type 3B with Advance Premium Tax Credit based upon Appellant's updated income information of September 19, 2019

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 13, 2020.

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 Appeals Unit of Health Connector
- Exhibit 3: Hearing Request Form dated October 31, 2019
- Exhibit 4: Notices on Appeal
- Exhibit 5: Eligibility Results and application summary
- Exhibit 6: Customer Service notes, which include income information sent by Appellant on September 18, 2019

## **FINDINGS OF FACT**

The record shows, and I so find:

1. During 2019, Appellant was covered by MassHealth (Exhibit 5 and Testimony of Appellant).
2. On August 12, 2019 Appellant was asked to provide documents regarding Appellant's income on or before November 10, 2019 (Exhibits 5 and 6).
3. Appellant provided the requested income information on or about September 18, 2019 (Exhibit 6).
4. As a result of the information submitted to the Health Connector on September 18, 2019, Appellant's income was determined to be 263.73% of the federal poverty level (Exhibit 4).
5. On October 19, 2019, Appellant was determined eligible for a ConnectorCare Plan 3B with Advance Premium Tax Credit (Exhibit 5).
6. As a result of Appellant's new eligibility determination on October 19, 2019 Appellant's cost for health insurance increased (Exhibit 6).
7. The updated income information that was sent to the Health Connector on September 18, 2019 was a correct reflection of Appellant's family's projected income according to the family information submitted to the Health Connector (Exhibit 6 and Testimony of Appellant).
8. Appellant had had some changes in the make-up of the family and the status of one of Appellant's children. However, as of the date of the hearing, Appellant had not reported the changes with the Health Connector (Testimony of Appellant).

## **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.

During 2019, Appellant's household had been covered by MassHealth. Appellant was requested to update the income information for the household on August 12, 2019. On September 18, 2019, Appellant provided income information for the working members of the household. As a result of the updates, the household was determined to have an income of 263.73% of the federal poverty level. Appellant was found no longer eligible for MassHealth but was determined eligible for a ConnectorCare Plan 3B. See Exhibits 3, 4, 5 and 6 and Testimony of Appellant, which I find to be credible.

Based upon the updated information that Appellant provided on September 18, 2019, the Health Connector made the correct determination of eligibility for a Connector Care Plan 3B.

## **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**

Appellant should call Health Connector at 1 877 623-6765 to report the changes in the make-up of Appellant's family.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10323

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector coverage

**Hearing Date:** December 16, 2019

**Decision Date:** February 4, 2020

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, Section 155.500 *et seq.* 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 17, 2019, the Appellant was determined ineligible for health insurance coverage through the Health Connector.

### **ISSUE**

Whether the Health Connector made the correction determination on October 17, 2019, on the Appellant's application for health insurance coverage.

### **HEARING RECORD**

On December 2, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 10/17/19 Eligibility Denial Notice (6 pages)
- Exhibit 2: 11/4/19 Appeal w/Screenshot (2 pages)
- Exhibit 3: 11/5/19 Appeal Acknowledgment and Aid Pending Appeal (7 pages)
- Exhibit 4: Appeal Unit Contact Notes (1 page)
- Exhibit 5: 10/17/19 Application Results (4 pages)
- Exhibit 6: 11/5/19 MWS w/ 9/1/19 HC Bill (5 pages)

- Exhibit 7: 2020 Eligibility Results for 10/1/19 Application (2 pages)  
Exhibit 8: 11/5/19 Application Summary (3 pages)  
Exhibit 9: 11/18/19 Hearing Notice (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On September 1, 2019, the Health Connector mailed the Appellant at his address of record his monthly bill for health insurance coverage in October 2019. On September 24, 2019, this letter was returned to the Health Connector, marked "Undeliverable." (Exhibit 6)
2. By letter dated October 17, 2019, mailed to the Appellant's address of record, the Health Connector notified the Appellant that he did not qualify for health insurance coverage through the Health Connector because, "Our records indicate that you do not live in Massachusetts." The letter also stated that, if any of his personal information had changed, including his address, he should notify the Health Connector by calling a specific phone number. (Exhibit 1)
3. On November 4, 2019, the Appellant appealed the Health Connector's 10/17/19 determination, circling "Residency" as the basis for his appeal and stating, "I live in MA and my denial said I don't." (Exhibit 2)
4. By letter dated November 5, 2019, to the Appellant, the Health Connector acknowledged receipt of the Appellant's appeal. Enclosed with the letter was a "Massachusetts Residency" sheet, requesting the Appellant to submit proof of residency and listing acceptable documents for doing so. The letter also stated that he could keep his old benefits while his appeal was pending, but only if he informed the Health Connector Appeals Unit within fifteen days that he wanted to do so. (Exhibit 3)
5. The Appellant does not know why his 9/1/19 bill from the Health Connector was returned to the Health Connector as "undeliverable." (Appellant's testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

In order to qualify for health insurance coverage through the Health Connector, an individual must be a resident of Massachusetts, under 45 CFR Section 155.305(a)(1). The Health Connector may review eligibility during the year and more frequently as a result of a change in an enrollee's circumstances, under 956 CMR 12.08.

In this case, I find that the Health Connector acted reasonably in response to receiving back mail the Health Connector had sent to the Appellant at his address of record, marked undeliverable, by sending out the 10/17/19 eligibility denial notice. There is no evidence that the Health Connector made a mistake in doing so, in light of the evidence it had that the Appellant no longer resided at that address. Also, the notice specified the Health Connector number for the Appellant to call about any changes in his circumstances. While the Appellant had not changed his mailing address, he might have learned of, addressed, and perhaps resolved the issue in a phone call.

Therefore, I conclude that the Health Connector made the correction determination on October 17, 2019, with respect to the Appellant's eligibility for health insurance coverage, under 45 CFR Section 155.305.

## **ORDER**

The appeal is denied.

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

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

**Connector Appeals Unit**

**FINAL APPEAL DECISION: ACA19-10443**

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 8, 2020

**Decision Date:** February 12,2020

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

Appellants submitted an application for subsidized health insurance on October 31, 2019. The Health Connector determined the Appellant and her husband to be eligible for ConnectorCare Plans.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plans .

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 8, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

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

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (5 pages, dated December 2, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (2 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 2 pages dated November 13, 2019)
- Exhibit 6: Notice of Eligibility Determination (10 pages, dated October 31, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (9 pages, dated October 31, 2019)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 63 year old married female (Exhibit7)
2. The Appellant has a household of two. (Exhibit 7 and Appellant testimony )
3. On their application, dated October 31, 2019 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) of \$62,251.00 (Exhibit 7 and Appellant's testimony)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place them at 248.01% of the 2019 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 and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Exchange must determine an applicant eligible for enrollment in a QHP through the Exchange if he or she meets the following requirements:

On their latest application, the Appellant stated that their projected MAGI was \$62,251.00, which for a household of two, puts the Appellants at approximately 248.01% of the 2019 Federal Poverty Level. The Health Connector correctly found the Appellant eligible for subsidized ConnectorCare plans. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**



## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA19-10544

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 10, 2020

Decision Date: February 19, 2020

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#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

Appellants submitted an application for subsidized health insurance on October 30, 2019. The Health Connector determined the Appellant to be eligible for Health Connector plans with APTC.

#### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans with APTC.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 10, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

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

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (5 pages, dated December 3, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (3 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 2 pages dated November 21, 2019)
- Exhibit 6: Notice of Eligibility Determination (10 pages, dated November 12, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated November 12, 2019)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout 68 pages, dated November 14, 2019)
- Exhibit 9: Historical Notices & Printouts (6 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 42 year old unmarried female (Exhibit 7 & 8)
2. The Appellant has a household of one. (Exhibit 7 & 8 )
3. On her application, dated November 14, 2019 the Appellants entered a manual verified annual modified adjusted gross income of (MAGI) of \$42,000.00. (Exhibit 8)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 336.27% of the 2019 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 and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

5. Appellant then filed her appeal on November 21, 2019.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant's application stated their projected MAGI was \$42,000.00, which for a household of one, puts the Appellant at approximately 336.27% of the 2019 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for Health Connector plans with APTC. The Appellant the appealed. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10638

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized insurance based on tax filing status

**Hearing Date:** January 14, 2020

**Decision Date:** February 21, 2020

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 30, 2019, the Appellant was determined eligible for Health Connector plans with no financial help.

### ISSUE

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

### HEARING RECORD

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

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (12-17-19) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (12-5-19) (5 pages);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (12-4-19) (with documents) (3 pages);
- Exhibit 6: Eligibility Approval letter (10-30-19) (8 pages); and
- Exhibit 7: Eligibility detail printout and application summary printout (13 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant is a married individual who applied for subsidized health insurance through the Health Connector on October 30, 2019. (Exhibits 5, 6 and 7).
2. The Appellant was married at the time of the application but divorce proceedings had been initiated. (Appellant's testimony, Exhibit 5).
3. On the application, Appellant indicated that Appellant would not be filing a joint tax return with Appellant's spouse. (Exhibit 7).
4. The Health Connector found that the Appellant was eligible for health Connector plans without subsidies, because the Appellant stated they were married but would not file a joint income tax return with the spouse (Exhibit 7).
5. Appellant appealed alleging that they were no longer married, and could not afford insurance without receiving subsidies. (Exhibit 5, Appellant Testimony).
6. Appellant testified that the divorce was now final, but Appellant had no updated her application to reflect the final divorce. (Appellant's testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC applies to married couples. In general, married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). However, if one of the spouses is a 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. 26 CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their 2019 (and 2020) taxes in accordance with the required certification, which appears on Form 8962.

In addition to the above exceptions to the requirement to file a joint tax return, taxpayers who qualify to file as head of household may also receive APTC. Even those taxpayers who are technically married may qualify to file as

head of household, so long as the test for head of household status is satisfied. This test requires that the taxpayer be “unmarried,” that the taxpayer paid more than half the cost of keeping up a home for the year, and that a qualifying person lived with the taxpayer for more than half the year. 26 CFR § 1.2-2(b). Married taxpayers may be “considered unmarried,” and therefore eligible for head of household status, so long as the taxpayer, among other requirements, has not lived with the taxpayer’s spouse during the last six months of the tax year. 26 CFR § 1.7703-1. Taxpayers who are married but file as head of household are technically filing as unmarried, and so do not need an exception to the rule that they file a joint tax return, and may claim APTC so long as they are otherwise eligible. See 26 CFR § 1.36B-4T(b)(5) (Example 9). Applicants looking to claim APTC by claiming head of household status must attest the they will file their 2019 (and 2020) taxes as head of household.

The Appellant stated on the application that they were married and do not intend to file a joint tax return. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, regardless of meeting the income threshold requirements. The Appellant testified at hearing that they had obtained a divorce and at the time of filing the application, the divorce was not final, but that at the time of the hearing the divorce was final. The Appellant had not updated the application to reflect the final status of the divorce as of the time of the hearing. Therefore, the Health Connector correctly found that the Appellant was not eligible for APTC or ConnectorCare at the time of the determination.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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## **ADDENDUM**

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10801

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Eligibility for Health Connector Plans based on failure to verify income.

**Hearing Date:** February 10, 2020

**Decision Date:** February 14, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 24, 2019 the Appellant and their spouse were determined ineligible for Health Connector plans effective December 1, 2019. The Appellant's determination came after failing to verify income and residency.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant and their spouse were ineligible for Health Connector plans based on their failure to verify income and residency in a timely manner.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 10, 2020. The Appellant's spouse did not attend. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated January 17, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form submitted to the Health Connector Appeals Unit on December 24, 2019.

- Exhibit 5: Health Connector's Eligibility Termination Notice with an Application Summary dated November 24, 2019.
- Exhibit 6: A My Workspace printout of documents received by the Health Connector on December 12, 2019.
- Exhibit 7: Health Connector's Request for Information dated August 19, 2019.
- Exhibit 8: Health Connector's Eligibility Approval notice, with an Application Summary dated December 18, 2019.
- Exhibit 9: A Health Connector Customer Service printout of the Appellant's enrollment information effective January 1, 2020.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Prior to December 1, 2019 the Appellant and their spouse were enrolled in a Health Connector Plan based on the Appellant's having attested to having income equal to 472.60% of the federal poverty level for the Appellant's household of two (Exhibits 3, 5).
2. On August 19, 2019 the Health Connector issued a Request for Information. The Appellants were asked to provide proof of residency and updated income verification for both adult household members by November 17, 2019. The Notice advised the Appellants of the types of documents needed to verify income and residency as well as the contact information to submit the documentation requested by mail or fax. The notice was mailed to the Appellants' address of record (Exhibit 7).
3. As of November 24, 2019, the Health Connector had not received the documents requested from the Appellants. The Health Connector was unable to obtain proof of the Appellants' income from third party data sources (Exhibit 5).
4. On November 24, 2019 the Health Connector notified the Appellants that their eligibility was terminated effective December 1, 2019 because the Health Connector did not receive the information needed to verify their eligibility to purchase a Health Connector plan. The notice was mailed to the Appellants' address of record (Exhibit 5).
5. The Appellants submitted documentation to the Health Connector on December 12, 2019 (Exhibit 6).
6. On December 18, 2019 the Health Connector determined that the Appellant's household of two was eligible to purchase a Health Connector plan to be effective January 1, 2020 based on the Appellants having reported income equal to 532.28% of the federal poverty level (Exhibits 6, 8).
7. The Appellant filed an appeal on December 24, 2019. On the Hearing Request Form the Appellant questioned having to verify income since they do not receive subsidies. The Appellant also wrote that they paid their December premium and did not receive a notice to update income (Exhibit 4).
8. The Appellant testified that they did not receive the August 19, 2019 Request for Information. The Appellant verified that the address on the notice was correct. When asked about the November 24, 2019 Eligibility Termination notice the Appellant testified that this was sent around Thanksgiving. The

Appellant argues that they paid their December premium and their insurance should have been reinstated for the month of December. The Appellant attempted to dispute a billing issue that they had in the summer of 2019 but was advised that this was not an issue for this appeal (Appellant Testimony).

### **ANALYSIS AND CONCLUSION OF LAW**

Prior to December 1, 2019 the Appellant and their spouse were determined eligible for Health Connector plans. This determination was based on the Appellant having reported income equal to approximately 472.60% of the federal poverty level for the Appellant's household of two. On August 18, 2019 the Health Connector issued a Request for Information. The Appellants were informed, in writing, that proof of residency and updated income information for both adult household members were required to be submitted to the Health Connector by November 17, 2019. The notice was sent to the Appellants' address of record. As of November 24, 2019, the Health Connector had not received the information requested.

On November 24, 2019 the Appellants were found ineligible for Health Connector Plans effective December 1, 2019 based on failing to verify residency and income. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. Applicants and Enrollees are required to cooperate with the Health Connector by providing the information needed to establish and maintain eligibility. 956 CMR 12.09(1).

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) and income 45 CFR § 155.315(f). Where the Health Connector cannot verify applicants' residency and/or income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f) and 155.320(d). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination in accordance with 45 CFR §§ 155.315(f)(5) and 155.320(c)(3)(i)(D). The Health Connector complied with all policy and regulatory verification requirements prior to terminating the Appellant's eligibility for a Health Connector plan effective November 30, 2019.

The Appellant argues that they paid the December premium in a timely manner and therefore should be eligible to have their insurance reinstated for the month of December 2019. Payment of the premium in and of itself does not establish eligibility.

The Appellant testified that they did not receive the Request for Information issued on August 18, 2019. As noted above, the notice was sent to the Appellant's address of record. The Appellant was asked about the November 24, 2019 Termination notice and responded that this was issued around Thanksgiving. It is undisputed that the Appellant did not submit requested documentation until December 12, 2019. The documentation submitted by the Appellant on December 12, 2019 was sufficient to establish eligibility for the Appellant's household of two effective January 1, 2020. The Health Connector notified the Appellants of this on December 18, 2019 and the Appellants did reenroll effective January 1, 2020.

### **ORDER**

This appeal is denied.

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-10496

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare

**Hearing Date:** January 21, 2020

**Decision Date:** February 13, 2020

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, Section 155.500 *et seq.* 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 29, 2019, the Appellant was determined eligible for a Health Connector Plan with no financial help.

### **ISSUE**

Whether the Health Connector made the correction determination on October 29, 2019, on the Appellant's application for health insurance coverage.

### **HEARING RECORD**

On January 21, 2020, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 10/29/19 Eligibility Approval Notice (10 pages)
- Exhibit 2: 11/19/19 Appeal (3 pages)
- Exhibit 3: 11/20/19 Appeal Acknowledgment (6 pages)
- Exhibit 4: 12/4/19 Appeal Unit Notes (1 page)
- Exhibit 5: 10/20/19 2020 Eligibility Results (6 pages)
- Exhibit 6: 1/17/20 Medicaid Household Determination (4 pages)
- Exhibit 7: Administrative Closing (1 page)

- Exhibit 8: 11/29/19 2018 Eligibility Results (2 pages)  
Exhibit 9: 11/20/19 Application Summary (3 pages)  
Exhibit 10: 12/16/19 Hearing Notice (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 20, 2019, the Appellant applied to the Health Connector for 2020 coverage, reporting projected annual income of zero. (Exhibit 5)
2. By letter dated October 29, 2019, the Health Connector notified the Appellant that he qualified for Health Connector Plan for 2020 with no financial help, based on his household's income of zero; that the Health Connector did not have enough recent information about his household's income to qualify him for lower-cost coverage; and, that he should update his application with his most recent income information to make sure that he was getting the right type of coverage. (Exhibit 1)
3. On November 19, 2019, the Appellant appealed the Health Connector's 10/29/19 determination, checking off "Income" as the reason for his appeal and stating in the "Explanation" section that he had "lost job in July." (Exhibit 2)
4. As of November 19, 2019, the Appellant's income was still unknown. (Exhibit 5; Exhibit 9)
5. On December 4, 2019, an Appeals Unit representative spoke with the Appellant by phone and advised him to contact MassHealth Customer Service to review and report his income, as his reported income of zero was below 100% of the Federal Poverty Level. (Exhibit 4)

## **ANALYSIS AND CONCLUSIONS OF LAW**

In order to qualify for any financial assistance for a Health Connector Plan, a household's annual income must be between 100% and 400% of FPL. If the household's annual income is below 100% of FPL, the household may be eligible for MassHealth, instead. In either case, an applicant must provide a projected income for the year in which they are applying for coverage in order for the Health Connector (or MassHealth) to determine whether they are eligible for financial assistance, through a ConnectorCare plan and/or an Advance Premium Tax Credit, and, if so, how much financial assistance they would get.

In this case, as the Appellant provided no information in his 10/29/19 application for 2020 coverage about his household's expected income in 2020, the Health Connector had no way of determining what, if any, financial assistance the Appellant qualified for in 2020.

Accordingly, the Health Connector correctly determined on October 29, 2019, that the Appellant qualified for Health Connector Plan for 2020 with no financial assistance.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

**Connector Appeals Unit**

**FINAL APPEAL DECISION: ACA20-10732**

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** February 14, 2020

**Decision Date:** February 20, 2020

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

Appellants submitted an application for subsidized health insurance on December 4, 2019. The Health Connector determined the Appellant and her husband to be eligible for ConnectorCare Plans 3A.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plans .

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 14, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

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

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (8 pages, dated January 13, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (3 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 2 pages dated December 10, 2019)
- Exhibit 6: Notice of Eligibility Determination (21 pages, dated December 4, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated December 4, 2019)
- Exhibit 8: Historical Notices & Printouts (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 23 year old unmarried female (Exhibit7)
2. The Appellant has a household of one. (Exhibit 7)
3. On her application, dated December 4, 2019 the Appellants entered a manual verified annual modified adjusted gross income of (MAGI) of \$27,551.24. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 220.59% of the 2019 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 and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.
5. Appellant then filed her appeal on December 10, 2019.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant's application stated her projected MAGI was \$27,551.24, which for a household of one, puts the Appellant's at approximately 220.59% of the 2019 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for ConnectorPlans 3A. The Appellant the appealed. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-10934

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for Health Connector plans based on access to Medicare

**Hearing Date:** February 11, 2020

**Decision Date:** February 19, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated December 26, 2019, the appellant was advised that he did not qualify for health insurance coverage through the Health Connector Plan based on access to or enrollment in Medicare. (Ex. 1) The appellant filed an appeal dated December 31, 2019 in which he stated that he is not eligible for Medicare until July, 2020. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Ex. 8)

### ISSUE

Was the Connector's decision regarding the appellant's lack of eligibility for health insurance through the Health Connector correct at the time of its determination on December 26, 2019, pursuant to 42 U.S.C. 1395ss?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 11, 2020, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Notice of Eligibility Denial dated December 26, 2019 (6 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results (1 page)
- Ex. 3— Computer printout of Health Connector's Review of Application (3 pages)
- Ex. 4—Hearing Request Form dated December 31, 2019 (3 pages)
- Ex. 5—Acknowledgment of Appeal dated January 14, 2020 (4 pages)
- Ex. 6—Health Connector email dated January 14, 2020 (1 page)

- Ex. 7—Appeals Unit notes (1 page)
- Ex. 8—Notice of Hearing (4 pages)
- Ex. 9—Affidavit of Connector representative (1page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant turned 65-years-old on April 23, 2019 and has a tax household size of one. (Testimony, Ex. 3)
2. The appellant was enrolled in health insurance through the Health Connector at the time he turned 65 and remained enrolled until December 31, 2019. (Testimony)
3. The appellant began the process of enrollment in Medicare in September, 2019. In December, 2019, he was notified that his Part A coverage with Medicare began on April 1, 2019, and his Part B coverage would begin on July 1, 2020. (Testimony, Ex. 4)
4. By notice dated December 26, 2019, the Health Connector advised the appellant that he did not qualify for health insurance coverage through the Health Connector because he had access to or was enrolled in Medicare. (Exs. 1,2)
5. The appellant appealed the Connector’s December 26th decision on December 31, 2019, and stated that he was not eligible for Medicare until July, 2020. He assumed that he could remain enrolled in insurance through the Connector until that time. (Testimony, Ex. 5)

## **ANALYSIS AND CONCLUSIONS OF LAW**

In general, an individual may purchase health insurance through the Health Connector if s/he satisfies the eligibility standards at 45 CFR § 155.305(a). However, for individuals who are eligible for Medicare, there is an additional legal standard that must be considered, specifically the “anti-duplication rule” found in the Social Security Act, 42 USC 1395ss(d)(3)(A)(i), and implemented in federal regulations at 45 CFR § 147.106 and 45 CFR § 148.122. The rule prohibits health insurance issuers from selling insurance to Medicare-eligible individuals if that insurance would duplicate the benefits provided by Medicare, including where the individual only has Medicare Part A. The Health Connector, as a seller of commercial individual market health insurance, only sells insurance that would be duplicative of benefits provided by Medicare. The Connector also must take precautions to ensure that the issuers whose coverage it sells are not put in the position of violating the anti-duplication rule.

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to provide (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their “same policy or contract of insurance.” See 45 CFR § 147.106 and 45 CFR § 148.122; and discussion generally at 81 FR 94068, December 22, 2016. In choosing this standard, the federal government indicated a clear directive to not renew the individual market coverage of Medicare-eligible individuals except in the narrowest of circumstances, and regardless of whether the individual might otherwise satisfy the eligible criteria at 45 CFR § 155.305(a).

The appellant does not dispute that he has been enrolled in Medicare Part A since April, 2019, but believed that he could remain enrolled in Connector health insurance until his Part B coverage begins in July, 2020.

Based on the foregoing, it is concluded that the Connector's determination on December 26, 2019 regarding the appellant's lack of eligibility for health insurance through the Health Connector based on access to Medicare was correct.

**ORDER**

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant was advised at the conclusion of the hearing to contact SHINE at 1-800-243-4636 about a new Medicare Savings Program offered through MassHealth, and any other questions regarding his enrollment in Medicare.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10689

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for subsidized insurance; based on failure to reconcile prior tax credits

**Hearing Date:** January 14, 2020

**Decision Date:** February 25, 2020

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 11, 2019, the Appellant was determined eligible for Health Connector plans with no financial help for plan year 2020. The determination was a result of the Health Connector's renewal process.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no financial help, based on information used in the Health Connector's renewal process.

### HEARING RECORD

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

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (12-17-19) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (12-16-19) (3 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (12-11-19) (2 pages);

- Exhibit 6: Final Renewal Notice (10-18-19) (10 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (11 pages); and  
Exhibit 8: Form 1095-A's for TY 2016 – 2018 (18 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. In 2018, Appellant had been covered by ConnectorCare plans (Exhibit 8).
2. Appellant had failed to file an income tax return and reconcile receipt of advance premium tax credits prior to the date of the renewal determination (Appellant Testimony).
3. On October 18, 2019, Appellant was sent a Final Renewal Notice, informing Appellant of eligibility for Health Connector plans with no financial help. This was based on data from other sources (Exhibits 6, 7).
4. Appellant had not updated the information with the Health Connector prior to October 18, 2019.
5. On December 11, 2019, Appellant filed an appeal.
6. Appellant testified that they had attempted to file the tax return but it was rejected (Appellant's Testimony).
7. The determination of the Connector was correct based upon the information available to the Connector at the time of the Final Renewal Notice.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans with no financial help for 2020. Appellant asserts that this determination was incorrect, because the Appellant will make no income, and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On October 18, 2019, the Appellant was determined eligible for Health Connector plans without subsidies. In 2018, the Appellant was eligible for ConnectorCare Plans, and received APTC. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c) – (g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On October 18, 2019, the Appellant was found eligible for Health Connector Plans with no financial help for plan year 2020, based on having failed to file the required reconciliation. This determination came as part of the health Connector's annual renewal process, and followed the preliminary eligibility notice for plan year 2020, which asked the Appellant to review this information and report any changes within 30 days if it was incorrect.

The Appellant did not report any changes after receiving the preliminary eligibility notice, and the eligibility was finalized on October 18, 2019, with notice to the Appellant. This is consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for Appellant, based on information available to the Connector. This process complied with federal law at 45 CFR § 155.335.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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## **ADDENDUM**

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

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

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

NOTE: Appellant was advised to update the tax filing and then attest to the filing of the taxes and reconciliation.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10696

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 14, 2020

**Decision Date:** February 25, 2020

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On November 29, 2019, Appellants were determined eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credit and Massachusetts subsidy. Appellants were redetermined on December 6, 2019, and were still determined eligible for ConnectorCare Plan Type 3A.

### **ISSUE**

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

### **HEARING RECORD**

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

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (12-17-19) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (12-16-19) (5 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (12-9-19) (with letter and documents) (8 pages);

- Exhibit 6: Eligibility Approval letter (11-29-19) (8 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (14 pages); and  
Exhibit 8: Account Dashboard information (3 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants had health insurance previously through the Health Connector. Appellants submitted an application for health insurance on November 29, 2019, and were determined eligible for ConnectorCare Plan Type 3A. (Exhibits 5, 6 and 7).
2. Appellant appealed alleging that they could not afford the premiums and that based on income, there should be more of a subsidy. (Exhibit 5, Appellant Testimony).
3. Appellants stated that they did not believe their income had changes significantly, but the premiums had continued to increase. (Exhibit 5, Appellant Testimony).
4. Appellant were redetermined on December 6, 2019, and again were determined as eligible for ConnectorCare Plan Type 3A. (Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On November 29, 2019, the Appellants were determined eligible for ConnectorCare Plan Type 3A based on income reported and verifying income from other sources. The Appellants appealed. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination for a person who has not verified income. 45 CFR § 155.305(f). Appellants were redetermined December 6, 2019, and again determined to be eligible for ConnectorCare Plan Type 3A.

The Health Connector correctly found that the Appellants were eligible for ConnectorCare Plan Type 3A on November 29, 2019, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-10724

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 14, 2020

**Decision Date:** February 26, 2020

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On December 2, 2019, the Appellant was determined eligible for Health Connector plans without financial assistance.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans without financial assistance, based on the Appellant's reported and verified income.

### **HEARING RECORD**

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

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (12-19-19) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (12-16-19) (3 pages);
- Exhibit 4: Outreach email (1 page);
- Exhibit 5: Hearing Request form (12-9-19) (with documents) (5 pages);

- Exhibit 6: Eligibility Approval letter (12-2-19) (8 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (13 pages); and  
Exhibit 8: Workspace form and documents (9 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant submitted an application for health insurance on November 30, 2019, and was determined eligible for Health Connector plans with APTC and was asked to submit proof of income. (Exhibits 7).
2. Appellant was redetermined on December 2, 2019, and was determined eligible for Health Connector plans with no financial assistance (Exhibits 6 and 7).
3. Appellant appealed alleging that they could not afford the premiums and that based on income, there should be more of a subsidy. (Exhibit 5, Appellant Testimony).
4. Appellant testified that Appellant's job was scheduled to end in April 2020, and that Appellant did not have any other employment secured, although Appellant had been looking for six months. (Appellant Testimony).
5. Based on Appellant's reported income annualized, the determination of the Health Connector was correct. (Exhibits 7 and 8).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On December 2, 2019, the Appellant was determined eligible for Health Connector plans with no financial help based on verifying income from other sources. The Appellant appealed. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination for a person who has not verified income. 45 CFR § 155.305(f). Appellant did submit additional documents after the determination on December 2, 2019. Appellant was redetermined on December 24, 2019, however was still found eligible for Health Connector plans with no financial help.

The Health Connector correctly found that the Appellant was eligible for Health Connector plans with no financial help on December 2, 2019, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

NOTE: Appellant was advised to submit an affidavit regarding the job ending and to update the income.

# FINAL APPEAL DECISION: ACA19-10405

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

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

**Hearing Date:** February 20, 2020

**Decision Date:** February 28, 2020

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## **AUTHORITY**

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

## **JURISDICTION**

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

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

On August 5, 2019, the Appellant coverage was terminated for non-payment of premiums. Appellant sought reinstatement but was not reinstated.

## **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant should not be reinstated.

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on February 20, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated January 28, 2020)
- Exhibit 3: Appeals Unit letter dated November 18, 2019 to Appellant acknowledging receipt of hearing request with Payment History information (4 pages).

- Exhibit 3(a) Health Connector's Appeals Unit Staff Notes (2 pages)  
Exhibit 4: Appellant's Appeal Request Form (2 pages, dated December 12, 2019)  
Exhibit 5: Health Connector Notice to the Appellant dated August 5, 2019 regarding Termination due to Non- Payment (4 pages)  
Exhibit 6: Appellant's Application Summary Results (4 pages, dated August 31, 2019)  
Exhibit 7: Health Connector Letter to the Appellant dated June 28, 2019 regarding Termination Warning (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through the Health Connector during a portion of 2019 (Appellant testimony). (Exhibit 3).
2. Appellant had missed or was late on some of the premium payments (Exhibits 3, 3(a)).
3. On June 28, 2019, the Health Connector sent a letter to the Appellant regarding Termination Warning which referenced that the Appellant had to pay \$252.00 by August 3, 2019 or his coverage would end retroactively June 30, 2019. (Exhibit 5)
4. The Appellant did not make the required payment due by August 3, 2019. (Exhibits 1, 3-4).
5. The Health Connector sent notice to the Appellant dated August 5, 2019 terminating coverage retroactively to June 30, 2019 because the Connector did not receive full payment of the amount due. (Exhibit 5-1).
6. The August 5, 2019 Notice stated that that he could reinstate the coverage if he made full payment of past due amount as well as an additional amount for the next month within 35 days (Exhibit 5).
7. The Appellant made payments after August 3, 2019 but not in the correct amount, and not in a timely manner. (Appellant's testimony, Exhibit 3-4).
8. The Appellant did not make the payments needed in order to be reinstated within the time period required.
9. The Appellant called the Connector's customer service numerous times after August 5, 2019. (Appellant's Testimony, Exhibit 3(a), 1-2).
10. The Connector's notes reference that the Appellant payments did not allow the reinstatement of coverage. (Exhibit 3, 3(a)).
11. The Appellant made a payment on August 27, 2019 in the amount of \$151 which was returned for insufficient funds. (Exhibit 3-4).
12. The Appellant had until September 9, 2019 to make a payment but did not call until September 11, 2019 for reinstatement. (Exhibits 1, 3(a)p.1).
13. The Appellant indicated he may be eligible for Employer Sponsored Insurance but declined to reach out to his Employer while continuing to seek reinstatement to December 2019. (Exhibits 1, 3(a)).
14. The Appellant testified that he was misinformed by the Connector regarding his eligibility and status from July 2019 through November 2019. (Exhibit 4-P1).
15. The Appellant testified he paid what was owed in August 2019 and that his insurance would be reactivated. (Exhibit 4-P1).

## **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 (APTC) if their household income is at or below 400% of the Federal Poverty Level (FPL). 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. If a member does not pay premiums, he may be terminated for non-payment of premiums. 956 CMR § 12.11(3). Under Policy NG-6B, a member may be reinstated if they pay all amounts due as well as the following month's payment within 35 days of the date of termination of coverage. 956 CMR § 12.11(4).

In this case, Appellant's coverage was terminated for non-payment of premiums. The termination is not an appealable issue. Whether the reinstatement policy was properly followed is appealable. In this case, the Appellant did not fully pay the amounts owed within the time required, and, therefore, the reinstatement was not approved. Therefore, the determination of the Health Connector 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.

Hearing Officer

Cc: Health Connector Appeals Unit

## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2019 from the federal government will be reconciled when you file your 2019 federal income tax return (usually in the spring of 2020). 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 2019 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2019 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2019 will be paid to you when you file your 2019 federal income tax return.