

Massachusetts Health Connector Appeals Unit

Final Appeal Decision ACA 21-15437

Appeal Decision: Appeal denied, eligibility determination affirmed.

Hearing Issue: Eligibility for purchasing Health Connector Plans based on lawful presence and tax filer statuses.

Hearing Date: January 18, 2022

Decision Date: February 2, 2022

AUTHORITY

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A, M.G.L. c. 111M and M.G.L. c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

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, § 155.500 et seq. and Title 956 of the Code of Massachusetts Regulations, § 12.15, and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02.

ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR

On November 11, 2021, the Connector determined Appellant ineligible for purchasing health insurance through the Connector because she was not lawfully present in the United states and because of her non-tax filer status.

ISSUE

The issue addressed on appeal is whether the Health Connector correctly determined, on November 11, 2021, Appellant ineligible for purchasing health insurance through the Connector because, according to Connector records, Appellant was not lawfully present in the United States and does not file taxes.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on January 18, 2022. The procedures to be followed during the hearing were reviewed with Appellant and her representative, who were both sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant and her representative's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Medicaid Household Determination dated 11.11.2021
- Exhibit 2: 2022 Eligibility Results dated 11.11.2021
- Exhibit 3: Application Summary dated 11.11.2021
- Exhibit 4: Eligibility Denial Notice dated 11.11.2021
- Exhibit 5: Appeal Request Form with Affidavit of Residency received 12.1.2021
- Exhibit 6: Health Connector Keeper of Records Affidavit

- Exhibit 7: Health Connector outreach notes dated 12.8.2021 and 12.22.2021
Exhibit 8: Health Connector emails to Appellant dated 12.8.2021
Exhibit 9: Health Connector letter to Appellant dated 12.8.2021
Exhibit 10: Health Connector Acknowledgment of Appeal dated 12.8.2021
Exhibit 12: Health Connector Hearing Notice dated 12.28.2021

FINDINGS OF FACT

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

1. Appellant had not applied for health insurance through the Connector before applying on November 11, 2021. (Exhibits 3 and 7).
2. On November 11, 2021, the Connector determined and sent notice to Appellant dated the same day, that she was ineligible for purchasing health insurance through the Health Connector. (Exhibit 4).
3. The reason for Appellant's ineligibility for purchasing health insurance through the Connector was not made clear in the November 11, 2021 eligibility denial notice. (Exhibit 4).
4. The record is not clear when (or if) the Connector requested proof of residency; the record shows only that by November 11, 2021, the Connector's request for Proof of Residency had expired. (Exhibit 2).
5. Appellant submitted an appeal request of the Connector's ineligibility determination, received by the Connector on December 1, 2021. (Exhibit 5).
6. Appellant included an Affidavit of Residency in her appeal request, dated November 23, 2021, affirming that she is a resident of Massachusetts. (Exhibit 5.)
7. The Health Connector sent Appellant a letter and two emails on December 8, 2021, advising Appellant that she needed to submit proof of her immigration status and to update her tax filing status on her Health Connector application. (Exhibits 8 and 9).
8. As of the date of the hearing, Appellant has not sent the Connector the requested immigration proof documents.

ANALYSIS AND CONCLUSIONS OF LAW

The issue addressed on appeal is whether the Health Connector correctly determined on November 11, 2021, that Appellant was ineligible for purchasing health insurance through the Connector because Appellant was not lawfully present in the United States and does not file taxes.

The Health Connector is a health insurance exchange created under state law. M.G.L. 176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care

Act (ACA), a federal law governing access to health insurance. See M.G.L. 176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance.

42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money, combined with these federal premium tax credits.

To be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. See 956 C.M.R. 12.08. Prior to implementation of the American Rescue Plan (“ARP”) signed into law on March 11, 2021, individuals were eligible for Advanced Premium Tax Credits (“APTC”) if their household income was at or below 400% of the Federal Poverty Level (“FPL”). The ARP significantly expanded coverage and affordability parameters for 2021 and 2022, including APTC eligibility for individuals who received unemployment benefits during any portion of calendar year 2020, regardless of their FPL, and APTC eligibility for individuals with a FPL above 400%, regardless of receipt of unemployment benefits. See H.R. 1319 – 117th Congress: American Rescue Plan Act of 2021.

Applicants qualifying for APTC, who have projected yearly Modified Adjusted Gross Income (“MAGI”) less than or equal to 300% FPL, qualify for additional state subsidies through the Connector Care program. 956 C.M.R. § 12.04. Individuals whose income is at or below 133% of the FPL are eligible for MassHealth, a wholly separate program from Connector Care. Individuals with access to Minimum Essential Coverage (“MEC”), either government sponsored or through an employer, are eligible solely for unsubsidized Health Connector coverage. See 45 C.F.R. §155.305 (f)(1)(ii)(B). As MassHealth qualifies as MEC, individuals with access to MassHealth are ineligible for subsidies.

As a preliminary matter, however, applicants seeking health insurance through the Health Connector, subsidized or otherwise, must meet certain requirements to be eligible for shopping on the exchange. These include, among other requirements, Massachusetts residency and being lawfully present in the United States. See 45 C.F.R. 155.305; 45 U.S.C. § 1395 ss (d) (3)(A)(i). Further, Individuals who have access to Medicare, whether enrolled or not, are ineligible for shopping on the Connector exchange based on the ‘anti-duplication’ rule, prohibiting an exchange from selling health insurance plans to individuals who are already covered by Medicare. 42 U.S.C. § 1395ss (d)(3)(A)(i); 45 C.F.R. §§ 147.106 (h)(2) and 148.122 (b)(2).

The record shows that Appellant had not applied for health insurance through the Connector before November 11, 2021. (Exhibits 3 and 7). Appellant’s Application Summary, dated November 11, indicates immigration and tax filing statuses incompatible with eligibility for purchasing health insurance through the Connector. (Exhibit 3). On November 11, the Connector determined and sent notice to Appellant that she was ineligible for purchasing health insurance through the Health Connector without providing in the notice the specific reason(s) for her ineligibility. (Exhibits 2 and 4). Appellant appealed this determination by submitting an appeal request, received by the Connector on December 1, 2021. (Exhibit 5). Included in the appeal request was an Affidavit of Residency affirming that Appellant is a resident of Massachusetts. (Exhibit 5.) On December 8, 2021, the Health Connector sent Appellant a letter and two emails advising her to submit proof of her immigration status and update her tax filing status on her Health Connector application. (Exhibits 8 and 9).

The ineligibility notice sent to Appellant on November 11, 2021 was less than a model of clarity. (Exhibit 4). Given that the Connector's eligibility results document that is part of the record indicates an expired request for Proof of Residency, it is not surprising Appellant provided a Residency Affidavit affirming her status as a Massachusetts resident in her appeal request. (Exhibit 4). However, the Connector based its November 11 eligibility determination not on Appellant's residency status, but rather her immigration and tax filing statuses, and Appellant's Residency Affidavit did not change her eligibility.

While the record is devoid of documents showing a request from the Connector for immigration proof documents prior to December 8, the Medicaid Determination document in the record supports the Connector's November 11 determination that Appellant's immigration and tax filing statuses precluded her from purchasing health insurance through the Connector. (Exhibit 1). As of the date of hearing, Appellant has not provided the immigration proof documents requested by the Connector. (Exhibits 5, 8 and 9). The record does not indicate if Appellant updated her tax filing status in her Connector Application, as requested. (Exhibit 8).

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the Act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other requirements, must be lawfully present in the United States. *See* 45 CFR 155.305(a)(1). The record shows that the Connector properly relied on records showing no lawful presence and non-tax filer statuses for Appellant in determining on November 11 that Appellant was ineligible for purchasing health insurance through the Connector. I find that the Connector properly determined, on November 11, 2021, that Appellant was ineligible for purchasing Health Connector plans based on her immigration and tax filer statuses.

Accordingly, the Connector's determination is **UPHELD**.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: January 31, 2022

Decision Date: February 24, 2022

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 July 12, 2021, the Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 31, 2022. The Appellant was sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Appellant's Appeal Request Form	(1 page, received 12/30/2021)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(1 page, dated 12/22/ 2021)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	(1 page, dated 1/7/ 2022)

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Exhibit 5:	Health Connector's Application Summary	(3 pages, dated	12/30/ 2021)
Exhibit 6:	Health Connector's Eligibility Results	(3 pages, dated	12/30/2021)
Exhibit 7	Health Connector's Eligibility Denial	(6 pages, dated	12/30/2021)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	(2 pages, dated	1/5/ 2022)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	12/30/ 2022)
Exhibit 10	Connector Email to Appellant	(2 pages, dated	1/5/2022)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant credibly testified that he is 58 years of age, receives social security disability insurance, is unable to work, and is unable to afford Medicare Part B. (Appellant Testimony).
2. The Appellant testified he began receiving Medicare Part A in October 2021. (Appellant Testimony).
3. The Appellant was determined ineligible for Health Connector plans on December 31, 2021, based on being eligible for Medicare. (Exhibits 1, 5-10, Appellant Testimony).
4. The Appellant is eligible for Medicare and receiving Medicare Part A. (Exhibits 1, 5-10).
5. The Appellant credibly that medications compromise 75% of his income. (Appellant Testimony)
6. The Appellant is unable to afford Medicare Part B given his only his social security income. (Testimony, Exhibits 1, 8, and 9).

ANALYSIS AND CONCLUSIONS OF LAW

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

Under 42 USC 1395ss(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare.

When the Appellant's eligibility for 2021 coverage was determined on December 31, 2021, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that he is eligible for and enrolled in Medicare Part A. Unfortunately, the Appellant is unable to afford Medicare Part B given his social security income. Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Addendum

The Appellant is advised to look into the **Serving the Health Insurance Needs of Everyone (SHINE)** program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Denial of eligibility because of access to Medicare.

Hearing Date: February 10, 2022

Decision Date: February 16, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellants are a married couple who will be referred to in this decision as Husband and Wife. They were notified by the Health Connector on December 21, 2021 that Wife was not eligible to receive subsidized health insurance through the Connector Care program.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Wife was not eligible for Connector Care because she had access to Medicare.

HEARING RECORD

Appellants both appeared at the hearing, which was held by telephone on February 10, 2022. The hearing record consists of Appellants' testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (1/4/2022) (7 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Denial Notice (12/21/21) (2 pages)
- Exhibit 4: Screen Shot of Application Summary (4 pages)

- Exhibit 5: Screen Shot of Eligibility Summary (4 pages)
- Exhibit 6: Notice of Medicaid eligibility denial (4 pages)
- Exhibit 7: Summary of Medicaid eligibility (6 pages)
- Exhibit 8: Appeals Unit database notes (1 page)
- Exhibit 9: MMIS notes (1 page)
- Exhibit 10: Email from Appeals Unit (1/13/22) (1 page)
- Exhibit 11: Hearing Notice (1/14/22) (1 page)
- Exhibit 12: Acknowledgement of Appeal (1 page)
- Exhibit 13: Notice of transfer to MassHealth BOH (1 page)

FINDINGS OF FACT

The findings of fact are based on the testimony of Appellants, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellants are a married couple who live in Middlesex County. Exhibit 1.
2. Husband is 68 years old. Wife is 66 years old.
3. Husband was working full-time and the couple received health insurance through Husband's employment until December 2021, when he lost his job as a result of the Covid-19 pandemic. As a result, Appellants also lost their health insurance.
4. Appellants submitted an application for health coverage through the Health Connector in December.
5. At the same time, Appellants both applied for Medicare with the Social Security Administration. Their Medicare application was being processed at the time of the hearing.
6. In their application with the Health Connector, Appellants reported household income of \$12,600 a year. For a household of two, this placed them at 72 percent of the federal poverty limit ("FPL.") Exhibits 4, 5. The FPL is the measure used to determine eligibility for government-subsidized health programs.
7. On December 21, 2022, Appellants were sent a notice by the Health Connector stating that Wife was not eligible for benefits through the Health Connector because she had "access to Medicare or [was] enrolled in Medicare." Exhibit 3.
8. On or about the same date, Husband was sent a notice by MassHealth, which is the state's Medicaid agency, denying him benefits because he was over 65 but had not submitted the application required for persons over 65 who are seeking MassHealth services. Exhibit 6.
9. Appellants submitted a timely appeal of the denial of coverage for Wife. Exhibit 3.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Wife was not eligible for Connector Care because she had access to or was enrolled in Medicare. I note that Husband received a denial of benefits from MassHealth, which is the state's Medicaid agency. That denial is not an issue in this appeal because the Health Connector does not have jurisdiction to hear appeals of MassHealth eligibility determinations. The record reflects that Husband's appeal has been referred to the MassHealth appellate division. Exhibit 13.

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The Health Connector determines eligibility of individuals to receive federal subsidies to purchase health insurance under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). Additionally, the Health Connector determines eligibility for Connector Care. That is a program under which state-funded subsidies are added to the APTCs for eligible individuals. To be eligible for Connector Care, an individual must be eligible to receive APTCs. 956 C.M.R. § 12.04.

The eligibility criteria for APTCs are established by federal law. I.R.C. § 36B. That federal statute provides that an individual is not eligible for APTCs if that individual is eligible for “minimum essential coverage.” *Id.* § 36B(c)(2)(b). In turn, “minimum essential coverage” means coverage through certain designated programs, specifically including Medicare. *Id.* § 5000A(f)(1)(A). Thus, an individual who is eligible for Medicare is *not* eligible under federal law for premium tax credits and accordingly is not eligible under state regulation for Connector Care. Indeed, it is unlawful for any entity to provide a health insurance plan to anyone who is entitled to benefits under Medicare Part A. 42 U.S.C. § 1395ss(d)(3)(a)(i).

In this case, Wife was eligible for and entitled to Medicare. She has applied for Medicare and expects to be enrolled as a result of that application. As a result, she was not eligible for APTCs. Further, because she was not eligible for APTCs, she was not eligible for Connector Care. Thus, the Health Connector correctly denied Wife eligibility. Therefore, the appeal is denied.

As stated earlier, the denial of MassHealth benefits for Husband is not the subject of this appeal because the Health Connector does not have jurisdiction over MassHealth eligibility decisions. However, if Appellants wish to submit the application for MassHealth coverage for persons over 65 years old, they can obtain assistance by contacting a navigator or certified application counselor. They can obtain listings for those organizations at <https://www.masshealthchoices.com/en/person-help> or they can call 1-800-841-2900. Another option is to contact the SHINE program, which can provide assistance with Medicare and Medicaid enrollment. For assistance with SHINE, they can call -800-243-4636.

ORDER

The appeal is denied.

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

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

Hearing Officer

Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 22-15584

Appeal Decision: Appeal denied

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

Hearing Date: January 31, 2022

Decision Date: February 24, 2022

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 22, 2021, the Appellant was advised determined eligible for ConnectorCare Plans with advance premium tax credits. The Appellant's determination was a result of the Health Connector's annual renewal process. (Ex. 5). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.9)

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plans with subsidies for 2022, based on the income submitted by the Appellant in her application and information used in the Health Connector's renewal process.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 21, 2022, and testified under oath. The Appellant testified at the hearing. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Appellant's Appeal Request Form	(1 page, received 12/22/2021)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(1 page, dated 1/6/ 2021)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	(1 page, dated 1/7/ 2022)
Exhibit 5:	Health Connector's Application Summary	(3 pages, dated 12/22/ 2021)

Exhibit 6	Health Connector's Eligibility Results	(3 pages, dated	12/22/2021)
Exhibit 7	Health Connector's Eligibility Approval	(8 pages, dated	12/22/2021)
Exhibit 8	Health Connector's Appeals Unit Staff Notes	(2 pages, dated	11/4/ 2021)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	12/30/ 2021)
Exhibit 10:	Income Detail	(3 pages, dated	1/11/2022)
Exhibit 11:	Health Connector's Eligibility Results	(3 pages, dated	12/30/2021)
Exhibit 12	Health Connector's Eligibility Approval	(8 pages, dated	12/30/2021)
Exhibit 13:	Email from the Connector	(1 page, dated	1/11/2022)
Exhibit 14:	Request for Information	(3 page, dated	12/16/2022)
Exhibit 15:	Health Connector's Eligibility Results	(3 pages, dated	4/12/2021)
Exhibit 16	Health Connector's Application Summary	(3 pages, dated	4/12/2021)
Exhibit 17	Health Connector's Eligibility Approval	(9 pages, dated	4/12/2021)
Exhibit 18	Virtual Gateway	(1 page, dated	12/24/2021)
Exhibit 19:	Income Verification submitted by the Appellant	(1 page, dated	12/24/2021)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is single individual who plans to file a federal income tax return for tax year 2021. (Exhibits 1 and 5).
2. On December 22, 2021, the Health Connector sent the Appellant Notice which stated that the Appellant was eligible for a HealthConnector plan with Advance Premium Tax Credits. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 364.19 % of the Federal Poverty Level. (Exhibits 1,5-7).
3. The Appellant attested that her monthly income of \$3,908.97 and projected yearly income of \$46,907.60 which included commission earnings on the application were correct. (Exhibits 1,5-7, and Testimony).
4. The Appellant testified that her compensation is commission based and that the income she reported was a little bit more than she actually received in 2021. (Appellant Testimony).
5. The Appellant's manually verified income was \$2,057.04 Biweekly. (Exhibits 1,5-7, 11).
6. The Appellant was encouraged at the hearing to contact customer service to update her income.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for a HealthConnector plan with Advance Premium Tax Credits for 2022 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 364.19 % of the Federal Poverty Level. The Appellant asserts that this determination was incorrect because the Appellant income since the determination has changed. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if they meet the criteria. Applicants who qualify for APTC and who have projected yearly MAGI according to the above regulations qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On December 22, 2021, the Appellant was found eligible for a HealthConnector plan with Advance Premium Tax Credits. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 364.19 % of the Federal Poverty Level. The Appellant attested that her monthly income of \$3,908.97 and projected yearly income of \$46,907.60 which included commission earnings on the application were correct. (Exhibits 1,5-7, and Testimony). The Appellant testified that the income she is receiving has changed and reduced.

The Connector's determination on December 22, 2021, 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 eligibility notice. This is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that her monthly income of \$3,908.97 and projected yearly income of \$46,907.60 which included commission earnings on the application were correct. (Exhibits 1,5-7, and Testimony). This was used to determine a household income equivalent to 364.19 % of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. Even though the Appellant now asserts that Appellant's income for 2022 will be reduced, the Appellant failed to update the information in their application to reflect this income projection, as required by law, and therefore the determination issued by the Health Connector was correct.

The Appellant is advised to report any changes to her income or any other information.

ORDER

The appeal is denied.

Based upon the totality of the evidence, it is concluded that the Connector's determination on December 22, 2021, regarding the Appellant's eligibility for Health Connector Plans with subsidies was correct. The Appellant was encouraged at the hearing to contact customer service to update her income.

ORDER

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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

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 2021 from the federal government will be reconciled when you file your 2021 federal income tax return (usually in the spring of 2022). 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 2021 (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 2021 (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 2021 will be paid to you when you file your 2021 federal income tax return.

Massachusetts Health Connector Appeals Unit

Final Appeal Decision ACA 22-15589

Appeal Decision: Appeal denied, eligibility determination affirmed.

Hearing Issue: Eligibility for Health Connector Plans based on access to Medicare.

Hearing Date: January 18, 2021

Decision Date: February 9, 2022

AUTHORITY

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A, M.G.L. c. 111M and M.G.L. c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

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, § 155.500 et seq. and Title 956 of the Code of Massachusetts Regulations, § 12.15, and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02.

ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR

The Health Connector determined Appellant ineligible for Health Connector plans, based on Appellant's access to Medicare.

ISSUE

The issue addressed on appeal is whether the Health Connector correctly determined Appellant ineligible for Health Connector plans based on Appellant's access to Medicare.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on January 18, 2022. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Medicaid Household Determination dated 12.8.2021.
- Exhibit 2: Health Connector 2021 Eligibility Results dated 12.8.2021.
- Exhibit 3: Health Connector Application Summary dated 12.8.2021.
- Exhibit 4: Health Connector Eligibility Denial Notice dated 12.8.2021.
- Exhibit 5: Health Connector Appeal Request Form received 12.23.2021.
- Exhibit 6: Health Connector outreach notes dated 12.24.2021.
- Exhibit 7: Health Connector Keeper of Records Affidavit.
- Exhibit 8: Health Connector letter to Appellant dated 12.24.2021.
- Exhibit 9: Health Connector Acknowledgment of Appeal dated 12.24.2021.
- Exhibit 10: Health Connector Hearing Notice dated 12.28.2021.

FINDINGS OF FACT

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

1. Appellant had been enrolled in subsidized ConnectorCare in previous years including 2021. (Exhibit 6; Appellant Testimony).
2. The Health Connector sent Appellant notice, dated December 8, 2021, of his ineligibility for Health Connector plans, including ConnectorCare, based on his access to Medicare and advising him to contact the SHINE program (Serving the Health Information Needs of Everyone) to discuss his options. (Exhibit 4).
3. Appellant submitted an appeal request, received by the Connector on December 23, 2021, stating that he is enrolled in Medicare Part A for hospital care only, and he needs coverage for physicians and prescriptions. (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined Appellant ineligible for Health Connector plans, based on his access to Medicare.

The Health Connector is a health insurance exchange created under state law. M.G.L. 176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care Act (ACA), a federal law governing access to health insurance. See M.G.L. 176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money, combined with these federal premium tax credits.

To be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. See 956 C.M.R. 12.08. Prior to implementation of the American Rescue Plan (“ARP”), signed into law on March 11, 2021, individuals were eligible for Advanced Premium Tax Credits (“APTC”) if their household income was at or below 400% of the Federal Poverty Level (“FPL”). The ARP significantly expands coverage and affordability parameters for 2021 and 2022, including APTC eligibility for individuals who received either regular or pandemic-related unemployment benefits during any portion of calendar year 2020, regardless of their FPL, and APTC eligibility for individuals with a FPL above 400%, regardless of receipt of unemployment benefits. See H.R. 1319 – 117th Congress: American Rescue Plan Act of 2021.

Applicants qualifying for APTC, who have projected yearly Modified Adjusted Gross Income (“MAGI”) less than or equal to 300% FPL, qualify for additional state subsidies through the Connector Care program. 956 C.M.R. § 12.04. Individuals whose income is at or below 133% of the FPL are eligible for MassHealth, a wholly separate program from Connector Care. Individuals with access to Minimum Essential Coverage (“MEC”), either government sponsored or through an employer, are eligible solely for

unsubsidized Health Connector coverage. *See* 45 C.F.R. §155.305 (f)(1)(ii)(B). As MassHealth qualifies as MEC, individuals with access to MassHealth are ineligible for subsidies.

As a preliminary matter, however, applicants seeking health insurance through the Health Connector, subsidized or otherwise, must meet certain requirements to be eligible for shopping on the exchange. These include, among other requirements, Massachusetts residency and being lawfully present in the United States. *See* 45 C.F.R. 155.305; 45 U.S.C. § 1395 ss (d) (3)(A)(i). Further, Individuals who have access to Medicare, whether enrolled or not, are ineligible for shopping on the Connector exchange based on the ‘anti-duplication’ rule, prohibiting an exchange from selling health insurance plans to individuals who are already covered by Medicare. 42 U.S.C. § 1395ss (d)(3)(A)(i); 45 C.F.R. §§ 147.106 (h)(2) and 148.122 (b)(2).

According to the Connector’s records, Appellant was previously enrolled in ConnectorCare and is now ineligible for Health Connector plans based on his access to or enrollment in Medicare. (Exhibit 6). The Connector sent Appellant an eligibility denial letter dated December 23, 2021, and Appellant appealed, stating in his appeal request that he is currently enrolled in Medicare Part A. (Exhibits 4 and 5). At hearing, Appellant indicated he wants to remain enrolled in Medicare Part A and to additionally re-enroll in ConnectorCare. (Appellant Testimony). It was explained to Appellant that he is prohibited from enrollment in Health Connector plans if he has access to, or is enrolled in Medicare. It is likely that since Appellant is disabled, he was automatically enrolled in Medicare A and B after a certain period of time, and he may have intentionally or inadvertently declined Part B coverage. Health Connector members are supposed to report changes such as Medicare enrollment to the Health Connector within 30 days; had Appellant done so, the Connector would have determined him ineligible for continuing with his ConnectorCare plan at that time. If Appellant did not report the Medicare change, the Connector would not know about this change until Appellant’s renewal process in December, which is the time the Connector determined him ineligible for Connector plans.

Appellant testified at hearing that he is enrolled in Medicare Part A, and his appeal request states he is enrolled in Medicare Part A. (Exhibits 1 and 5; Appellant Testimony). This testimony supports the Connector’s records showing that on or about December 23, 2021, Appellant had access to, or was enrolled in Medicare, making him ineligible for Health Connector plans. Accordingly, I find that Appellant was eligible for and enrolled in Medicare at the time the Connector made its eligibility determination on or about December 23, 2021.

Federal law prohibits an exchange from selling health insurance plans to individuals covered by Medicare in order to protect Medicare recipients from paying for health insurance coverage that would be duplicative of their Medicare coverage. *See* 42 U.S.C. § 1395ss(d)(3)(A)(i). The Connector complied with this prohibition by denying Appellant coverage under its own programs because he was already covered under Medicare. Thus, the Connector’s December 2021 determination that Appellant was ineligible for Health Connector programs was correct.

I find that the Connector correctly found Appellant ineligible for Health Connector plans based on his access to, or enrollment in Medicare.

Accordingly, the Connector's determination is **UPHELD**.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 22-15643

Appeal Decision: Appeal denied

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

Hearing Date: January 31, 2022

Decision Date: February 24, 2022

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 20, 2021, the Appellant was determined eligible for ConnectorCare Plans without subsidies. The Appellant's determination was a result of the Health Connector's annual renewal process. (Ex. 5). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.9)

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plans without subsidies for 2022, based on the income submitted by the Appellant in his application and information used in the Health Connector's renewal process.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 31, 2022, and testified under oath. The Appellant testified at the hearing. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Appellant's Appeal Request Form	(1 page, received 1/3/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(1 page, dated 12/22/ 2021)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	(1 page, dated 1/7/ 2022)
Exhibit 5:	Health Connector's Application Summary	(3 pages, dated 12/20/ 2021)

Exhibit 6:	Health Connector's Eligibility Results	(3 pages, dated	12/20/2021)
Exhibit 7	Health Connector's Eligibility Approval	(8 pages, dated	12/20/2021)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	(2 pages, dated	1/5/ 2022)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	1/11/ 2022)
Exhibit 10	Appellant's Income Detail	(2 pages, dated	12/10/2021)
Exhibit 11	Appellant Spouse Income Detail	(2 pages, dated	12/10/2021)
Exhibit 12:	Virtual Gateway	(1 page, dated	1/5/2022)
Exhibit 13:	Virtual Gateway	(1 page, dated	1/5/2022)
Exhibit 14:	Affidavit of Zero Income	(1 page, dated	11/22/2022)
Exhibit 15:	Appellant Spouse's Paystub	12/1/2022	(1 page, dated 11/22/2022)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is married individual who plans to file a joint federal income tax return with his spouse for tax year 2021. (Exhibits 1 and 5).
2. On December 20, 2021, the Health Connector sent the Appellant Notice which stated that the Appellant was eligible for a HealthConnector plan without subsidies. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 497.59 % of the Federal Poverty Level. (Exhibits 1,5, and 7).
3. The Appellant testified that the income attested to on the application included zero income for him and a monthly income of \$6,717.70 and a projected yearly income of \$80,612 for his spouse was correct. (Exhibits 1,5,6,7,12,13, and Testimony).
4. The Appellant collected unemployment in 2021 and was eligible for a Connectorcare plan with advanced premium tax credits and a premium of \$102 after May 2021. (Exhibits 1,5,6,7, and Testimony).
5. The Appellant testified that the household's net income after expenses his household receives after expenses is substantially reduced making the cost of an increased new premium of \$513 per month for his insurance plan unaffordable and a hardship. (Appellant Testimony).
6. The Appellant testified that the cost of health insurance for him under his Spouse's Employer Plan was unaffordable and more than his current increased 2022 Connectorcare's monthly premium of \$513. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for a HealthConnector plan with no Advance Premium Tax Credits for 2022 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 497.59 % of the Federal Poverty Level. The Appellant asserts that this determination was incorrect because the Appellant has zero income, no longer receives unemployment, and his household income is substantially reduced given his household's expenses, debts, out of pocket medical expenses, and the cost of their monthly basic necessities like shelter and food. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if they meet the criteria.

Applicants who qualify for APTC and who have projected yearly MAGI according to the above regulations qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On December 20, 2021, the Appellant was found eligible for a HealthConnector plan with zero Advance Premium Tax Credits. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 497.57 % of the Federal Poverty Level. The Appellant testified that the income attested to on the application included zero income for him and a monthly income of \$6,717.70 for his spouse was correct. (Exhibits 1,5,6,7,12,13, and Testimony). The Appellant testified that he had a hardship and was not able to afford the increased Connectorcare monthly premium of \$513. (Testimony, Exhibits 1 and 2).

The Connector's determination on December 20, 2021, that the Appellant was eligible for a 2022 HealthConnector plan with Zero Advance Premium Tax Credits. was based on an income equivalent to 497.57% FPL is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that the household monthly income of \$6,717 was correct resulting in a household income equivalent to 497.57 % of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335.

The Appellant is advised to report any changes to his income or any other information.

ORDER

The appeal is denied.

Based upon the totality of the evidence, it is concluded that the Connector's determination on December 20, 2021, regarding the Appellant's eligibility for Health Connector Plans without subsidies was correct. The Appellant was encouraged at the hearing to contact customer service to update his income.

ORDER

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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

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 2021 from the federal government will be reconciled when you file your 2021 federal income tax return (usually in the spring of 2022). 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 2021 (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 2021 (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 2021 will be paid to you when you file your 2021 federal income tax return.

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Calculation of Connector Care plan type based on income.

Hearing Date: February 10, 2022

Decision Date: February 16, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on December 21, 2021 that, based on his reported income, he was eligible for Connector Care Plan Type 3B with a premium subsidy of \$286.49 a month.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Connector Care plan type for Appellant based on his income.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on February 10, 2022. The hearing record consists of Appellant's testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form with Appellant's statement (1/8/2022) (2 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Notice (12/21/21) (13 pages)
- Exhibit 4: Screen Shot of Application Summary (3 pages)
- Exhibit 5: Screen Shot of Eligibility Summary (3 pages)

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- Exhibit 6: Summary of Medicaid eligibility (5 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Email from Appeals Unit (1/11/22) (1 page)
- Exhibit 9: MMIS Notes (1/11/22) (1 page)
- Exhibit 10: My WorkSpace notes (1/11/22) (3 pages)
- Exhibit 11: Pay stub from USI (2 pages)
- Exhibit 12: My WorkSpace notes (2/4/22) (1 pages)
- Exhibit 13: Income detail printout (3 pages)
- Exhibit 14: Hearing Notice (1/14/22) (3 page)
- Exhibit 15: Acknowledgement of Appeal (1 page)

FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a single individual living in Plymouth County. Exhibit 1.
2. Appellant had been enrolled in Connector Care, a program of subsidized health insurance, for some time before January 2022. Until January 2022, he had been enrolled in Connector Care Plan Type 2A and had been paying a monthly premium of \$30 for his health insurance.
3. As part of an annual re-determination of eligibility, Appellant was asked in late 2021 to provide proof of current income.
4. In response to that request, Appellant provided a pay stub from his employer for a two-week period in November 2021. That pay stub showed that he had earned \$1,458 in the two-week period. This amount included one-half hour of overtime pay at time-and-a-half pay. Exhibit 11.
5. This pay stub was typical of Appellant's current earnings.
6. Following receipt of the pay stub, Appellant's eligibility was determined based on the figures reflected in the pay stub.
7. He was determined eligible for Connector Care Plan Type 3B, which entitled him to a monthly subsidy of \$286.49. Exhibits 4,5.
8. As a result of that determination, his monthly premium increased from \$30 to \$130.
9. Appellant filed a timely appeal of the eligibility determination. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Care Plan Type 2B based on his income.

Connector Care is a Massachusetts program under which eligible persons obtain federal and state subsidies to reduce the cost of health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). The amount of APTCs that an individual receives is based on that individual's household income expressed as a

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percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

In addition to the APTCs, state subsidies are also provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs and have projected yearly household income less than or equal to 300 % of FPL. 956 CMR § 12.04.

The amount of subsidy received through Connector Care is scaled based on income. Individuals in Connector Care are placed in one of three “plan types,” numbered one through three. See 956 CMR § 12.04(3)(b). The plan type determines the amount of subsidy received. Plan Types 2 and 3 have subparts denoted as A and B. Plan Type 3B, which is the plan type for which Appellant was found eligible, is for individuals whose household income is between 250% and 300% of FPL. Id. The amount of subsidy decreases as the percentage of the FPL increases. 956 CMR § 12.04(3)(c).

The Health Connector is required by federal law to re-determine an individual’s eligibility for APTCs on an annual basis. 45 CFR § 155.335(a)(1). As part of this process, the Health Connector may request the individual to provide proof of current income. Id. § 155.335(e). Eligibility is then determined based on the information provided by the individual. Id. § 155.335(h)(1).

In this case, before December 2021, Appellant’s plan type was determined based on the information on file for him in the eligibility determination system, which stated that his income was \$20,036. This amounted to 150.56 % of the federal poverty level. Exhibits 4,5. At that level, he qualified for Connector Care Plan Type 2A.

However, when Appellant was asked to provide updated proof of income, he provided a pay stub that indicated that he was earning \$1,458 in a two-week period. Exhibit 11. At the hearing, Appellant testified that this amount was typical of his current earnings. He stated that he occasionally had overtime. The pay stub that he produced included only half an hour of overtime earning in a two-week period. Further Appellant stated that the figure of \$20,036 was outdated and no longer reflected his current income.

Earnings of \$1,458 in a two-week period, which Appellant reported, annualize to \$37,908. The federal poverty level, which is used to determine eligibility for 2022 programs, is \$13,590 for a household of one person. See aspe.hhs.gov/poverty-guidelines. Thus, Appellant’s income of \$37,908 is at approximately 280 % of the FPL. Persons with incomes between 250 and 300% of FPL are in Connector Care Plan Type 3B. This is the plan type that Appellant was placed in after the re-determination. Because his plan type increased from Plan Type 2A to Plan Type 3B, the monthly subsidy he received decreased accordingly. As a result, the monthly premium he was charged, which represents the amount of the insurance premium not covered by the subsidy, increased.

Based on the income figure obtained from the information that Appellant provided and that he confirmed at the hearing, the determination of Appellant’s plan type in the December 21, 2021 notice was correct. As a consequence, I am denying the appeal.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Allowed.

Hearing Issue: Disenrollment because of withdrawal of application

Hearing Date: February 10, 2022

Decision Date: February 16, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on November 19, 2021 that she did not qualify for health insurance coverage because her application had been withdrawn.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly disenrolled Appellant because of a withdrawal of application.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on February 10, 2022. The hearing record consists of Appellant's testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (11/29/21) (3 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Denial Notice (11/19/21) (2 pages)
- Exhibit 4: Screen Shot of Application Summary (4 pages)
- Exhibit 5: Screen Shot of Eligibility Summary (3 pages)

- Exhibit 6: Summary of Medicaid Household Determination (6 pages)
- Exhibit 7: Medicaid database notes (1 page)
- Exhibit 8: MassHealth application (12 pages)
- Exhibit 9: Appeals Unit database notes (1 page)
- Exhibit 10: Email to Appellant (12/17/21) (1 page)
- Exhibit 11: My WorkSpace notes (1 page)
- Exhibit 12: Screen Shot of Eligibility Summary (4/21/21) (3 pages)
- Exhibit 13: Screen shot of Application Summary (4/9/21) (4 pages)
- Exhibit 14: Screen shot of eligibility summary (12/13/21) (3 pages)
- Exhibit 15: Screen shot of application summary (12/13/21) (3 pages)
- Exhibit 16: Hearing Notice (1/6/22) (3 pages)
- Exhibit 17: Acknowledgement of Appeal (1 page)

FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a single individual who lives in Suffolk County. Exhibit 1.
2. Appellant's household includes her adult daughter and her minor grandchild, who live with her and whom she supports. She takes both the daughter and granddaughter as dependents on her taxes. Exhibit 3.
3. Appellant's household income was \$33,592. This amount for a household of three persons is at 147.90 percent of the federal poverty level ("FPL.") Exhibit 4. The FPL is the measure used to determine eligibility for government-subsidized health programs.
4. Prior to 2021 and for most of 2021, Appellant was eligible for and enrolled in Connector Care, which is a program of subsidized health insurance administered by the Health Connector. She was in plan type 2B, which qualified her to receive \$434 in subsidies every month. Exhibits 4-5.
5. Appellant's daughter and granddaughter earned no income. Exhibit 4. As a result, they qualified for MassHealth, which is the state's Medicaid program. Exhibit 11.
6. At some point late in 2021, Appellant received a communication in the mail, which made her believe that she was herself enrolled in MassHealth. Appellant knew that she was enrolled in Connector Care, not MassHealth. As a result, she called the MassHealth customer service department to complain.
7. On October 19, 2021, Appellant spoke to a MassHealth customer service representative. The representative's notes indicate that Appellant said she did not want MassHealth coverage. Exhibit 7. As a result, the representative entered an administrative closure code into the member eligibility database.
8. The result of this administrative closure code was that Appellant's coverage under Connector Care was cancelled. Exhibit 5. Appellant never stated that she wished to withdraw from Connector Care.
9. As a result, Appellant was sent the November 11 notice under appeal, telling her that she was not eligible for Connector Care coverage.
10. Appellant filed a timely appeal of this notice. Exhibit 1.

11. Appellant continued to call customer service to remedy the cancellation of her coverage. As a result of those calls, the erroneous code was removed, and Appellant was again determined eligible for Connector Care in December 2021. Exhibits 14, 15.
12. Appellant reported that she was again enrolled in Connector Care as of the date of the hearing.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly disenrolled Appellant from Connector Care because her application had been withdrawn.

The Health Connector determines eligibility of individuals to receive federal subsidies to purchase health insurance under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). Additionally, the Health Connector determines eligibility for Connector Care. That is a program under which state-funded subsidies are added to the APTCs for eligible individuals. To be eligible for Connector Care, an individual must have yearly household income of less than or equal to 300% FPL and must be eligible to receive APTCs. 956 C.M.R. § 12.04.

In this case, Appellant met all the requirements to receive APTCs and Connector Care subsidies. Her household income of 147.9 % of the FPL qualified her. She was a resident of the Commonwealth and met the other eligibility requirements. As a result, she was enrolled in Connector Care throughout most of 2021.

Unfortunately, her eligibility was cancelled as a result of a miscommunication with the MassHealth customer service department, in which Appellant said that she did not want MassHealth coverage. Based on Appellant's statement, the customer service representative entered an administrative closure code into the system, which had the result of cancelling Appellant's coverage under Connector Care. Under governing federal regulations, the Health Connector must permit enrollees to cancel coverage if they wish to withdraw. 450 C.F.R. § 155.430(b). In this case, however, Appellant never stated that she wished to withdraw from Connector Care. Rather, the cancellation occurred erroneously.

Because the cancellation occurred as the result of an error, I am allowing this appeal. Fortunately the problem resulting from the error was remedied before the date of the hearing and Appellant was enrolled again in Connector Care. Appellant was without insurance coverage for two months (December 2021 and January 2022) as a result of the error. Appellant reported that she did not seek medical services during that period of time that she was not covered. As a result, I am not ordering that coverage should be restored retroactively, so that Appellant does not have to pay a premium for those two months when she did not use insurance.

ORDER

The appeal is allowed. Appellant should be enrolled in Connector Care Plan Type 2B effective February 1.

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

Massachusetts Health Connector Appeals Unit



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

Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Denial of eligibility because of access to Medicare.

Hearing Date: February 10, 2022

Decision Date: February 16, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellants are a married couple who will be referred to in this decision as Husband and Wife. They were notified by the Health Connector on December 21, 2021 that Wife was not eligible to receive subsidized health insurance through the Connector Care program.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Wife was not eligible for Connector Care because she had access to Medicare.

HEARING RECORD

Appellants both appeared at the hearing, which was held by telephone on February 10, 2022. The hearing record consists of Appellants' testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (1/4/2022) (7 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Denial Notice (12/21/21) (2 pages)
- Exhibit 4: Screen Shot of Application Summary (4 pages)

- Exhibit 5: Screen Shot of Eligibility Summary (4 pages)
- Exhibit 6: Notice of Medicaid eligibility denial (4 pages)
- Exhibit 7: Summary of Medicaid eligibility (6 pages)
- Exhibit 8: Appeals Unit database notes (1 page)
- Exhibit 9: MMIS notes (1 page)
- Exhibit 10: Email from Appeals Unit (1/13/22) (1 page)
- Exhibit 11: Hearing Notice (1/14/22) (1 page)
- Exhibit 12: Acknowledgement of Appeal (1 page)
- Exhibit 13: Notice of transfer to MassHealth BOH (1 page)

FINDINGS OF FACT

The findings of fact are based on the testimony of Appellants, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellants are a married couple who live in Middlesex County. Exhibit 1.
2. Husband is 68 years old. Wife is 66 years old.
3. Husband was working full-time and the couple received health insurance through Husband's employment until December 2021, when he lost his job as a result of the Covid-19 pandemic. As a result, Appellants also lost their health insurance.
4. Appellants submitted an application for health coverage through the Health Connector in December.
5. At the same time, Appellants both applied for Medicare with the Social Security Administration. Their Medicare application was being processed at the time of the hearing.
6. In their application with the Health Connector, Appellants reported household income of \$12,600 a year. For a household of two, this placed them at 72 percent of the federal poverty limit ("FPL.") Exhibits 4, 5. The FPL is the measure used to determine eligibility for government-subsidized health programs.
7. On December 21, 2022, Appellants were sent a notice by the Health Connector stating that Wife was not eligible for benefits through the Health Connector because she had "access to Medicare or [was] enrolled in Medicare." Exhibit 3.
8. On or about the same date, Husband was sent a notice by MassHealth, which is the state's Medicaid agency, denying him benefits because he was over 65 but had not submitted the application required for persons over 65 who are seeking MassHealth services. Exhibit 6.
9. Appellants submitted a timely appeal of the denial of coverage for Wife. Exhibit 3.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Wife was not eligible for Connector Care because she had access to or was enrolled in Medicare. I note that Husband received a denial of benefits from MassHealth, which is the state's Medicaid agency. That denial is not an issue in this appeal because the Health Connector does not have jurisdiction to hear appeals of MassHealth eligibility determinations. The record reflects that Husband's appeal has been referred to the MassHealth appellate division. Exhibit 13.

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The Health Connector determines eligibility of individuals to receive federal subsidies to purchase health insurance under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). Additionally, the Health Connector determines eligibility for Connector Care. That is a program under which state-funded subsidies are added to the APTCs for eligible individuals. To be eligible for Connector Care, an individual must be eligible to receive APTCs. 956 C.M.R. § 12.04.

The eligibility criteria for APTCs are established by federal law. I.R.C. § 36B. That federal statute provides that an individual is not eligible for APTCs if that individual is eligible for “minimum essential coverage.” *Id.* § 36B(c)(2)(b). In turn, “minimum essential coverage” means coverage through certain designated programs, specifically including Medicare. *Id.* § 5000A(f)(1)(A). Thus, an individual who is eligible for Medicare is *not* eligible under federal law for premium tax credits and accordingly is not eligible under state regulation for Connector Care. Indeed, it is unlawful for any entity to provide a health insurance plan to anyone who is entitled to benefits under Medicare Part A. 42 U.S.C. § 1395ss(d)(3)(a)(i).

In this case, Wife was eligible for and entitled to Medicare. She has applied for Medicare and expects to be enrolled as a result of that application. As a result, she was not eligible for APTCs. Further, because she was not eligible for APTCs, she was not eligible for Connector Care. Thus, the Health Connector correctly denied Wife eligibility. Therefore, the appeal is denied.

As stated earlier, the denial of MassHealth benefits for Husband is not the subject of this appeal because the Health Connector does not have jurisdiction over MassHealth eligibility decisions. However, if Appellants wish to submit the application for MassHealth coverage for persons over 65 years old, they can obtain assistance by contacting a navigator or certified application counselor. They can obtain listings for those organizations at <https://www.masshealthchoices.com/en/person-help> or they can call 1-800-841-2900. Another option is to contact the SHINE program, which can provide assistance with Medicare and Medicaid enrollment. For assistance with SHINE, they can call -800-243-4636.

ORDER

The appeal is denied.

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

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

Hearing Officer

Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Calculation of Connector Care plan type based on income.

Hearing Date: February 10, 2022

Decision Date: February 16, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on December 21, 2021 that, based on his reported income, he was eligible for Connector Care Plan Type 3B with a premium subsidy of \$286.49 a month.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Connector Care plan type for Appellant based on his income.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on February 10, 2022. The hearing record consists of Appellant's testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form with Appellant's statement (1/8/2022) (2 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Notice (12/21/21) (13 pages)
- Exhibit 4: Screen Shot of Application Summary (3 pages)
- Exhibit 5: Screen Shot of Eligibility Summary (3 pages)

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- Exhibit 6: Summary of Medicaid eligibility (5 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Email from Appeals Unit (1/11/22) (1 page)
- Exhibit 9: MMIS Notes (1/11/22) (1 page)
- Exhibit 10: My WorkSpace notes (1/11/22) (3 pages)
- Exhibit 11: Pay stub from USI (2 pages)
- Exhibit 12: My WorkSpace notes (2/4/22) (1 pages)
- Exhibit 13: Income detail printout (3 pages)
- Exhibit 14: Hearing Notice (1/14/22) (3 page)
- Exhibit 15: Acknowledgement of Appeal (1 page)

FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a single individual living in Plymouth County. Exhibit 1.
2. Appellant had been enrolled in Connector Care, a program of subsidized health insurance, for some time before January 2022. Until January 2022, he had been enrolled in Connector Care Plan Type 2A and had been paying a monthly premium of \$30 for his health insurance.
3. As part of an annual re-determination of eligibility, Appellant was asked in late 2021 to provide proof of current income.
4. In response to that request, Appellant provided a pay stub from his employer for a two-week period in November 2021. That pay stub showed that he had earned \$1,458 in the two-week period. This amount included one-half hour of overtime pay at time-and-a-half pay. Exhibit 11.
5. This pay stub was typical of Appellant's current earnings.
6. Following receipt of the pay stub, Appellant's eligibility was determined based on the figures reflected in the pay stub.
7. He was determined eligible for Connector Care Plan Type 3B, which entitled him to a monthly subsidy of \$286.49. Exhibits 4,5.
8. As a result of that determination, his monthly premium increased from \$30 to \$130.
9. Appellant filed a timely appeal of the eligibility determination. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Care Plan Type 2B based on his income.

Connector Care is a Massachusetts program under which eligible persons obtain federal and state subsidies to reduce the cost of health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). The amount of APTCs that an individual receives is based on that individual's household income expressed as a

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percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

In addition to the APTCs, state subsidies are also provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs and have projected yearly household income less than or equal to 300 % of FPL. 956 CMR § 12.04.

The amount of subsidy received through Connector Care is scaled based on income. Individuals in Connector Care are placed in one of three “plan types,” numbered one through three. See 956 CMR § 12.04(3)(b). The plan type determines the amount of subsidy received. Plan Types 2 and 3 have subparts denoted as A and B. Plan Type 3B, which is the plan type for which Appellant was found eligible, is for individuals whose household income is between 250% and 300% of FPL. Id. The amount of subsidy decreases as the percentage of the FPL increases. 956 CMR § 12.04(3)(c).

The Health Connector is required by federal law to re-determine an individual’s eligibility for APTCs on an annual basis. 45 CFR § 155.335(a)(1). As part of this process, the Health Connector may request the individual to provide proof of current income. Id. § 155.335(e). Eligibility is then determined based on the information provided by the individual. Id. § 155.335(h)(1).

In this case, before December 2021, Appellant’s plan type was determined based on the information on file for him in the eligibility determination system, which stated that his income was \$20,036. This amounted to 150.56 % of the federal poverty level. Exhibits 4,5. At that level, he qualified for Connector Care Plan Type 2A.

However, when Appellant was asked to provide updated proof of income, he provided a pay stub that indicated that he was earning \$1,458 in a two-week period. Exhibit 11. At the hearing, Appellant testified that this amount was typical of his current earnings. He stated that he occasionally had overtime. The pay stub that he produced included only half an hour of overtime earning in a two-week period. Further Appellant stated that the figure of \$20,036 was outdated and no longer reflected his current income.

Earnings of \$1,458 in a two-week period, which Appellant reported, annualize to \$37,908. The federal poverty level, which is used to determine eligibility for 2022 programs, is \$13,590 for a household of one person. See aspe.hhs.gov/poverty-guidelines. Thus, Appellant’s income of \$37,908 is at approximately 280 % of the FPL. Persons with incomes between 250 and 300% of FPL are in Connector Care Plan Type 3B. This is the plan type that Appellant was placed in after the re-determination. Because his plan type increased from Plan Type 2A to Plan Type 3B, the monthly subsidy he received decreased accordingly. As a result, the monthly premium he was charged, which represents the amount of the insurance premium not covered by the subsidy, increased.

Based on the income figure obtained from the information that Appellant provided and that he confirmed at the hearing, the determination of Appellant’s plan type in the December 21, 2021 notice was correct. As a consequence, I am denying the appeal.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-15472

Appeal Decision: Appeal denied

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

Hearing Date: January 10, 2022

Decision Date: February 12, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 19, 2021, the appellant was advised that she was eligible for ConnectorCare Plan Type 3B with an Advanced Premium Tax Credit (APTC) of \$332.00/month beginning on December 1, 2021. (Exs. 1,3) The appellant filed an appeal dated December 1, 2021, based on income and reduction/waiver of premium. (Ex. 9) The matter was referred to a hearing after receipt of the appeal. (Exs. 13, 14)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for a ConnectorCare Plan with APTC on November 19, 2021 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 10, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for November 19, 2021 (3 pages)
- Ex. 2-- Health Connector's Review of Application (4 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated November 19, 2021 (8 pages)
- Ex. 4—Medicaid Household Determination Document (6 pages)

- Ex. 5—Health Connector’s Eligibility Determination Results showing a program determination date of July 17, 2021 (3 pages)
- Ex. 6—Health Connector’s Review of Application (5 pages)
- Ex. 7-- Health Connector’s Eligibility Determination Results showing a program determination date of November 24, 2021 (3 pages)
- Ex. 8--Health Connector’s Review of Application (4 pages)¹
- Ex. 9—Hearing Request Form dated December 1, 2021 (30 pages)
- Ex. 10—Acknowledgment of Appeal dated December 13, 2021 (English) (1 page)
- Ex. 11—Acknowledgment of Appeal dated December 13, 2021 (Spanish) (1 page)
- Ex. 12-- Appeals Unit case notes (1 page)
- Ex.13—Notice of Hearing (English) (3 pages)
- Ex. 14—Notice of Hearing (Spanish) (3 pages)
- Ex. 15—Affidavit of Connector representative (1 page)

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely fashion and was marked as follows:

- Ex. 16—Employer Sponsored Health Insurance Form

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 53 years-old and has a tax household size of two. (Testimony, Exs. 2,6,8)
2. By notice dated July 17, 2021, the appellant was determined eligible for ConnectorCare Plan Type 2B with an APTC of \$440.00/month based on having an income and household size equivalent to 185.61% of the Federal Poverty Level (FPL), effective August 1, 2021. On the application on which the determination was based, the appellant attested to a projected yearly income of \$32,000.00. (Testimony, Exs. 5,6)
5. By notice dated November 19, 2021, the appellant was determined eligible for ConnectorCare Plan Type 3B with an APTC of \$332.00/month based on having an income and household size equivalent to 253.40% of the FPL, effective December 1, 2021. On the application on which the November 19th determination was based, the appellant attested to a projected yearly income of \$43,686.72. (Testimony, Exs. 1,2,3)
6. By notice dated November 24, 2021, the appellant was determined eligible for ConnectorCare Plan Type 3B with an APTC of \$332.00/month based on having an income and household size equivalent to 253.40% of the FPL, effective January 1, 2022. On the application on which the November 19th determination was based, the appellant attested to a projected yearly income of \$43,686.72. (Testimony, Exs. 7,8)
6. The appellant appealed the Connector’s November 19, 2021, determination on December 1, 2021, based on income and a waiver/reduction of her premium. (Testimony, Ex. 9)
7. The appellant is employed on a full-time basis. The employer offers health insurance for which she qualifies and which costs \$82.00/month. She has not enrolled in the employer’s insurance because she believes that the coverage is too expensive. (Testimony, Ex. 16)

¹ Ex. 8 was inadvertently not listed on the Hearing Record Sheet and was added to the list of exhibits after the hearing.

8. The appellant attested on her application that she did not have the option to enroll in employer health coverage. (Exs. 2,6,8)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

For December, 2021, and for 2022, the appellant was determined eligible for ConnectorCare Plan Type 3B with APTC based on having an income and family size equivalent to 253.40% of the FPL. The appellant does not dispute that she attested to a projected yearly income of \$43,686.72.00 on her application, but testified that her prior plan was less expensive. The ConnectorCare plan in which she was previously enrolled was based on a projected income of \$32,000.00. It appears that the \$11,686.00 increase in income accounts for the appellant's move into a more expensive plan.

Accordingly, based on the evidence in the record, it is concluded that the Connector's determination on November 19, 2021 regarding the appellant's eligibility for ConnectorCare Plan Type 3B with APTC was correct, and is therefore affirmed.

ORDER

The appeal is **denied**.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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

Based on the information submitted by the employer indicating eligibility to enroll in health insurance, the appellant is advised to update her application online at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2115474

Appeal Decision: Appeal Denied

Hearing Issue: Appellant's eligibility for insurance based on administrative closure

Hearing Date: January 19, 2022

Decision Date: February 23, 2022

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 2, 2021, the Appellant was determined ineligible for Health Connector plans due to an administrative closure for a withdrawn application. In addition, the Appellant's income was under 100% of the Federal Poverty Level and therefore, would not qualify for health insurance through the Health Connector, but instead would need to pursue MassHealth.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for health insurance through the Health Connector.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 19, 2022. 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 (12-28-21) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (12-13-21) (1 page);
- Exhibit 4: Outreach notes (1 page);

- Exhibit 5: Hearing Request form (11-23-21) (6 pages);
Exhibit 6: Eligibility Denial letter (11-2-21) (6 pages);
Exhibit 7: Eligibility detail printout and application summary printout (17 pages);
Exhibit 8: Medicaid Household Determination (5 pages); and
Exhibit 9: MMIS Form (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on November 2, 2021. (Exhibit 6, Exhibit 7).
2. The Appellant was found ineligible for health insurance through the Health Connector because there had been an administrative closure when Appellant had withdrawn their application at that time. (Exhibit 4, Exhibit 6). In addition, Appellant's income was under 100% of the Federal Poverty Level, and the Health Connector does not provide health insurance in this circumstance. (Exhibit 4).
3. The administrative closure had been removed, and Appellant needs to contact MassHealth. (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on the appeal request form that they had lost insurance through the employer and needed to obtain insurance. Appellant indicated that they had called several times to try to clear up the issue about the administrative closure but had not been successful.

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 (and above 100% FPL) are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B).

Appellant had an administrative closure due to a withdrawn application previously made in 2020. In addition, Appellant's income was below 100% FPL, and therefore, health insurance through the Health Connector is not available to Appellant. The denial of eligibility was correct on these reasons. The Appellant's appeal is therefore denied.

Subsequent to the appeal request, the administrative closure was removed. The Appellant therefore should follow up with MassHealth.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-15498

Appeal Decision: Appeal granted

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

Hearing Date: January 10, 2022

Decision Date: February 11, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 17, 2021, the appellant was advised that she was eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$279.00/month beginning on December 1, 2021, and her son was eligible for Health Connector Plans. (Exs. 1,3) ¹ The appellant filed an appeal dated December 6, 2021, based on income and access to other insurance. (Ex. 11) The matter was referred to a hearing after receipt of the appeal. (Ex. 16)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for a ConnectorCare Plan with APTC on November 19, 2021 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 10, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for November 17, 2021 (2 pages)

Ex. 2-- Health Connector's Review of Application (4 pages)

¹ At the time of the hearing, the appellant's son had been removed from the plan and his coverage had been voided.

- Ex. 3—Health Connector's Notice of Eligibility Approval dated November 17, 2021 (7 pages)
- Ex. 4—Medicaid Household Determination Document (6 pages)
- Ex. 5—Health Connector's Eligibility Determination Results showing a program determination date of June 19, 2021 (4 pages)
- Ex. 6—Health Connector's Review of Application (5 pages)
- Ex. 7—Health Connector's Income Detail form (3 pages)
- Ex. 8—Appellant's renewal application (41 pages)
- Ex. 9—My Workspace form (1 Page)
- Ex. 10—My Workspace form (2 pages)
- Ex. 11—Hearing Request Form dated December 6, 2021 (30 pages)
- Ex. 12—Acknowledgment of Appeal dated December 16, 2021 (1 page)
- Ex. 13—Health Connector email dated December 22, 2021 (1 page)
- Ex. 14—Health Connector email dated December 27, 2021 (1 page)
- Ex. 15-- Appeals Unit case notes (1 page)
- Ex.16—Notice of Hearing (3 pages)
- Ex. 17—Affidavit of Connector representative (1 page)

A MassHealth member information form was inadvertently not marked as an exhibit. It has been added to the foregoing list as Ex. 7A.

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely fashion and was marked as follows:

- Ex. 18—Employer Sponsored Health Insurance Form

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 63 years-old and has a tax household size of two. (Testimony, Exs. 2,6)
2. The appellant's adult son is disabled and has received social security income for approximately fifteen years. He has health insurance with MassHealth through social security. (Testimony, Exs. 7, 7A)
2. The appellant had health insurance with MassHealth for a number of years until it was terminated in 2018 because she exceeded income limits. (Testimony)
3. The appellant subsequently enrolled in a ConnectorCare Plan with APTC in 2019. (Testimony)
4. By notice dated June 19, 2021, the appellant was determined eligible for ConnectorCare Plan Type 3A with an APTC of \$533.00/month based on having an income and household size equivalent to 218.35% of the Federal Poverty Level (FPL) effective July 1, 2021. Her monthly premium was \$69.00. (Testimony, Ex. 5)
5. By notice dated November 17, 2021, the appellant was determined eligible for Health Connector Plans with an APTC of \$279.00/month based on having an income and household size equivalent to 339% of the FPL, effective December 1, 2021. On the application on which the November 17th determination was based, the appellant attested to a projected yearly income of \$19,888.00, and social security benefits of \$23,780.00/yearly. (Testimony, Exs. 1,2,3)

6. The appellant appealed the Connector's November 17, 2021, determination on December 6, 2021, based on income and access to other insurance. She stated in part that her income had only increased by approximately one percent in the previous year and the Connector's FPL determination was incorrect. She further stated in an attachment that she is not required to report her son's social security income on her income tax return, and it should not have been included in the Connector's eligibility determination. (Testimony, Ex. 11)

7. The appellant has been employed on a full-time basis by a municipality for several years. The employer offers health insurance for which she qualifies and which costs \$89.07/month. She has never enrolled in the employer's insurance because she was never informed she had the option to do so. She also believed that the coverage was too expensive. (Testimony, Ex. 18)

8. The appellant attested on her application that she did not have the option to enroll in employer health coverage. (Exs. 2, 6)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

The appellant was determined eligible for Health Connector Plans with APTC based on having an income and family size equivalent to 339% of the FPL, effective December 1, 2021. The appellant disputes this determination on the ground that the Connector incorrectly included her son's social security income of \$23,780.00 which she maintains is not reported on her tax return. The appellant's claim was corroborated by information from the Connector indicating that her son's income is social security income which should not count towards family income for purposes of determining eligibility.

Accordingly, based on the evidence in the record, it is concluded that the Connector's determination on November 17, 2021, regarding the appellant's eligibility for Health Connector plans with APTC was incorrect, and is therefore overturned.

ORDER

The appeal is **granted**. The Connector is directed to contact customer service to rectify the above-mentioned matter.

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

Based on the information submitted by the employer indicating eligibility to enroll in health insurance, the appellant is advised to update her application online at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

OPTION FOR RETROACTIVE COVERAGE

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

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2215185

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

Hearing Issue: Whether the Connector correctly determined the appellant's eligibility to purchase a Connector Health plan with no advance premium tax credit

Hearing Date: December 9, 2021

Decision Date: February 3, 2022

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 9, 2021, the Connector determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit because there was no verification of the appellant's income either supplied by the appellant to the Connector and/or from other data sources.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 9, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Documents were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified. The record was left open to give the Connector time to add a document to the record. The document has been marked as an exhibit and admitted in evidence, The record is now closed.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files

Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 16, 2021 addressed to Appellant for December 9, 2021 hearing

Exhibit 3: Connector Appeals Unit letter dated November 2, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit outreach notes dated November 2nd and 15th, 2021

Exhibit 3b: Appeals Unit email to Appellant dated November 2, 2021

Exhibit 4: Hearing Request Form signed by Appellant on October 23, 2021 and received by Connector

on October 28, 2021 with Appellant's 2020 Federal tax return, and 1st page of 2019 return
Exhibit 5: Connector letter dated October 9, 2021 to Appellant: Final Renewal Notice
Exhibit 5a: Connector letter dated September 8, 2021 to Appellant: Preliminary Eligibility Determination
Exhibit 6: Summary and results of Appellant's application for Connector health plan dated October 9, 2021
Exhibit 6a: Summary and results of Appellants' application for Connector health plan dated July 10, 2021
Exhibit 7: MassHealth member benefits print-out, Appellant's household determination, October 9, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant attested on her Connector July 10, 2021 application that she and her spouse had a combined projected annual income for 2021 of \$37,958. This projected income for 2021 equaled 220.18% of the Federal Poverty Level (Testimony Appellant, Exhibit 6).
2. Based upon the projected income, the Connector determined that the appellant was eligible for a ConnectorCare Type 3a plan. Appellant enrolled in a plan. Appellant's spouse has coverage through the Veterans' Administration (Testimony of Appellant, Exhibit 6).
3. Connector sent the appellant a letter dated September 8, 2021 regarding a preliminary eligibility determination for 2022. The Connector notified the appellant that her expected eligibility for 2022 would change from eligibility for a ConnectorCare plan with financial aid to eligibility for a Connector Health Plan without financial aid and that her projected income for 2022 was unknown. Appellant
was advised to update information about her projected income within 30 days (Exhibit 5a).
4. In a letter dated October 9, 2021, the Connector again notified the appellant that eligibility for her health insurance would change from ConnectorCare eligibility to Connector Health Plan without financial aid eligibility and that her projected income for 2022 was unknown. She was again asked to update information about her projected income (Exhibit 5).
5. Appellant did not update information about her projected income within 30 days. Instead, Appellant submitted a request for an appeal of the Connector's determination received by the Connector on October 28, 2021. Appellant attached a copy of her 2020 Federal tax return (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 9, 2021 that the appellant was eligible to purchase in a Health Connector plan with no an advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956

CMR 12.00 et. seq. The Connector is required to verify information, including income, on applications from other data sources and by asking applicants to submit documents to verify data on applications. 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 provide verifying information that does not match the original attestation, the Health Connector may update applicants' information to match the documents sent in, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5) and 155.320(c)(3)(i)(D), and 956 CMR 12.05.

Appellant attested on her Connector July 10, 2021 application that she and her spouse had a combined projected annual income for 2021 of \$37,958. This projected income for 2021 equaled 220.18% of the Federal Poverty Level. Based upon the projected income, the Connector determined that the appellant was eligible for a ConnectorCare Type 3a plan. Appellant enrolled in a plan. Appellant's spouse has coverage through the Veterans' Administration. See the testimony of the appellant which I find to be credible, and Exhibit 6.

Connector sent the appellant a letter dated September 8, 2021 regarding a preliminary eligibility determination for 2022. The Connector notified the appellant that her expected eligibility for 2022 would change from eligibility for a ConnectorCare plan with financial aid to eligibility for a Connector Health Plan without financial aid and that her projected income for 2022 was unknown. Appellant was advised to update information about her projected income within 30 days. See Exhibit 5a.

In a letter dated October 9, 2021, the Connector again notified the appellant that eligibility for her health insurance would change from ConnectorCare eligibility to Connector Health Plan without financial aid eligibility and that her projected income for 2022 was unknown. She was again asked to update information about her projected income. See Exhibit 5.

Appellant did not update information about her projected income within 30 days. Instead, Appellant submitted a request for an appeal of the Connector's determination received by the Connector on October 28, 2021. Appellant attached a copy of her 2020 Federal tax return. See Exhibit 4.

In this matter, Appellant was notified that she had to update her projected income because the Connector was unable to verify her income through her data sources. She did not do this in a timely fashion; the Connector changed her eligibility. Instead of being eligible for ConnectorCare coverage, Appellant was determined to be eligible for a Connector Health Plan without subsidies. Appellant was given ample opportunity to submit proof of income. Since she did not do this, and the Connector could not verify her income as required by Federal law (see cites above), the Connector's determination was correct. The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a Health Connector plan without an advance premium tax credit 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.

cc. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2215189

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

Hearing Issue: Whether the Connector correctly determined the appellant's eligibility to purchase a Connector Health plan with no advance premium tax credit

Hearing Date: December 9, 2021

Decision Date: February 15, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 8, 2021, the Connector determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit because there was no verification of the appellant's income either supplied by the appellant to the Connector and/or from other data sources.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 9, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Documents were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 16, 2021 addressed to Appellant for December 9, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated November 2, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated November 2nd and 15th, 2021
- Exhibit 3b: Appeals Unit email to Appellant dated November 2, 2021
- Exhibit 4: Hearing Request Form signed by Appellant on October 23, 2021 and received by Connector on October 28, 2021
- Exhibit 5: Connector letter dated October 8, 2021 to Appellant: Final Renewal Notice

Exhibit 6: Summary and results of Appellant's application for Connector health plan dated October 8, 2021

Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated April 18, 2021

Exhibit 7: MassHealth member benefits print-out, Appellant's household determination, October 8, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant attested on her Connector April 18, 2021 application that she had a projected annual income for 2021 of \$39,621. This projected income for 2021 equaled 229% of the Federal Poverty Level (Testimony Appellant, Exhibit 6).
2. Based upon the projected income, the Connector determined that the appellant was eligible for a ConnectorCare Type 3A plan. Appellant enrolled in a plan (Exhibits 3a, 6a).
3. In a letter dated October 8, 2021, the Connector notified the appellant that eligibility for her health insurance would change from ConnectorCare eligibility to Connector Health Plan without financial aid eligibility because of a change in income, a status as a non-tax filer, access to other coverage, or because of the Connector's inability to verify her projected income. Appellant had not updated her income information since her April application even though her income had decreased during the pandemic. The Connector was unable to verify the appellant's income from other data sources; the Connector requested that the applicant update her income information if she thought that the eligibility determination was incorrect (Exhibits 5, 6, and 6a, Testimony of Appellant).
4. Appellant submitted a request for an appeal of the Connector's determination received by the Connector on October 28, 2021 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 8, 2021 that the appellant was eligible to purchase in a Health Connector plan without an advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is at least 100% of the Federal Poverty Level, the applicant may be eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. The Connector is required to verify information, including income, on applications from other data sources and by asking applicants to submit documents to verify data on applications. 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 provide verifying information that does not match the original attestation, the Health Connector may update applicants' information to match the

documents sent in, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5) and 155.320(c)(3)(i)(D), and 956 CMR 12.05.

Appellant attested on her Connector April 18, 2021 application that she had a projected annual income for 2021 of \$39,621. This projected income for 2021 equaled 229% of the Federal Poverty Level (Testimony Appellant, Exhibit 6). Based upon the projected income, the Connector determined that the appellant was eligible for a ConnectorCare Type 3A plan. Appellant enrolled in a plan. See Exhibits 3a, 6a.

In a letter dated October 8, 2021, the Connector notified the appellant that eligibility for her health insurance would change from ConnectorCare eligibility to Connector Health Plan without financial aid eligibility because of a change in income, a status as a non-tax filer, access to other coverage, or because of the Connector's inability to verify her projected income. Appellant had not updated her income information since her April application. The Connector was unable to verify the appellant's income other data sources; the Connector requested that the applicant update her income information if she thought that the eligibility determination was incorrect. See Exhibits 5, 6, and 6a.

Appellant submitted a request for an appeal of the Connector's determination received by the Connector on October 28, 2021. See Exhibit 4. Appellant testified that during the pandemic she worked less Appellant did not report these changes to the Connector. I find Appellant's testimony to be credible.

In this matter, though Appellant had a significant decrease in income in 2021, Appellant did not notify the Connector of this change in income. In addition, the Connector could not verify her income as required by Federal law (see cites above). Since the appellant did not contact the Connector about changes and there was no verification from other data sources, the Connector correctly determined, based upon an unknown income, that the appellant was no longer eligible for an advance premium tax credit. The determination of the Connector is, therefore, affirmed.

During the hearing, the appellant was advised to update information about her current income with the Connector.

ORDER:

The action taken by the Connector regarding Appellant's eligibility to purchase a Health Connector plan without an advance premium tax credit 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.

cc. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2215191

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

Hearing Issue: Whether the Connector correctly determined the appellant's eligibility to purchase a Connector Health plan with no advance premium tax credit

Hearing Date: December 9, 2021

Decision Date: February 13, 2022

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 7, 2021, the Connector determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit because there was no verification of the appellant's income either supplied by the appellant to the Connector and/or from other data sources.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 9, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Documents were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 16, 2021 addressed to Appellant for December 9, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated November 3, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated November 3rd and 15th, 2021
- Exhibit 3b: Appeals Unit email to Appellant dated November 3, 2021
- Exhibit 4: Hearing Request Form signed by Appellant on October 22, 2021 and received by Connector on October 28, 2021
- Exhibit 5: Connector letter dated October 7, 2021 to Appellant: Final Renewal Notice

Exhibit 6: Summary and results of Appellant's application for Connector health plan dated October 6, 2021

Exhibit 6a: Summary and results of Appellants' application for Connector health plan dated April 10, 2021

Exhibit 7: MassHealth member benefits print-out, Appellant's household determination, October 6, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant attested on her Connector April 10, 2021 application that she had a projected annual income for 2021 of \$13,743. This projected income for 2021 equaled 162.66% of the Federal Poverty Level (Testimony Appellant, Exhibit 6).
2. Based upon the projected income, the Connector determined that the appellant was eligible for a ConnectorCare Type 2B plan. Appellant enrolled in a plan (Exhibits 3a, 6a).
3. In a letter dated October 6, 2021, the Connector notified the appellant that eligibility for her health insurance would change from ConnectorCare eligibility to Connector Health Plan without financial aid eligibility because of a change in income, a status as a non-tax filer, or because of the Connector's inability to verify her projected income. Appellant had not updated her income information since her April application. The Connector was unable to verify the appellant's income from other data sources; the Connector requested that the applicant update her income information if she thought that the eligibility determination was incorrect (Exhibits 5, 6, and 6a).
4. Appellant submitted a request for an appeal of the Connector's determination received by the Connector on October 28, 2021 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 7, 2021 that the appellant was eligible to purchase in a Health Connector plan without an advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is at least 100% of the Federal Poverty Level, the applicant may be eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. The Connector is required to verify information, including income, on applications from other data sources and by asking applicants to submit documents to verify data on applications. 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 provide verifying information that does not match the original attestation, the Health Connector may update applicants' information to match the documents sent in, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5) and 155.320(c)(3)(i)(D), and 956 CMR 12.05.

Appellant attested on her Connector April 10, 2021 application that she had a projected annual income for 2021 of \$13,743. This projected income for 2021 equaled 162.66% of the Federal Poverty Level (Testimony Appellant, Exhibit 6). Based upon the projected income, the Connector determined that the appellant was eligible for a ConnectorCare Type 2B plan. Appellant enrolled in a plan. See Exhibits 3a, 6a.

In a letter dated October 7, 2021, the Connector notified the appellant that eligibility for her health insurance would change from ConnectorCare eligibility to Connector Health Plan without financial aid eligibility because of a change in income, a status as a non-tax filer, or because of the Connector's inability to verify her projected income. Appellant had not updated her income information since her April application. The Connector was unable to verify the appellant's income other data sources; the Connector requested that the applicant update her income information if she thought that the eligibility determination was incorrect. See Exhibits 5, 6, and 6a.

Appellant submitted a request for an appeal of the Connector's determination received by the Connector on October 28, 2021. See Exhibit 4. Appellant testified that she has been unemployed since August, 2021 and was still unemployed. Appellant did not collect unemployment compensation. Appellant did not report these changes to the Connector. I find Appellant's testimony to be credible.

In this matter, though Appellant had a significant decrease in income in August, 2021, Appellant did not notify the Connector of this change in income. In addition, the Connector could not verify her income as required by Federal law (see cites above). Since the appellant did not contact the Connector about changes and there was no verification from other data sources, the Connector correctly determined, based upon an unknown income, that the appellant was no longer eligible for an advance premium tax credit. The determination of the Connector is, therefore, affirmed.

During the hearing, the appellant was advised to update information about her current income with the Connector.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a Health Connector plan without an advance premium tax credit 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.

cc. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2215287

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

Hearing Issue: Whether the Connector correctly determined the appellant's eligibility to purchase a Connector Health plan with no advance premium tax credit.

Hearing Date: January 6, 2022

Decision Date: February 20, 2022

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 9, 2021, the Connector determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit because there was no verification of the appellant's income either supplied by the appellant to the Connector and/or from other data sources.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Connector Health plan with no advance premium tax credit.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 6, 2022. The representative was not present. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Documents were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files

Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 10, 2021 addressed to Appellant for January 6, 2022 hearing

Exhibit 3: Connector Appeals Unit letter dated November 16, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit outreach notes dated December 1st and 29th, 2021

Exhibit 3b: Appeals Unit emails to Appellant dated November 16th and December 29th, 2021

Exhibit 3c: Appeals Unit letter dated November 16, 2021 to Appellant regarding resolution of matter

Exhibit 4: Hearing Request Form from Appellant dated November 6, 2021 with letter in support attached

- Exhibit 4a: Appellant's request to go forward with hearing, undated
- Exhibit 5: Connector letter dated October 9, 2021 to Appellant: Final Renewal Notice
- Exhibit 5a: Connector letter to Appellant dated November 12, 2021 regarding eligibility for Health Connector Plan with subsidy
- Exhibit 5b: Connector letter to Appellant dated November 12, 2021 regarding eligibility for Health Connector Plan with subsidy
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated October 28, 2021 for 2022
- Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated November 12, 2021 for 2022
- Exhibit 7: MassHealth member benefits print-out, Appellant's household determination, October 28, 2021
- Exhibit 8: Connector letter to Appellant dated January 21, 2020 requesting proof of income by April 20, 2020
- Exhibit 9: Connector letter to Appellant dated April 12, 2021 requesting proof of income by July 11, 2021
- Exhibit 10: Connector letter to Appellant dated August 12, 2021 requesting proof of income, documents received unacceptable
- Exhibit 11: Connector letter to Appellant dated August 13, 2021 requesting proof of income, documents received unacceptable
- Exhibit 12: Connector letter to Appellant dated August 26, 2021 requesting proof of income, documents received unacceptable
- Exhibit 13: Connector letter to Appellant dated November 12, 2021 requesting proof of income by February 10, 2022
- Exhibit 14: List of documents submitted to Connector by Appellant from December 21, 2019 to December 13, 2021
- Exhibit 15: August 10, 2021 printout showing document submitted by Appellant, unacceptable because outdated
- Exhibit 16: August 10, 2021 documents submitted: 2019 Federal tax return and 2020 Federal tax return, missing attachments
- Exhibit 17: August 24, 2021 print-out showing document submitted, missing attachment to 2020 Federal tax return

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance in 2020. She and her spouse were asked to submit proof of income by April 20, 2020. Appellant again applied for health insurance through the Connector some time in 2021 after the death of her spouse in September, 2020 (Testimony of Appellant, Exhibits 8 and 9).
2. During 2021, Appellant submitted various documents as proof of income. None of these was acceptable either because the information was too old or because the information was incomplete. Appellant and her children called the Connector many times to find out what they needed to do. Each time, they thought they had corrected the problem (See Testimony of Appellant, and Exhibits 10-12, 14-17).
3. The Connector determined on October 9, 2021 that the appellant was eligible to purchase a Connector health plan without an advance premium tax credit. This determination was made because the appellant's income was too low, the appellant's access to other insurance, or the appellant's tax filing status. Appellant was notified of this determination (Exhibit 5)

4. Appellant attested on her Connector October 28, 2021 application that she had a projected annual income of zero and that her spouse, who Appellant indicated was deceased, had a projected income of \$44,432 (Exhibit 6).

5. On November 12, 2021, the appellant amended her application to show that she had a projected annual income of \$39,792. Based upon this change in reported income, the Connector determined that the appellant was eligible to purchase a Connector health plan with an advance premium tax credit (Exhibits 5a, 5b, and 6a).

6. Appellant submitted a request for an appeal of the Connector's determination received by the Connector on November 6, 2021 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 9, 2021 that the appellant was eligible to purchase in a Health Connector plan without an advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is at least 100% of the Federal Poverty Level, the applicant may be eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. The Connector is required to verify information, including income, on applications from other data sources and by asking applicants to submit documents to verify data on applications. 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 provide verifying information that does not match the original attestation, the Health Connector may update applicants' information to match the documents sent in, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5) and 155.320(c)(3)(i)(D), and 956 CMR 12.05.

In this matter, the appellant was asked by the Connector to submit proof of income numerous times. Appellant sent in documents, but each time the documents were incomplete or outdated. Matters were complicated because of the death of the appellant's spouse and the resulting changes to Appellant's income. The Connector was left with no accurate information about Appellant's projected income. Based upon data from other sources, or if such data were also not available, based upon an unknown income, the Connector determined that the appellant was eligible to purchase a plan, but without an advance premium tax credit. This determination was correct at the time it was made. See the testimony of the appellant which I find to be credible, Exhibits 5 through 17, and cites above. The Connector's determination is upheld.

I note that since the October 9th determination, the appellant submitted proof of income and on November 12th, the Connector changed Appellant's eligibility to include an advance premium tax credit. As of the date of this hearing, Appellant's issue on appeal had actually been resolved. See Exhibit 3c. During the hearing, the appellant was advised to select a plan.

ORDER:

The action taken by the Connector regarding Appellant's eligibility to purchase a Health Connector plan without an advance premium tax credit is affirmed.

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

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

cc. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2215545

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

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

Hearing Date: January 20, 2022

Decision Date: February 16, 2022

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 12, 2021, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant had access to or was enrolled in Medicare.

ISSUE

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 20, 2022. An interpreter was also present. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 28, 2021 addressed to Appellant for a hearing on January 20, 2022
- Exhibit 3: Connector Appeals Unit letter dated December 23, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated December 23, 2021
- Exhibit 3b: Appeals Unit letter to Appellant dated December 23, 2021 regarding eligibility for Medicare
- Exhibit 4: Hearing Request Form signed by Appellant on November 27, 2021 and received by the Connector on December 16, 2021
- Exhibit 4a: Social Security Benefit statements for Appellant and spouse, 2020

Exhibit 4b:List of Appellant's expenses, 2020

Exhibit 4c:Appellant's 2020 Federal tax return, Schedule C

Exhibit 5: Connector letter dated November 12, 2021 to Appellant denying eligibility

Exhibit 6: Summary and results of Appellant's application dated November 12, 2021

Exhibit 7: MassHealth Member Benefits print-out, Appellant's household determination, November, 12, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in November, 2021 (Exhibits 5 and 6).
2. On November 12, 2021, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant either had access to Medicare or was enrolled in Medicare. According to Appellant's application, Appellant was enrolled in Medicare (Exhibits 5 and 6).
3. Appellant filed a request for an appeal of the Connector's determination which was received by the Connector on December 16, 2021. (Exhibit 3).
4. Appellant and his spouse were enrolled in Medicare when the appellant applied for coverage through the Connector. They also had supplemental coverage. Appellant applied to the Connector for coverage because he felt Medicare and the supplemental coverage cost too much (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied for health insurance in November, 2021. The Connector determined that Appellant was ineligible to enroll in coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's determination on December 16, 2021. See Exhibits 4, 5, 6.

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

Appellant was enrolled in Medicare at the time Appellant applied for health insurance through the Connector. Appellant also had supplemental coverage. He applied to the Connector for coverage because he thought the cost might be less. See the testimony of the appellant which I find to be credible, and Exhibits 5, and 6.

The Connector correctly determined that because Appellant was enrolled in Medicare, Appellant was ineligible to purchase any health insurance plan through the Connector. This determination was based

upon information on the appellant's application. The information was accurate. See citations above. This determination is affirmed.

ORDER: The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit