

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-17681

**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 17, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 5, 2022, the Appellant was advised determined eligible for ConnectorCare with Advanced Premium Tax Credits ("APTC's). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan with Advanced Premium Tax Credits based on the income used in the Health Connector's verification process.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 31, 2023, and testified under oath. The Appellant testified at the hearing. The hearing record consists of 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	( 8 pages, received 10/15/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated 10/20/ 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 page, dated 1/12/ 2023)
Exhibit 5:	Health Connector's Application Summary	(3 pages, dated 9/29/ 2022)

Exhibit 6:	Health Connector's Eligibility Results	(3 pages, dated	9/29/2022)
Exhibit 7	Health Connector's Final Renewal Notice	(9 PP, dated	10/5/2022)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	9/20/ 2022)
Exhibit 9:	Health Connector's Application Summary	(3 pages, dated	9/29/ 2022)
Exhibit 10:	Health Connector's Eligibility Results	(3 pages, dated	9/29/2022)
Exhibit 11:	Medicaid Household Determination	(8 PP, dated	8/5/ 2022)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant had been enrolled with ConnectorCare Plan Type 2B in 2022 but her plan was changed in January 2023 for a Health Connector Plan with Advanced Premium Tax Credits (APTC's) because her household income had changed resulting in a substantial premium cost increase. (Testimony, Exs. 1, 6, and 9-11).
2. The Appellant testified that she had to take a leave of absence from employment and needed to take a distribution from her retirement account in 2021, resulting in an increase in her 2021 taxable income, which she believed was used by the Connector in its recent determination. (Appellant's Testimony, Exhibits 1, 6-10).
3. The Health Connector's determination was based on an income equivalent to 324.35 % of the Federal Poverty Level("FPL") which included income, capital gains, and unemployment income. (Exhibits 1, 6-10).
4. The final renewal notice also instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibits 1, and 7).
5. The Appellant testified her household's income that was used in the above FPL determination was not an accurate representation of her household income because of the one-time distribution from her retirement account. (Testimony, Exhibits 1,5, 6).
6. The Appellant's self-attested monthly income from her part time employment where she was paid approximately \$15 an hour or approximately \$25,000 annually. (Testimony, Exhibits 1,5, and 6).
7. The Appellant's current income consists of her part time employment. (Testimony).
8. The Appellant was encouraged at the hearing to contact the Connector to update her income if it had changed.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant lost coverage was found eligible for Health Connector plans with APTC's after losing coverage ConnectorCare Plan Type 2B. The Appellant asserts that this determination was incorrect, and that the Appellant should be permitted to enroll in coverage through the Health Connector with subsidies that she previously had. The Appellant asserts that this determination was incorrect because she had to receive a distribution from a retirement account because she needed the income due to having to take a was on a leave of absence from her employment. As a result, her 2021 taxable income was substantially increased which she asserted was used by the Connector in its determination (Testimony, Exhibit 1, 2). When the Appellant reapplied, her household

income was increased based on the verification process resulting in a change of plans to Health Connector Plan with Advanced Premium Tax Credits. The Appellant was found eligible for ConnectorCare with APTC's beginning in January, 2023 based on the Health Connector's determination that used an income and family size equivalent to 324.35 % of the Federal Poverty Level.

The Connector's determination on October 5, 2022, 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 manual verified income of \$570.29 every two (2) weeks for one spouse and \$7,271 monthly income monthly income. (Exhibits 1,5-7, and Testimony). This was used to determine a household income equivalent to 424.35 % 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. I find their income was properly verified according to the above regulations.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 5, 2022, regarding the Appellant's eligibility for Health Connector Plans with APTC's was correct. The Appellant was advised to call Customer Service and the Appeals Unit to report any changes to her income or any other information on her application.

#### **ORDER**

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.

**FINAL APPEAL DECISION**

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

**Hearing Issue:** Eligibility for a special enrollment period, based on failure to have a qualifying life event

**Hearing Date:** January 31, 2023

**Decision Date:** February 17, 2023

**AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On September 20, 2022, the Appellant was determined ineligible for a special enrollment period for Health Connector plans due to failure to have a qualifying life event.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for a special enrollment period(“SEP”), based on the Appellant’s failure to have a qualifying life event.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 31, 2023.

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 ( 8 PP, received 10/10/2022 )
- Exhibit 3: Health Connector’s Acknowledgment of Appeal ( 1 page, dated 10/25/ 2022 )
- Exhibit 4: Health Connector’s Notice of Appeal Hearing ( 1 page, dated 1/12/ 2023 )
- Exhibit 5: Health Connector’s Application Summary ( 3 PP, dated 9/8/ 2022 )
- Exhibit 6: Health Connector’s Eligibility Results ( 3 PP, dated 9/8/2022 )

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Exhibit 7:	Health Connector's Notice Eligibility	(6 PP, dated	9/8/2022 )
Exhibit 8:	Health Connector's Special Enrollment Period Denial Notice	(6 PP, dated	9/20/2022)
Exhibit 9:	Medicaid Household Determination	(8 PP, dated	9/8/ 2022 )
Exhibit 10:	Health Connector's Appeals Unit Staff Notes	(1 P, dated	10/25/ 2022)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was insured through the Connector but lost coverage on or July 1, 2022 for failing to submit income documentation. (Appellant's Testimony, Exhibits 1, 10).
2. The Appellant testified that she had submitted 23 pages of income verifications including W2 for her spouse as well as other tax filings pursuant to a written request for income and W2 documents from the Connector, (Appellant's Testimony).
3. The Appellant testified she subsequently called the Connector and informed a representative she did not receive a W2, and was told she would receive a call back. (Appellant's Testimony).
4. The Appellant did not receive a call back and was disconnected when she called a second time. (Appellant's Testimony).
5. The Appellant subsequently received another letter from the Connector after she had lost coverage and resubmitted the income documents that she had submitted on or about June 2022. (Appellant's Testimony, Exhibits 1 and 7).
6. The Appellant called in response to this latest letter and was told by a representative at the Connector that it was her husband's W2 that was being requested and that she should not have been told she was going to receive a call back as the Connector does not call back applicants.
7. The Appellant testified that upon receipt of the SEP denial notice dated 9/20/22, she called the Office of Patient Protection and was told that she was under MassHealth. (Appellant's Testimony).
8. The Appellant testified that her and her Spouse had never been on MassHealth. (Appellant's Testimony).
9. The Appellant testified she had called the Office of Patient Protection ("OPP") regarding the waiver as referenced in the SEP Denial dated September 20, 2022 but had not submitted a request for a waiver, but was told she fall under MassHealth, which her and her spouse had never been enrolled. (Appellant's Testimony).
10. The Appellant became eligible for Connectorcare in December, 2022 and enrolled in January, 2023. (Appellant's Testimony, Exhibits 1 and 10).
11. The record does not reflect that the Appellant appealed the loss of Connectorcare on July 1, 2022. (Exhibits 1 and 10).
12. The Appellant, when she reapplied on September 8, 2022 was eligible for Connectocare with Advanced Premium Tax Credits ("APTCS") at as substantially increased premium compared to the cost prior to her loss of coverage in July, 2022. (Appellant Testimony, Exhibits 1, 7-8).
13. The Appellant's testified she is requesting retroactive coverage for the time she was uninsured. (Appellant testimony).
14. As of September 20, 2022, the Appellant had not experienced a qualifying life event and was denied a Special Enrollment Period("SEP"). (Appellant Testimony, Exhibits 1,7-8).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant previously was found eligible for Health Connector Plans with financial assistance, lost coverage on July 1, 2022 due to not producing required income verifications, and reapplied but was not granted a special enrollment period, but was subsequently able to enroll in coverage effective December, 2022 and is enrolled with the Connectorcare in January, 2023. (Appellant's Testimony). The Appellant is requesting retroactive coverage for the time she was uninsured and asserts that the denial of the SEP was incorrect. In this case, the Appellant testified that she had submitted the required income documents in June, 2022 and again in July or August after she had lost coverage. The Appellant did not appeal the loss of Connectorcare coverage on or about July 1, 2022 and instead reapplied on September 8, 2022 and approved with APTC's resulting in a substantial increase in premiums. The Appellant was denied an SEP on September 20, 2022 because she was only eligible for APTC's.

The Appellant is appealing and asserts that she received incorrect information from the Connectorcare, that she had timely submitted the correct documents and should have not lost coverage, and because of those reasons the Appellant should be permitted to obtain retroactive coverage for the time she was not enrolled in coverage through the Health Connector. (Appellant's Testimony). Moreover, the Appellant testified she had called the Office of Patient Protection ("OPP") regarding the waiver as referenced in the SEP Denial dated September 20, 2022 but had not requested a waiver, but was told she fall under MassHealth, which her and her spouse had never been enrolled. (Appellant's Testimony).

Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2022 was November 1, 2021, to January 31, 2022. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage. 45 CFR § 155.420. Cancellation of coverage due to failure to pay premium is not a qualifying life event. 45 CFR § 155.420(e)(1).

On September 20, 2022, the Appellant was determined ineligible for Health Connector plans under a special enrollment period decision due to failure to have a qualifying life event. The Appellant's loss of health insurance due to not submitting income verification despite testifying that she had done so, is unfortunately not a qualifying life event. There is also no record of the Appellant appealing the loss of coverage in July 2022, instead she reapplied in September. As referenced above, the Appellant did not submit a request for a waiver to OPP. As such, based on the above, the record does not reflect that the Health Connector made an error resulting in an incorrect determination regarding the denial of the Appellants SEP thus necessitating retroactive coverage. At hearing, the Appellant did not adduce any testimony whether the Appellant had experienced any other qualifying life events, as listed in the Health Connector's policy NG-1E. Because the Appellant did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrolment period was correct. 45 CFR § 155.420.

## ORDER

The appeal is denied.

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

If the Appellant experiences a qualifying life event, the Appellant should contact the Health Connector's customer service center and request a special enrollment period.

The Appellant may also consider reviewing the criteria for an Enrollment Waiver from the Massachusetts Office of Patient Protection. Information can be found at <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/health-policy-commission/patient-protection/>.



**FINAL APPEAL DECISION**

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

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

**Hearing Date:** February 7, 2023

**Decision Date:** February 20, 2023

**AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On November 4, 2022, the Appellant’s and her two (2) children were determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 7, 2023.

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 P, undated )
- Exhibit 2: Appellant’s Appeal Request Form (30 PP, received 11/9/2022)
- Exhibit 3: Health Connector’s Acknowledgment of Appeal ( 1 P, dated 11/14/ 2022)
- Exhibit 4: Health Connector’s Notice of Appeal Hearing ( 1 P, dated 11/4/ 2022)
- Exhibit 5: Health Connector’s Application Summary (3 PP, dated 11/4/ 2022)
- Exhibit 6: Health Connector’s Eligibility Results (3 PP, dated 11/4/2021)

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Exhibit 7	Health Connector’s Denial Notice	(6 PP, dated	11/4/2022)
Exhibit 8	Health Connector’s Denial Notice	(6 PP, dated	11/4/2022)
Exhibit 9:	Medicaid Household Determination	(8 PP, dated	11/4/ 2022)
Exhibit 10:	Medicaid Household Determination	(8 PP, dated	11/4/ 2022)
Exhibit 11:	Email from Connectorcare to Appellant	(1 P, dated	11/24 /2022)
Exhibit 12:	Secure Email from Connectorcare to Appellant	(1 P, dated	1/28 /2023)
Exhibit 13:	Health Connector’s Appeals Unit Staff Notes	( 1 P, dated	1/28/ 2023)
Exhibit 14:	Health Connector’s Application Summary	(3 PP, dated	1/3/ 2023)
Exhibit 15:	Health Connector’s Eligibility Results	(3 PP, dated	1/3/2023)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant’s household consists of her and her two children. (Exhibits 1, 2, 7, 8, 14 and 15, Appellant’s Testimony).
2. The Appellant’s income has an FPL of 0%. (Exhibits 1, 6, and 15).
3. The Appellant and her two children were determined ineligible for Health Connector plans on August 8, 2022, after failing to establish lawfully presence to the Health Connector. (Exhibits 1,2, 7, and 8).
4. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibits 1, 4-7).
5. The Appellant testified and supported documentation their family have applied for asylum which is pending. (Exhibits 1, 2, 7, 8, 14 and 15, Appellant’s Testimony).
6. On November 4, 2022, the Appellant’s children were determined ineligible for Health Connector Plans but the Appellant was eligible for MassHealth.
7. The Appellant’s children as of January 8, 2023 were eligible for MassHealth. (Exhibits 1, 13, and 15).
8. The Appellant was encouraged to contact MassHealth regarding eligibility and enrollment.

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant and her two children were found ineligible for Health Connector Plans based on failing to establish lawful presence on August 8, 2022. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector.

Although the Appellant testified and provided supporting documentation her and her children have applied for asylum which is pending, on November 4, 2022, the Appellant applied for health insurance through the Health Connector but did not attest to being lawfully present and was determined ineligible for Health Connector plans. Because the Appellant did not present evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

The Appellant and her children have now been approved for MassHealth. (Exhibits 1, 6 and 15). Based on the above record, testimony, and exhibits, the Health Connector correctly found that the Appellant and her children were not eligible for Health Connector plans on August 8, 2022 and on November 4, 2022, based on the Appellant’s failure to provide sufficient evidence of lawful presence, and that determination is upheld. The Appellant was encouraged to contact MassHealth regarding eligibility and enrollment.

## ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

## ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.

FINAL APPEAL DECISION: ACA22-17899

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

**Hearing Issue:** Eligibility for a special enrollment period, based on failure to have a qualifying life event

**Hearing Date:** February 14, 2023

**Decision Date:** February 20, 2022

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**AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 9, 2022, Appellant was determined eligible for Health Connector plans without subsidies due to failure to provide proof of income.

**ISSUE**

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

**HEARING RECORD**

The Appellant's appeared at the hearing, which was held by telephone on February 14, 2023.

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	(6 PP, received 11/22/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 P, dated 11/22/ 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 P, dated 1/18/ 2023)
Exhibit 5:	Health Connector's Application Summary	(3 PP, dated 11/3/ 2022)
Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated 11/3/2021)
Exhibit 7:	Health Connector's Notice Eligibility	(6 PP, dated 11/3/2022)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated 11/3/ 2022)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated 11/ 22/ &12/12/2022)
Exhibit 10:	Email from Connectorcare to Appellant	(1 P, dated 11/22 /2022)

Exhibit 11:	Virtual Gateway	(1 P, dated	11/22 /2022)
Exhibits 12:	Appellant's 2021 W2 Document	(2 PP, dated	11/22 /2022)
Exhibit 13:	Documents Needed Reminder	(3 PP, dated	5/24/2022)
Exhibit 14:	Request for Information	(5 PP, dated	5/20/2022)
Exhibit 15:	Document Request	(4 PP, dated	7/18/2022)
Exhibit 16:	Request for Information Unacceptable	(7 PP, dated	7/19/2022)
Exhibit 17:	Health Connector's Application Summary	(3 PP, dated	9/18 2022)
Exhibit 18:	Health Connector's Eligibility Results	(3 PP, dated	9/18/2022)
Exhibit 19:	Proof of Income Request	(5 PP, dated	11/22/2022)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is not currently enrolled in Health Connector but was eligible for Health Connector plans without subsidies based on a Federal Poverty Level("FPL") of 534.27% and due to failure to verify and provide proof of income. (Exhibits 1, 5-7)
2. The Appellant had not provided requested documents of proof of income as referenced in the Request for Proof of Income from the Connector dated May 20, 2022, with a due date of August 17, 2022. (Exhibits 1, 14-17).
3. The Appellant did submit some income documents including 2021 W2's received by the Connector in November 2022. (Exhibits 1, 11-15).
4. The Appellant was not sure if he received the Connector notices including the Request for Information and Documents Needed Reminder. (Appellant's Testimony, Exhibits 1, 13, 14, and 19).
5. The Appellant testified that he did receive mail at his residence which is the address the notices the Connector had sent the Notice of Hearing. (Appellant's Testimony").
6. The Appellant testified that his attested monthly income of \$2,955.98 was accurate. (Appellant's Testimony, Exhibits 1, 5-6, and 17-18).
7. The Appellant testified that he was not sure if he or any of his household members were enrolled in the Connectorcare. (Appellant's Testimony, Exhibits 1, 13, 14, and 19).
8. The Appellant testified that his Spouse and adult child were part of the household but that it was difficult to ascertain income information from his adult child. (Appellant's Testimony).
9. The Appeal only includes the Appellant as the only applicant. (Exhibits 1, 2 and 7).
10. The Appellant's Spouse and Adult child had attested to their income and were enrolled in Connector Plans with Advanced Premium Tax Credits. ("APTCS"). (Exhibits 1-9).
11. The Appellant testified that he was unable to afford an Employer Sponsored Plan ("ESI") and that him and his Spouse had faced extraordinary basic daily living expenses and a reduction of income because of Covid. (Appellant's Testimony").
12. The Appellant testified he had discussed a hardship waiver with a representative at the Connectorcare but was not sent the paperwork. (Appellant's Testimony).
13. The Appellant was informed this was not a hardship appeal and that he should contact the Connectorcare for information for the hardship waiver application.
14. The Appellant was advised that he needed to call the Connectorcare and attest to his income and submit proof of his income if required. (Exhibits 1, 9, and 10).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant previously was found eligible for Health Connector Plans without subsidies due to not submitting required proof of income pursuant to a Request for Information with a due date of August 17, 2022. The Appellant did submit income documents after the due date and his income was redetermined based on a Federal Poverty Level (“FPL”) of 534.27%. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector’s ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants’ eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants’ income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants’ income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

The Appellant was found eligible for Health Connector Plans with subsidies only based on an FPL of 534.27% after failing to verify income. The Appellant had not provided requested documents of proof of income as referenced in the Request for Proof of Income from the Connector dated May 20, 2022, with a due date of August 17, 2022. (Exhibits 1, 14-17). Moreover, the Appellant testified that the attested monthly income of \$2,955.98 that was used in the Connector’s determination was accurate.

The Appellant was determined for Health Connector plans without subsidies on, November 3, 2022 after failing to send in documents verifying income, based on having an income and household size equivalent to 534.27% of the Federal Poverty Level. This was the correct determination based on the information at the time, and therefore the appeal is denied. The Appellant was encouraged to contact the Connectorcare and attest to his income and if required submit proof of income.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 23-17912

**Appeal Decision:** Appeal denied

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

**Hearing Date:** February 24, 2022

**Decision Date:** February 28, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 5, 2022, the Appellant was advised determined eligible for ConnectorCare with Advanced Premium Tax Credits (“APTC’s). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan without subsidies based on the income used in the Health Connector’s verification process.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 24, 2023, and testified under oath. The Appellant testified at the hearing. The hearing record consists of testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 P, undated )
Exhibit 2:	Appellant’s Appeal Request Form	( 4 PP, received 11/14/2022)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 P, dated 11 /18/ 2022)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	( 1 P, dated 1/19/ 2023)
Exhibit 5:	Health Connector’s Application Summary	(3 PP, dated 10/25/ 2022)



Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated	10/25/2022)
Exhibit 7:	Health Connector's Final Renewal Notice	(8 PP, dated	10/25/2022)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	10/25/ 2022)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	2/13/ 2023)
Exhibit 10:	Email from Connectorcare to Appellant	(1 P, dated	11/18 /2022)
Exhibit 11:	Secure Email from Connectorcare to Appellant	(1 P, dated	2/13 /2023)
Exhibit 12:	Health Connector's Application Summary	(3 PP, dated	12/30/ 2023)
Exhibit 13:	Health Connector's Eligibility Results	(3 PP, dated	12/30/2023)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant had been enrolled with ConnectorCare Plan Type 1 in 2022 for which she did not pay premiums, but her plan was changed in January 2023 for a Health Connector Plan without subsidies due to unknown income. (Testimony, Exs. 1, 5-8).
2. The Appellant testified that she did not have income and that her income had not changed. (Appellant's Testimony, Exhibits 1, 6, and 13).
3. The Health Connector's determination was based on an income equivalent to 70.45 % of the Federal Poverty Level("FPL") which. (Exhibits 1, 5-6).
4. The final renewal notice also instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibits 1, and 7).
5. The Appellant testified she contacted the Connectorcare after she received an invoice for \$587 and was told she had to send in paperwork. (Appellant's Testimony).
6. The Appellant testified she sent the Connector several documents and was approved and is again enrolled for a Connectorcare Plan Type 1 plan with subsidies effective January, 2023. (Testimony, Exhibits 1,9, 12 and 13).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant lost coverage was found eligible for Health Connector plans without subsidies after losing coverage ConnectorCare Plan Type 1. The Appellant asserts that she subsequently sent in documents and is again eligible and enrolled in a plan with no premiums. The Appellant testified after she received notice she was losing her plan effective December 31, 2022 she received an invoice for \$587 and was told by Connectorcare she had to send in paperwork or she would have to pay the invoice. The Appellant sent in the documents and also reapplied and was again enrolled in a plan with no premiums effective January 2023. (Testimony, Exs. 1,5-7, 9-13).

The Appellant asserts that this invoice is incorrect and she should not have to pay same where her income did not change and she sent in the documents and is enrolled in a Connectorcare Plan 1 with subsidies. The Appellant was found eligible for ConnectorCare with subsidies beginning in January 2023 based on the Health Connector's determination that used an income and family size equivalent to 0 % of the Federal Poverty Level.

The Connector's determination on October 25, 2022, 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 manual verified income. (Exhibits 1,5-7, and Testimony). This was used to determine a household income equivalent to 70.45 % of the Federal Poverty Level. (Exhibits 1, 5-6). 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. I find the Appellant's income was properly verified according to the above regulations.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 25, 2022, regarding the Appellant's eligibility for Health Connector Plans without subsidies was correct. The Appellant was advised to call Customer Service and the Appeals Unit regarding the invoice for which she is contesting and to report any changes to her income or any other information on her application.

## **ORDER**

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.

# **CONNECTOR APPEALS UNIT**



## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied. The Connector’s denial of Appellant’s application to waive or reduce the amount of the monthly premium is affirmed

**Hearing Issue:** Whether the Connector correctly denied Appellant’s application to waive or reduce the amount of the monthly premium for Appellant’s subsidized health insurance plan based upon the information supplied by Appellant.

**Hearing Date:** February 6, 2023

**Decision Date:** February 17, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

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

Appellant and her children had been covered by a ConnectorCare Plan prior to 2022. On December 10, 2021, Appellant received a Preliminary eligibility renewal notice for 2022 finding Appellant and eligible for a Health Connector Plan with an Advance Premium Tax Credit (“APTC”). Appellant has been enrolled in a Connector Plan with APTC’s and later in 2022 submitted an application to Waive or Reduce the amount of the premium. Appellant’s application for the Waiver was denied on August 24, 2022.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly denied Appellant’s Application to Waive or Reduce the amount of the premium for Appellant’s ConnectorCare Plan for 2022.

# CONNECTOR APPEALS UNIT



## HEARING RECORD

Appellant appeared at the hearing which was held by telephone on February 6, 2023. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 P,	undated )
Exhibit 2:	Appellant's Appeal Request Form and Hardship Waiver Application	(6 PP, received	9/7/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 P, dated	9/15/ 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 P, dated	9/28/ 2022)
Exhibit 5:	Health Connector's Application Summary	(3 PP, dated	12/10/ 2021)
Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated	12/10/2021)
Exhibit 7:	Health Connector's Eligibility Approval	(6 PP, dated	12/10/2021)
Exhibit 8:	Health Connector's Hardship Waiver Denial Notice	(6 PP, dated	8/24/2022)
Exhibit 9:	Medicaid Household Determination	(8 PP, dated	12/10/ 2021)
Exhibit 10:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	1/28/2023)
Exhibit 11:	Virtual Gateway	(1 P, dated	1/28 /2023)
Exhibit 12:	Appellant's Documents submitted re: Hardship	(3 PP, dated	1/17/2023)

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant and her two children were covered by a ConnectorCare Plan in 2022 (Testimony of Appellant).
2. On December 10, 2021, Appellant received a Preliminary eligibility notice for 2022 (Exhibits 1, 7 and 8). Appellant was eligible for a Health Connector Plan with Advanced Premium Tax Credits. (Exhibits 1, 5-7).
3. On August 22, 2022, Appellant applied for a Premium Waiver or Reduction based on the Preliminary eligibility notice (Exhibits 1, 2, 12, and Testimony of Appellant).
4. The Appellant stated she could only afford \$600 per month and could not afford the premium because of inflation. (Exhibits 1, 2, 12, and Testimony of Appellant).
5. The Appellant testified that was more than 30 days behind in her mortgage for which she submitted a mortgage statement reflecting arrears. (Exhibits 1, 2, 12, and Testimony of Appellant).
6. On August 24, 2022, the Health Connector denied Appellant's application for a Premium Waiver or Reduction because the Appellant was only eligible for a Connector Plan with APTC's. (Exhibit 5).

# **CONNECTOR APPEALS UNIT**



7. Appellant testified she was working full time and her income was approximately \$93,120.32 (Exhibits 1,7, and Testimony).
8. Appellant testified she was eligible for Employer Sponsored Insurance (“ESI”) but it was unaffordable. (Testimony of Appellant).
9. Appellants were not homeless and did not fall behind in rent payments nor receive any shut-off notices during the last sixty days prior to the Premium Waiver/Reduction application (Testimony of Appellant).
10. Appellants did not incur a significant and unexpected increase in essential expenses within the past six months resulting directly from domestic violence; the death of a spouse, family member, or partner with primary responsibility for child care; the sudden responsibility for providing full care for an aging parent or other family member; or a fire, flood, natural disaster, or other unexpected natural or human-caused event (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant’s behalf, based on a projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector’s ConnectorCare program. 956 CMR § 12.04. Pursuant to 956 CMR 12.11, the Connector determines enrollee premium contributions the enrollees must pay. Included in the rules are specific grounds for Waiver or Reduction of Enrollee Premium contribution for extreme financial hardship. See 956CMR 12.11 (5).

Appellant and her two children were covered by a ConnectorCare Plan in 2021. On December 10, 2021, Appellant received a Preliminary eligibility notice for 2022. Appellant was eligible for a Health Connector Plan with Advanced Premium Tax Credits. (Exhibits 1, 5-7). On August 22, 2022, Appellant applied for Premium Waiver or Reduction. The Health Connector denied Appellant’s application for a Premium Waiver or Reduction because the Appellant was only eligible for a Connector Plan with APTC’s. (Exhibit 5). Appellant’s Notice of Appeal claimed that Appellant could not afford the premium and could only afford \$600 per month and could not afford the premium because of inflation. (Exhibits 1, 2, 12, and Testimony of Appellant). The Appellant testified that was more than 30 days behind in her mortgage for which she submitted a mortgage statement reflecting arrears. (Exhibits 1, 2, 12, and Testimony of Appellant).

Appellant testified they were not homeless and did not fall behind in rent payments nor receive any shut-off notices during the last sixty days prior to the Premium Waiver/Reduction application. Appellants did not incur a significant and unexpected increase in essential expenses within the past six months resulting directly from domestic violence; the death of a spouse, family member, or partner with primary responsibility for child care; the sudden responsibility for providing full care for an aging parent or other family member; or a fire, flood, natural disaster, or other unexpected natural or human-caused event .

# **CONNECTOR APPEALS UNIT**



I find that Appellant did not meet any of the grounds for Waiver or Reduction of Enrollee Premium contribution for extreme financial hardship. See 956CMR 12.11 (5). This is because the Appellant was only eligible for a Connector Plan with APTC's. (Exhibit 5). Moreover, Appellant testified she was working full time and her income was approximately \$93,120.32 (Exhibits 1,7, and Testimony). Appellant testified she was eligible for Employer Sponsored Insurance ("ESI") but it was unaffordable. (Testimony of Appellant).

Therefore, Appellant's Waiver or Reduction of Enrollee premium contribution was correctly denied.

I find that the Connector made the correct determination.

## **ORDER**

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-17618

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare based on income at or under 100% of the federal poverty level.

**Hearing Date:** January 27, 2023

**Decision Date:** February 12, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on September 29, 2022. The Health Connector determined the Appellant to be eligible for Health Connector plans.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 27, 2023. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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



- Exhibit 2: Health Connector’s Hearing Notice (6 pages, dated January 4, 2023)
- Exhibit 3: Health Connector’s Acknowledgement of Appeal (1 Page )
- Exhibit 4: Appeals Unit Staff Case Notes (2) pages
- Exhibit 5: Appellant’s appeal request form (6 pages) dated October 30, 2022)
- Exhibit 6: Notice of Eligibility Determination (7 pages, dated September 29, 2022)
- Exhibit 7: Health Connector’s Determination Results and Review Computer Printout (7 pages, dated September 29, 2022)
- Exhibit 8: Historical Notices and Printouts (6 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 31 year old unmarried female, who applied for subsidized health insurance on September 29, 2022. Appellant is a Canadian citizen who is studying in the Massachusetts. Appellant first applied and obtained health insurance with Blue Cross & Blue Shield of Massachusetts. Appellant also has health insurance in Canada that covers her in the United States. Appellant dropped her Blue Cross & Blue Shield insurance and wants to obtain unsubsidized health insurance through the Health Connector. (Exhibit 7)
2. The Appellant has a household of one (Exhibit 7)
3. The Appellant was not found eligible for subsidized health insurance through the Health Connector because her income level was 0.00% of the Federal Poverty Level which is under 100% for a single person in 2022. (Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including government sponsored health insurance such as Medicare. 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i). Another requirement to be eligible for APTC is that the applicant must have an income at or above 100% of the Federal Poverty Level, which is \$12,140.00 (45 CFR 155.305(f)(1)(i)).

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

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

The Appellant was found eligible for Health Connector plans without a subsidy. Appellant is urged to contact the Health Connector customer service line and request unsubsidized coverage.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17647

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** January 30, 2023

**Decision Date:** February 5, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated September 22, 2022, the appellant was advised that he did not qualify for health insurance through the Health Connector because he had access to or was enrolled in Medicare. (Ex. 3) The appellant filed an appeal which was received on October 9, 2022, based on income and “other reason”. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 14)

### ISSUE

Was the Connector’s decision regarding the appellant’s eligibility for Health Connector plans correct at the time of its determination on September 22, 2022, pursuant to 42 U.S.C. 1395ss?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 30, 2023, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector’s Eligibility Determination Results based on a program determination date of September 22, 2022 (2 pages)
- Ex. 2-- Health Connector’s Review of Application (4 pages)
- Ex. 3—Health Connector’s Notice of Eligibility Denial dated September 22, 2022 (6 pages)
- Ex. 4—Medicaid Household Determination (5 pages)
- Ex. 5—Letter from MassHealth dated September 22, 2022 (6 pages)

- Ex. 6—Online Appeal Form received on October 9, 2022 (6 pages)
- Ex. 7—Acknowledgement of Appeal dated October 13, 2022 (1 page)
- Ex. 8—Health Connector letter regarding transfer of appeal to Board of Hearings dated October 13, 2022 (1 page)
- Ex. 9—Health Connector’s Eligibility Determination Results based on a program determination date of November 16, 2022 (2 pages)
- Ex. 10—Health Connector’s Review of Application (4 pages)
- Ex. 11—Health Connector email dated January 21, 2023
- Ex. 12—Application for Health Coverage for Seniors and People Needing Long-Term-Care Services (42 pages)
- Ex. 13—Appeals Unit notes (2 pages)
- Ex. 14—Notice of Hearing (3 pages)
- Ex. 15—Affidavit of Connector representative (1page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 63-years-old, is married and has a tax household size of two. (Testimony, Exs. 2,10)
2. The appellant has been enrolled in his wife’s employer sponsored health insurance for approximately four years. (Testimony)
3. The appellant sustained an injury at work in 2022 which ultimately disabled him from continuing to work and resulted in his retirement. He filed an application for social security disability benefits which was initially denied, but was subsequently approved. At the time of the instant hearing, he was receiving disability income. (Testimony)
4. By notice dated September 22, 2022, the Health Connector advised the appellant that he was not eligible for health insurance through the Health Connector because he had access to or was enrolled with Medicare. (Ex. 3)
4. On the application associated with the September 22, 2022, determination, the appellant attested to having access to minimum essential coverage (MEC), and to not having the option to enroll in employer health coverage, and to not having affordable employer sponsored insurance (ESI). (Testimony, Ex. 2)
5. The appellant appealed the Connector’s September 22<sup>nd</sup> decision on October 9, 2022, and stated that his then Medicare had reached its limit for coverage and would expire in two months. He further stated that he needed to request alternative Medicare following the expiration of his then Medicare insurance. (Ex. 6)
6. By notice dated November 16, 2022, the Health Connector advised the appellant that he was eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$156.00/month effective January 1, 2023. (Ex. 9)
7. On the application associated with the November 16, 2022, determination, the appellant attested to not having access to MEC, and to not having the option to enroll in affordable health coverage, and to not having affordable ESI. (Ex. 10)
8. The appellant was not aware of the Connector’s November 16<sup>th</sup> determination and had not enrolled in a plan at the time of the instant hearing. (Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

At the time of the Connector’s September 22, 2022, determination, it appears that the appellant was enrolled in health insurance through Medicare based on his receipt of social security disability benefits. On November 18, 2022, he was determined eligible for Health Connector Plans with APTC presumably based on his attestation that he was no longer eligible for Medicare. He testified that he was unaware of that determination and had not enrolled in a plan. However, he also testified that at the time of the instant hearing, he had been enrolled in insurance through his wife’s employer for approximately four years.

The sole issue on appeal is the Connector’s September 22, 2022, determination regarding the appellant’s lack of eligibility for health insurance through the Health Connector based on access to Medicare. Based on the totality of the evidence, it is concluded that the determination was correct.

## **ORDER**

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant was advised to contact customer service at 877-623-6765 for assistance with updating his application with accurate information regarding his access to insurance through Medicare and his access to affordable employer health insurance. With respect to the latter issue, the appellant is advised that an applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17659

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** January 30, 2023

**Decision Date:** February 9, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated September 27, 2022, the appellant was advised that she was eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$0 effective on November 1, 2022. (Exs. 4,7) The appellant filed an appeal which was received on October 12, 2022. (Ex. 9) The matter was referred to a hearing after receipt of the appeal. (Ex. 18)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with an APTC of \$0 on September 27, 2022, 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 30, 2023, 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 September 10, 2022 (3 pages)
- Ex. 2—Health Connector's Review of Application (2 pages)
- Ex. 3—Health Connector's Request for Information dated September 10, 2022 (7 pages)
- Ex. 4—Health Connector's Eligibility Determination Results showing a program determination for September 27, 2022 (4 pages)

- Ex. 5—Health Connector’s Review of Application (5 pages)
- Ex. 6—Letter from MassHealth dated September 27, 2022 (4 pages)
- Ex. 7—Health Connector’s Notice of Eligibility Approval dated September 27, 2022 (8 pages)
- Ex. 8—Health Connector’s Notice of Premium Change dated September 27, 2022 (6 pages)
- Ex. 9—Online Appeal received on October 12, 2022 (6 pages)
- Ex. 10—Acknowledgment of Appeal dated October 18, 2022 (1 page)
- Ex. 11—My Workspace document dated September 20, 2022 (1 page)
- Ex. 12—My Workspace document dated September 27, 2022 (1 page)
- Ex. 13—My Workspace document dated September 27, 2022 (1 page)
- Ex. 14—Letter from MassHealth dated September 14, 2022 (1 page)
- Ex. 15—Letter from the appellant dated September 20, 2022 (1 page)
- Ex. 16—2021 U.S. Form 1040 with attachments (36 pages)
- Ex. 17-- Appeals Unit case notes (1 page)
- Ex. 18—Notice of Hearing (3 pages)
- Ex. 19—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 55-years-old and has a tax household size of one. (Testimony, Exs. 2,5)
2. The appellant was enrolled in a Health Connector plan without financial assistance from January 1, 2022, until she was determined eligible for ConnectorCare Plan Type 3A with an APTC of \$429.00/month, effective October 1, 2022, by notice dated September 10, 2022. (Testimony, Ex. 1)
3. At the time of the September 10<sup>th</sup> determination, the Connector requested that the appellant submit proof of income by December 9, 2022. (Ex. 3)
4. By letter dated September 14, 2022, from MassHealth, the appellant was advised that a portion of the documentation she submitted regarding proof of other income not earned at a job was not acceptable. She was further advised to submit a copy of her 2021 U.S. Form 1040 with all attachments and schedules. (Ex. 14)
5. By letter dated September 20, 2022, the appellant submitted a copy of her 2021 Form 1040 and stated in part that her income in 2021 was inflated due to a one-time sale of vested stock back to her employer. She further stated that her income in 2022 consisted solely of interest and dividends and she included a screen shot of a portion of a Fidelity statement showing year-to-date activity. (Exs. 15,16)
6. By notice dated September 27, 2022, the appellant was determined eligible for Health Connector Plans with an APTC of \$0/month effective November 1, 2022. The Connector used a Federal Poverty Level of 3341.75 % to determine her eligibility based on her self-reported income. On the same date, the appellant was also notified of an increase in her monthly premium to \$688.35 effective November 1, 2022, as a result of a change. (Exs. 4,7,8)
7. On the application associated with the September 27<sup>th</sup> determination, the appellant had a projected yearly income of \$430,417.00 and monthly income of \$35,868.00 from capital gains. (Ex. 5)
7. The appellant appealed the Connector’s September 27, 2022, determination on October 12, 2022, and stated in part that the Connector determined her income was too high to qualify for assistance with no explanation of how



the decision was made. She further stated that her total income for 2022 was from investments in the amount of approximately \$30,000.00/year, not \$30,000.00/month which the Connector had concluded. (Testimony, Ex. 9)

8. At the time of the instant hearing, the appellant was enrolled in the same plan for which she was determined eligible on September 27, 2022. She had not updated her projected income since the September 27<sup>th</sup> determination because she was waiting for 2022 year-end statements regarding her investment income. (Testimony)

#### **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, there is currently 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 maintained that the financial information the Connector used from 2021 for its September 27<sup>th</sup> determination was an inaccurate picture of her financial situation in 2022. She argued that her income in 2021 was inflated as a result of a one-time buyback of stock by her employer, and that her sole source of income in 2022 was income from dividends and interest in the amount of approximately \$30,000.00. It appears that the Connector relied on information in the appellant's 2021 tax return for its September 27<sup>th</sup> determination in part because the document she submitted in support of her 2022 income was incomplete. The Fidelity information she included with her September 20, 2022, letter was a screenshot of an undated page with no identifying information. She did not submit any further material to the Connector following the determination and had not updated her application with current income information at the time of the instant hearing.

It is unfortunate that the appellant's submission in September, 2022, was insufficient to prove her qualification to remain enrolled in the plan for which she was approved on September 10, 2022, and resulted in a redetermination of her eligibility on September 27, 2022. However, based upon the totality of the evidence, it is concluded that the Connector's determination on September 27, 2022, regarding the appellant's eligibility for Health Connector Plans with APTC of \$0 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**

The appellant inquired about her options concerning the fact that she paid full price for her insurance plan and may have qualified for APTCs after the September 27, 2022, eligibility determination. She is advised to review the information at <https://www.healthcare.gov/taxes/marketplace-plan-without-savings/> prior to filing her 2022 tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17675

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** January 30, 2023

**Decision Date:** February 15, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated September 19, 2022, the appellant was advised that he did not qualify for health insurance coverage through the Health Connector because he was not a resident of Massachusetts. (Ex. 3) The appellant filed an appeal which was received on October 14, 2022. (Ex. 7) The matter was referred to a hearing after receipt of the appeal. (Ex.11)

### ISSUE

Was the Connector's decision regarding the appellant's lack of qualification for Health Connector Plans correct at the time of its determination on September 19, 2022, 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 30, 2023, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence:

Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for September 19, 2022 (2 pages)

Ex. 2—Health Connector's Review of Application (3 pages)

Ex. 3—Health Connector's Notice of Eligibility Denial dated September 19, 2022 (6 pages)<sup>1</sup>

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<sup>1</sup> Ex. 3 was erroneously marked with a date of October 19, 2022 on the Hearing Attendance Sheet.

- Ex. 4—Medicaid Household Determination Document (6 pages)
- Ex. 5—Health Connector’s Eligibility Determination Results based on a program determination date of January 21, 2023 (2 pages)
- Ex. 6—Health Connector’s Review of Application (3 pages)
- Ex. 7—Hearing Request Form received on October 14, 2022 (1 page)
- Ex. 8—Acknowledgment of Appeal dated October 14, 2022 (1 page)
- Ex. 9—Appeals Unit case notes (1 page)
- Ex. 10—Health Connector email dated October 14, 2022 (1 page)
- Ex. 11—Notice of Hearing (3 pages)
- Ex. 12—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 30-years-old, is single, and has a tax household size of one. (Testimony, Exs. 2,6)
2. The appellant has been living in Massachusetts for approximately thirteen years. In September, 2022, he was residing at an address in Essex County, where he had been living for approximately eighteen months. (Testimony)
3. By notice dated September 19, 2022, the Health Connector notified the appellant that he did not qualify for health insurance through the Health Connector because he was not a resident of Massachusetts. (Testimony, Ex. 3)
4. The appellant called the Health Connector and spoke with a customer service representative who advised him to submit proof of residence. The appellant made two attempts to submit proof of residence but did not remember what he submitted or when. (Testimony)
5. The appellant appealed the Connector’s September 19, 2022, determination on October 14, 2022. (Ex. 7)
6. By email dated October 14, 2022, the Health Connector advised the appellant to contact customer service to update his residence information. (Ex. 10)
7. By notice dated January 21, 2023, the Health Connector notified the appellant that he did not qualify for health insurance through the Health Connector and advised him to submit proof of income. (Testimony, Ex. 5)
8. According to the notes of the Appeals Unit, the appellant had not been a resident of Massachusetts since April, 2019, and his application was terminated due to undeliverable mail. The notes further indicate that the administrative closure was removed and his application was rerun, but the appellant was still not eligible for insurance due to an outstanding request for proof of income. (Ex. 9)

## **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.

By notice dated September 19, 2022, the Health Connector advised the appellant that he did not qualify for health insurance through the Health Connector because he was not a resident of Massachusetts. The appellant testified credibly that he has been living in Massachusetts for approximately thirteen years and at the same address for approximately eighteen months. He further testified that he submitted proof of residence to the Connector but could not recall what he submitted or when. The notes of the Appeals Unit indicate that the appellant's application was terminated due to undeliverable mail. It appears that the appellant's residence submissions were made subsequent to the termination of his application. Following the removal of the administrative closure of his application, it was rerun and he was asked to submit proof of income in order to qualify to purchase insurance.

Based upon the totality of the evidence, it is concluded that at the time of the determination on September 19, 2022, the Connector did not have adequate proof that appellant was a resident of Massachusetts. Accordingly, the determination 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**

The appellant was advised to contact customer service at 877-623-6765 regarding the Connector's outstanding request for proof of income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17748

**Appeal Decision** Appeal Denied

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

**Hearing Date:** February 13, 2023

**Decision Date:** February 20, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On October 18, 2022, Appellant was determined eligible for Health Connector Plans without subsidies based upon Appellant's income of 0.00% of the Federal Poverty Level

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plans without subsidies, based upon Appellant's income information

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 23, 2022. Also present was Appellant's son. Appellant and Appellant's son were sworn in. The hearing record consists of the testimony of Appellant and Appellant's son, and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit and Appeal Request dated Oct. 26, 2022
- Exhibit 2: Eligibility Results and Summary dated October 19, 2022
- Exhibit 3: Research and Resolution
- Exhibit 4: None
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector dated January 17, 2023

## **FINDINGS OF FACT**

The record shows, and I so find:

1. For the last several years, Appellant had been insured by a ConnectorCare Plan (Exhibit 1 and Testimony of Appellant).
2. On September 18, 2022, Appellant's eligibility was changed to being eligible for a Health Connector Plan with no financial help (Exhibit 2 and Testimony of Appellant).
3. On September 18, 2022, Appellant's household income was determined to be 0.00% of the Federal Poverty level (Exhibit 2).
4. Appellant was not eligible for Medicare (Exhibit 2 and Testimony of Appellant).
5. On September 18, 2022, Appellant received a notice from MassHealth that Appellant did not qualify for MassHealth because Appellant is 65 years or older and did not complete the correct application for individuals 65 years or older (Exhibit 2).
6. Appellant has been living in the U.S. since 2017 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 1.36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if they are eligible for a Qualified Health Plan and have a projected modified adjusted gross household income between 100% and 400% of the Federal Poverty Level (F.P.L.) and they meet other non-income criteria to receive APTCs. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on a projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. There is a special rule for non-citizens who are lawfully present and who are ineligible for Medicaid by reason of immigration status that permits non-citizens who meet these requirements, to be eligible for a premium tax credit when their income is less than 100% of F.P.L. 45 CFR § 155.305 (f)(2).

On September 18, 2022, Appellant was found eligible for a Health Connector Plan without subsidies. This was the proper determination for a person whose income is below 100%, as that person is not eligible for a premium tax credit and did not meet the special rule for non-citizens. By September 18, 2022, Appellant, who was lawfully present, had lived in Massachusetts for more than five years. Since Appellant had lived in Massachusetts for more than five years, Appellant may have been eligible for MassHealth so the special exception that allowed non-citizens who are lawfully present to be eligible for a premium tax credit did not apply. Appellant was found ineligible for MassHealth because Appellant did not complete the correct application for MassHealth for people over 65 years old. See 130 CMR 501.002(B), Exhibits 2, 3 and Testimony of Appellant, which I find to be credible.

The Health Connector made the correct determination of eligibility for a Health Connector Plan with no subsidies.

## **ORDER**

The appeal is denied.

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

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

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

**ADDENDUM**

**Appellant was given the information to contact MassHealth (1 800 841-2900) so that Appellant can obtain the application for people 65 and older. Appellant should work with MassHealth to provide them with any requested information.**



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17752

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** February 13, 2023

**Decision Date:** February 18, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On October 21, 2022, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was 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**

Appellant appeared at the hearing which was held by telephone, on February 13, 2023.

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

- Exhibit 1: Affidavit and Appeal Request dated October 26, 2022
- Exhibit 2: Eligibility Summary and results dated October 21, 2022
- Exhibit 3: Research and Resolution
- Exhibit 4: Historic Notes None
- Exhibit 5: Recent Determination None
- Exhibit 6: Notices from Appeals Unit dated January 17, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was determined ineligible for 2022 Health Connector plans on October 21, 2022 based on having access to Medicare or being enrolled in Medicare (Exhibit 2)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 2).
3. Appellant filed a Notice of Appeal on October 26, 2022 (Exhibit 1).
4. At the time of the application for Health Connector plans, Appellant was enrolled in Medicare (Exhibit 2 and Testimony of Appellant).
5. Appellant's Medicare coverage did not provide all of the medical services needed by Appellant and Appellant needed further medical help (Testimony of Appellant).

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

When the Appellant's eligibility for coverage was determined on October 21, 2022, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. See Exhibits 1, 2 and 3. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for benefits under Medicare Part A or enrolled under Part B of Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I). Because the Appellant was enrolled in Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

### **ORDER**

The appeal is denied.

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

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

### **ADDENDUM**

**Appellant was given the phone number for Healthcare for All (1-800 272-4232) and MassHealth ((1-800-841-2900) so that Appellant can seek the further health services that are necessary for Appellant's health.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17850

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** February 2, 2023

**Decision Date:** February 3, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 3, 2022, the appellants (husband and wife) were advised that they were eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$0 effective on December 1, 2022. (Exs. 1,3) The appellants filed an appeal which was received on November 7, 2022. (Ex. 10) The matter was referred to a hearing after receipt of the appeal. (Ex. 24)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with an APTC of \$0 on November 3, 2022, correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellants appeared at the hearing which was held by telephone on February 2, 2023, and testified under oath. The hearing record consists of their 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 3, 2022 (4 pages)
- Ex. 2—Health Connector's Review of Application (4 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated November 3, 2022 (8 pages)
- Ex. 4—Medicaid Household Determination Document (6 pages)

- Ex. 5—Health Connector’s Eligibility Determination Results based on a program determination date of July 18, 2022 (3 pages)
- Ex. 6—Health Connector’s Review of Application (4 pages)
- Ex. 7—Health Connector’s Request for Information dated May 31, 2022 (4 pages)
- Ex. 8—Health Connector’s Request for Information dated June 28, 2022 (7 pages)
- Ex. 9—Health Connector’s Reminder of Documents Needed dated July 30, 2022 (4 pages)
- Ex. 10—Online Appeal received on November 7, 2022 (6 pages)
- Ex. 11—Acknowledgment of Appeal dated November 10, 2022 (1 page)
- Ex. 12—My Workspace document dated June 27, 2022 (1 page)
- Ex. 13—My Workspace document dated June 28, 2022 (2 pages)
- Ex. 14—My Workspace document dated July 18, 2022 (2 pages)
- Ex. 15—My Workspace document dated August 3, 2022 (1 page)
- Ex. 16—2021 Form 1040 Schedule B (1 page)
- Ex. 17—Letter from appellant husband’s employer dated June 30, 2022 (3 pages)
- Ex. 18—Paystub for appellant wife for period of 6/12/22-6/18/22 (1 page)
- Ex. 19—Retirement account statement for appellant husband dated June 30, 2022 (7 pages)
- Ex. 20—Description of uploaded documents (2 pages)
- Ex. 21—Health Connector’s Eligibility Determination Results based on a program determination date of January 18, 2023 (3 pages)
- Ex. 22—Health Connector’s Review of Application (4 pages)
- Ex. 23-- Appeals Unit case notes (1 page)
- Ex. 24—Notice of Hearing (3 pages)
- Ex. 25—Affidavit of Connector representative (1 page)

**FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant husband and wife are 55-years-old and 58-years-old respectively and have a tax household size of two. (Testimony, Exs. 2,6,22)
2. By notice dated July 18, 2022, the appellants were determined eligible for Health Connector Plans with an APTC of \$621.00/month effective August 1, 2022. Prior to that determination, the Connector advised the appellants by letter dated May 31, 2022, that it needed proof of income by August 29, 2022. By letter dated June 28, 2022, the Connector advised the appellants that the documents they sent could not be used to determine their qualification to purchase health insurance and requested that they submit the documents again. (Testimony, Exs. 5,7,8)
3. As proof of income, the appellants submitted the following documents to the Connector between June 27, 2022, and August 3, 2022: 2021 Form 1040 Schedule B, letter from the appellant husband’s employer dated June 30, 2022, paystub for the appellant wife for the period 6/12/22-6/18/22 and retirement account statement for appellant husband dated June 30, 2022. (Testimony, Exs. 12-20)
4. By letter dated July 30, 2022, the Connector reminded the appellants to submit the requested proof of income by August 29, 2022. (Ex. 9)
5. On August 1, 2022, the appellant enrolled in the plan they were determined eligible for on July 18, 2022. (Testimony)

6. By notice dated November 3, 2022, the appellants were determined eligible for Health Connector Plans with an APTC of \$0 effective December 1, 2022, based on data from other sources due to failure to provide the requested documentation by the allowed date. (Exs. 1,3)

7. The appellants appealed the Connector's November 3, 2022, determination on November 7, 2022, and stated in part that the Connector determined their income to be within 1965.22% of the Federal Poverty Level (FPL) while their self-reported 2022 income was within 491.97% of the FPL. They further stated that they believed the determination was based on income in 2021 which was not an accurate picture of their situation in 2022. Finally, they stated that they only had limited documentation to prove their 2022 income since no end-of-year financial statements were available at that time. (Testimony, Ex. 10)

8. By notice dated January 18, 2023, the appellants were determined eligible for Health Connector Plans with an APTC of \$808.00/month, effective February 1, 2023. On the application on which the determination is based, the appellant wife projected her yearly income to be \$71,197.00 and the appellant husband projected his yearly income to be \$0. (Exs. 21,22)

### **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 Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by the applicant, including the applicant's income, in accordance with 45 CFR 155.320(d). When the Connector cannot verify an applicant's income electronically, it requests verifying information, in accordance with 45 CFR 155.315(f). If an applicant does not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR 155.315(f)(5), 155.320(c)(3)(i)(D).

In response to the Connector's May 31, 2022, request for proof of income by August 29, 2022, the appellants submitted copious documentation prior to that date consisting of a paystub, a retirement account statement, a letter from the husband's employer and a Form 1040 Schedule B. The appellants enrolled in Health Connector Plans with APTCs on August 1, 2022, for which they had been determined eligible on July 18, 2022. However, it appears that some of the documentation they submitted was rejected by the Connector by notice dated June 28, 2022, and no additional material was submitted to verify their eligibility prior to August 29, 2022. Accordingly, they were notified on November 3, 2022, that their eligibility had been redetermined due to failure to provide the requested documentation by the allowed date.

It is unfortunate that the appellants' submissions in June and July of 2022 were insufficient to prove their qualification to remain enrolled in the plan for which they were approved on July 18, 2022, and resulted in a redetermination of their eligibility on November 3, 2022. However, based upon the totality of the evidence, it is

concluded that since the requested information was not submitted by the required date, the Connector relied on other data it had available from other sources to issue its determination. Accordingly, the Connector's determination on November 3, 2022, regarding the appellant's eligibility for Health Connector Plans with APTC of \$0 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**

The appellants' eligibility was redetermined on January 18, 2023, and at the time of the instant hearing, they were enrolled in Health Connector Plans with an APTC of \$808.00/month. (See Finding No. 8.) They were advised that the Connector is still seeking proof of income and they were directed to follow up with customer service for more specific information.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 23-17757

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** February 10, 2023

**Decision Date:** February 12, 2023

### 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 5, 2022, Appellant was determined ineligible for Health Connector Plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is or is enrolled in Medicare health plans.

### 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 Administration health plans.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 10, 2023. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated January 17, 2023)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeal Unit Staff Case Notes (2 Pages)
- Exhibit 5: Appellant's appeal request form (6 pages dated October 20, 2022)
- Exhibit 6: Notice of Eligibility Determination (5 pages, Dated October 5, 2022)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated October 5, 2022)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector Plans on October 5, 2022, based on being eligible for Medicare health plans. (Exhibit 6 & 7 &, Appellant's testimony)
2. Appellant is enrolled in Medicare health plans Part A but not Part B. Appellant stated that he did not know the reason he was not eligible for Part B but is now eligible commencing February 1, 2023. (Exhibit 6, 7, & Appellant's testimony)
3. Appellant testified that he currently has a Medicare health plan, Part A & B.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

When the Appellant's eligibility for 2022 coverage was determined on October 5, 2022, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare health plans. The Appellant confirmed at hearing that he was eligible for Medicare health plans. Because the Appellant was eligible for Medicare health plans, the Health Connector found that the Appellant was not eligible to receive Health Connector Plans. This was the correct determination and the Appellant's appeal is therefore denied.



## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-17760

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** February 9, 2023

**Decision Date:** February 18, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 5, 2022, the appellant was advised that she did not qualify for health insurance through the Health Connector because she had access to or was enrolled in Medicare. (Ex. 3) The appellant filed an appeal dated October 22, 2022. (Ex. 7) The matter was referred to a hearing after receipt of the appeal. (Ex. 11)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector plans correct at the time of its determination on October 5, 2022, pursuant to 42 U.S.C. 1395ss?

### HEARING RECORD

The appellant and her authorized designated representative (her daughter) appeared at the hearing which was held by telephone on February 9, 2023, and the representative 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 based on a program determination date of October 5, 2022 (2 pages)
- Ex. 2—Health Connector's Review of Application (3 pages)
- Ex. 3—Health Connector's Notice of Eligibility Denial dated October 5, 2022 (6 pages)
- Ex. 4—Medicaid Household Determination document (6 pages)
- Ex. 5—Health Connector's Eligibility Determination Results based on a program determination date of November 19, 2021 (2 pages)

- Ex. 6—Health Connector’s Review of Application (3 pages)
- Ex. 7—Hearing Request Form dated October 10, 2022 (4 pages)
- Ex. 8—Acknowledgement of Appeal November 1, 2022 (1 page)
- Ex. 9—Health Connector email dated November 1, 2022 (1 page)
- Ex. 10-- Appeals Unit notes (1 page)
- Ex. 11—Notice of Hearing (3 pages)
- Ex. 12—Affidavit of Connector representative (1page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 66-years-old, is married and has a tax household size of two. She turned 65-years-old on April 10, 2021. (Testimony, Exs. 2,6)
2. The appellant was determined eligible for ConnectorCare Plan Type 2B with an Advanced Premium Tax Credit (APTC) on November 19, 2021, effective January 1, 2022, and enrolled in a plan for 2022. (Testimony, Ex. 5)
3. By notice dated October 5, 2022, the Health Connector advised the appellant that for 2023, she was not eligible for health insurance through the Health Connector because she had access to or was enrolled with Medicare. (Testimony, Ex. 3)
4. The appellant retired from employment in April, 2022, and applied for social security benefits which she began to receive in September, 2022. She enrolled in Medicare Part A but did not enroll in Medicare Part B because the premium was too expensive, and she anticipated that her ConnectorCare coverage would continue. (Testimony)
5. The appellant appealed the Connector’s October 5, 2022, decision on October 10, 2022, and stated in part that she declined Medicare because it was too expensive, and hoped to continue with her Health Connector insurance. (Ex. 7)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

market coverage of Medicare-eligible individuals except in the narrowest of circumstances, and regardless of whether the individual might otherwise satisfy the eligible criteria at 45 CFR § 155.305(a).

The appellant does not dispute that she has been enrolled in Medicare Part A for several months. Based on that information, the Connector determined that she was not eligible for health insurance through the Health Connector. Unfortunately, the appellant declined Medicare Part B because the premium was too expensive, and she anticipated that her Health Connector coverage would continue.

Based on the foregoing, it is concluded that the Connector's determination on October 5, 2022, regarding the appellant's eligibility for health insurance through the Health Connector based on access to Medicare was correct.

#### **ORDER**

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

#### **ADDENDUM**

The appellant was advised to contact SHINE at 1-800-243-4636 for information on health insurance options for seniors. She was also advised to contact Medicare to inquire whether she is still eligible to enroll in Medicare Part B insurance.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-17816

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** February 1, 2023

**Decision Date:** February 3, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 14, 2022 the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits of \$45. The Appellant's determination was a result of the Appellant's failure to submit proof of income.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing that was held by telephone on February 1, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 12, 2023.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector's Eligibility Approval notice dated October 14, 2022.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated October 14, 2022.
- Exhibit 6: Medicaid Household Determination Printout dated October 14, 2022.

- Exhibit 7: The Appellant's Hearing Request Form received on November 2, 2022.  
Exhibit 8: Health Connector Request for Information dated July 1, 2019.  
Exhibit 9: Health Connector Appeals Unit Outreach Email dated November 7, 2022.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's application for health insurance for the period beginning January 1, 2023 was updated on October 14, 2022. The Appellant had reported income equal to 163.84% of the federal poverty level for their household of two. The Appellant did not apply for coverage for their child (Exhibit 4).
2. On October 14, 2022, Health Connector determined the Appellant eligible for Health Connector Plans with Advance Premium Tax Credits of \$45 because the Appellant's proof of income had expired and the Appellant failed to submit updated proof of income. Health Connector determined using third party data sources that the Appellant's income was equal to 550.22% of the federal poverty level (Exhibits 4, 5, 8).
3. The Appellant filed an appeal on November 2, 2023 (Exhibit 7).
4. On November 7, 2022, Health Connector Appeals Unit staff sent the Appellant an outreach email advising the Appellant to update their income information on their application and submit proof of income (Exhibit 9).
5. The Appellant had previously reported monthly pension income and earned income from two part time jobs (Exhibit 5).
6. The Appellant testified that they no longer have the earned income from the two employers previously reported. The Appellant said that they have the pension income and sporadic income from an on call job where they are paid only when they work. The Appellant acknowledged that they did not update their application or submit updated proof of income (Appellant Testimony).

## **ANALYSIS AND CONCLUSION OF LAW**

On October 14, 2022, the Appellant's application for health insurance for the period beginning January 1, 2023 was reviewed. The Appellant had reported income equal to 163.84% of the federal poverty level for their reported household of two. The Appellant did not apply for coverage for their child. Health Connector had asked the Appellant to update their application and submit proof of income. The Appellant did not respond to the request.

Health Connector is required to redetermine eligibility for its members annually. As part of this process, Health Connector is required to reverify member income information, including by using electronic data sources in accordance with 45 CFR §155.335(b). Since the Appellant did not submit updated proof of income, on October 14, 2022 Health Connector determined using third party data sources that the Appellant had income equal to 550.22% of the federal poverty level. The Appellant was determined eligible for Health Connector Plans with monthly Advance Premium Tax Credits of \$45. The Appellant filed an appeal on November 2, 2022, to dispute the determination.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. As a result of the federal American Rescue Plan, for Plan Years 2021 and 2022 only, there is no upper income limit to receive APTCs. Any individual who purchases health insurance through the Health Connector may receive APTCs even if their income is greater than 400% of the federal poverty level so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5% of their annual income and they meet other non-income criteria to receive APTCs (See Health Connector Policy NG-2 effective 6/1/21). The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant testified that their income has changed. The Appellant did not dispute the fact that they did not update their application or submit updated proof of income. Health Connector correctly determined on October 14, 2022, that the Appellant is eligible for Health Connector Plans with APTC of \$45 based on the income information available to the Health Connector. 45 CFR § 155.305(f), and 956 CFR § 12.04.

#### **ORDER**

This appeal is denied.

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

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

Cc: Connector Appeals Unit

#### **ADDENDUM**

The Appellant is reminded to update their application for tax year 2023 and contact Health Connector Customer Service at 1-877-623-6765 for assistance with providing acceptable documentation of the Appellant's income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2317863

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** February 14, 2023

**Decision Date:** February 15, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On October 22, 2022, the Appellant was determined eligible for Health Connector plans with no financial help.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on February 14, 2023. 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 (1-18-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (11-15-22) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (10-28-22) (2 pages);
- Exhibit 6: Eligibility approval letter (10-22-22) (8 pages);
- Exhibit 7: Eligibility detail printouts and application summary printouts (12 pages); and



Exhibit 8: Medicaid Household Determination (6 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through the Health Connector in 2022. (Testimony, Exhibit 7).
2. Appellant lost the health insurance in December 2022 due to unknown income. (Exhibit 8).
3. Appellant did contact the Health Connector in December. (Testimony).
4. The Health Connector determined that Appellant was eligible for Health Connector plans with no financial help based on income information available to the Health Connector. (Exhibits 6, 7).
5. Appellant appealed. (Exhibit 5, Appellant Testimony)
6. Appellants submitted another application in January 2023 and believes they were enrolled in a plan but has not received an insurance card. (Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On October 22, 2022, the Appellant was determined eligible for Health Connector plans with no financial assistance based on Appellant's income as reported not being verified from other sources. The process for the determination on October 22, 2022, complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the information available to the Health Connector. 45 CFR § 155.305(f). Appellant subsequently contacted the Health Connector and believes they were enrolled in a plan, but has not received the insurance card.

The Health Connector correctly found that the Appellants were eligible for Health Connector plans with no financial assistance on October 22, 2022, and that determination is upheld.

## **ORDER**

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

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2317865

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** February 14, 2023

**Decision Date:** February 15, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 18, 2022, the Appellant was determined eligible for Health Connector plans with Advanced Premium Tax Credit (APTC) based on a household income equivalent to 339% of the Federal Poverty Level.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with APTC, based on the Appellant's reported and verified income.

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 14, 2023. 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 (1-18-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (11-15-22) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (11-1-22) (2 pages);
- Exhibit 6: Eligibility approval letter (10-18-22) (8 pages);

- Exhibit 7: Eligibility detail printouts and application summary printouts (16 pages);  
Exhibit 8: Medicaid Household Determination (6 pages);  
Exhibit 9: Workspace form and documents (6 pages); and  
Exhibit 10: Request for Information (9-22-22) (4 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had applied for health insurance through the Health Connector in September 2022, and had been requested to submit information about income. (Testimony, Exhibit 7).
2. Appellant did submit verification but did not enroll. (Exhibits 4, 9).
3. Appellant is on Social Security for 100% disability but has not been receiving it for two years so is not yet eligible for Medicare. (Testimony). The household income including Appellant's spouse's income is such that the Federal Poverty Level equivalent is 339%. (Testimony, Exhibit 7).
4. Appellant does not believe the health insurance is affordable (Testimony).
5. The Health Connector determined that Appellant was eligible for Health Connector plans with APTC based on income information available to the Health Connector. (Exhibits 6, 7).
6. Appellant appealed. (Exhibit 5, Appellant Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On October 18, 2022, the Appellant was determined eligible for Health Connector plans with APTC based on Appellant's income. The process for the determination on October 18, 2022, complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for Health Connector plans with APTC on October 18, 2022, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2317886

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

### Hearing Issue:

Whether the Connector correctly determined the appellant's eligibility to enroll in a ConnectorCare plan Type 3a with an advance premium tax credit.

**Hearing Date:** February 8, 2023

**Decision Date:** February 10, 2023

### 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 12, 2022, the Connector determined that the appellant was eligible to enroll in a ConnectorCare plan Type 3a with an advance premium tax credit based upon the most current information about Appellant's projected annual income provided by the appellant or from other income data sources.

### HEARING RECORD

The appellant and her representative appeared at the hearing which was held by telephone on February 8, 2023. The procedures to be followed during the hearing were reviewed with the appellant and her representative who were then sworn in. Exhibits were reviewed with Appellant and her representative, marked as exhibits, and admitted in evidence with no objection from the appellant or her representative. Appellant's representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 17, 2023 for February 8, 2023 hearing addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated November 16, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated November 16, 2022
- Exhibit 3b: Email from Appeals Unit to Appellant dated November 16, 2022
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on November 14, 2022

- Exhibit 5: Connector letter dated October 12, 2022 to Appellant regarding eligibility for ConnectorCare plan, Final Renewal Notice
- Exhibit 5a: Connector letter dated February 7, 2022 to Appellant requesting proof of income by May 8, 2022
- Exhibit 5a: Connector letter dated February 7, 2022 to Appellant requesting proof of income by May 8, 2022
- Exhibit 5b: Connector letter dated April 8, 2022 reminding Appellant that proof of income due by May 8, 2022
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated October 11, 2022
- Exhibit 7: MassHealth Member Benefits print-out determination, October 11, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had ConnectorCare Type 3a coverage in 2022 (Exhibit 5; Testimony of Representative).
2. In a letter dated February 7, 2022, Appellant was asked by the Connector to send in proof of income for her and her spouse by May 8, 2022. The letter included a list of acceptable forms of proof of income (Exhibit 5a).
3. In a letter dated April 8, 2022, the Connector reminded Appellant that proof of income was due by May 8, 2022 (Exhibit 5b).
4. The appellant did not send in proof of income by May 8, 2022 (Exhibit 3a; Exhibit 6, Testimony of Representative).
5. When the appellant did not send in proof of income by May 8th, on October 12, 2022, the Connector determined that the appellant was eligible for a ConnectorCare Plan Type 3a with an advance premium tax credit based upon information about income from other data sources. Based upon the information about the appellant's income from other data sources, the Connector determined that the appellant's projected annual income equaled 232% of the Federal Poverty Level (Exhibit 5 and 6).
6. Appellant submitted a request for an appeal of the Connector's determination on November 14, 2022 because she believed that the Connector had used an income higher than her actual income to determine eligibility (Exhibit 4, Testimony of Representative).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on October 12, 2022 that the appellant was eligible to purchase a ConnectorCare plan Type 3a with an advance premium tax credit. See Exhibit 5.

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 100% or more of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums if other eligibility requirements are met. 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, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan. Pursuant to 45 CFR 155.320 the Connector may verify information obtained from the applicant by checking with other data sources.

In this matter, Appellant had ConnectorCare Type 3a coverage in 2022. See Exhibit 5 and the testimony of Representative which I find to be credible. In a letter dated February 7, 2022, the Connector notified the appellant that Appellant needed to send in proof of income by May 8, 2022. The notification included a list of acceptable forms of proof. The appellant was sent a reminder on April 8, 2022. The appellant did not send in the required proof. On October 12, 2022, the Connector determined that the appellant was eligible for a ConnectorCare plan Type 3a based upon information about income from other data sources. See Exhibits 3a, 5, 5a, 5b, and 6.

When the appellant did not send in an acceptable form of proof of income by the deadline, the Connector verified the appellant's income from other data sources as allowed by 45 CFR 155.320. See Exhibit 6. The Connector determined that according to the other data sources, the appellant's annual income came to 232% of the Federal Poverty Level. Based upon that income level, the appellant was determined to be eligible for a ConnectorCare plan Type3a with an advance premium tax credit. See Exhibits 5 and 6. The determination was correct at the time it was made based upon the data the Connector had. The determination of the Connector is, therefore, affirmed.

**ORDER:** The determination by the Connector regarding Appellant's eligibility to enroll in a ConnectorCare plan Type 3a with 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: ACA23-18075

**Appeal Decision:** Appeal denied.

**Hearing Issue:** Appeal of eligibility for Health Connector plans based on failure to establish lawful presence.

**Hearing Date:** February 16, 2023

**Decision Date:** February 21, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated December 1, 2022, the appellant was advised that she did not qualify for health insurance coverage through the Health Connector because its records indicated that she was not lawfully present in the United States. (Ex. 3) The appellant filed an appeal dated December 10, 2022, based on citizenship or immigration status. (Ex. 5) The matter was referred to a hearing after receipt of the appeal. (Ex. 10)

### ISSUE

Was the Connector's decision regarding the appellant's qualification for health insurance through the Health Connector correct at the time of its determination on December 1, 2022, pursuant to 45 C.F.R. section 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant and her husband, her authorized designated representative, appeared at the hearing which was held by telephone on February 16, 2023, and her husband testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1— Health Connector's Eligibility Determination Results showing a program determination for December 1, 2022 (3 pages)
- Ex. 2— Health Connector's Review of Application (6 pages)
- Ex. 3— Health Connector's Notice of Eligibility Denial dated December 1, 2022 (7 pages)
- Ex. 4— Medicaid Household Determination document (6 pages)

- Ex. 5—Hearing Request Form dated December 10, 2022 (10 pages)
- Ex. 6—Acknowledgement of Appeal dated December 14, 2022 (1 page)
- Ex. 7—Health Connector’s Eligibility Determination Results showing a program determination for December 19, 2022 (3 pages)
- Ex. 8—Health Connector’s Review of Application (6 pages)
- Ex. 9—Appeals Unit Case Notes (1 page)
- Ex. 10—Notice of Hearing (3 pages)
- Ex. 11—Affidavit of Connector representative (1 page)

**FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 40-years-old, is married and has two children. She has a tax household size of four. (Testimony, Exs. 2,8)
2. By notice December 1, 2022, the Health Connector advised the appellant that she did not qualify for health insurance because its records indicated that she was not lawfully present in the United States. (Testimony, Ex. 3)
3. On the application associated with the December 1, 2022, determination, the appellant indicated that she did not have citizenship or immigration status. (Ex. 2)
4. By notice dated September 6, 2022, the U.S. Department of Homeland Security notified the appellant that her application for employment authorization had been approved. An Employment Authorization Document was issued to her for the period of September 6, 2022, through September 5, 2024. In addition, the appellant was issued a Social Security card dated September 7, 2022, “valid for work only”. (Testimony, Ex. 5)
5. The appellant could not upload the foregoing documents to her application and contacted the Health Connector in or around October, 2022. A customer service representative told her that she could not enter her social security number into the system and advised her to file an appeal with the Connector. (Testimony)
5. The appellant appealed the Connector’s December 1, 2022, determination on December 10, 2022, based on citizenship or immigration status, and questioned how she could be rejected for health insurance based on her employment authorization card and social security card, copies of which were attached to the appeal. (Ex. 5)
6. On December 19, 2022, the appellant was determined eligible for ConnectorCare Plan Type 1 with Advanced Premium Tax Credit (APTC), effective January 1, 2023. (Ex. 7)
7. At the time of the instant hearing, the appellant was unaware of the December 19, 2022, eligibility determination. (Testimony)

**ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 45 CFR section 155.305(a)(1), in order to be eligible for enrollment in a qualified health plan (QHP) through the Exchange, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national or a non-citizen who is lawfully present for the entire period for which enrollment is sought.

The appellant does not dispute that at the time of the Connector's December 1, 2022, determination regarding lawful presence in the U.S., she had indicated on her application that she did not have citizenship or immigration status, and her employment authorization card and her social security card had not been uploaded to her application. She attached copies of both documents to her appeal and on December 19, 2022, she was determined eligible for ConnectorCare plans with APTC.

Based on the totality of the evidence, it is concluded that the Connector's December 1, 2022, determination that the appellant was not eligible for health insurance was correct because she had not established lawful presence pursuant to 45 CFR § 155.305(a)(1).

#### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

#### **ADDENDUM**

The appellant was advised to contact customer service at 1-877-623-6765 to enroll in a plan pursuant to the December 19, 2022, eligibility determination.