

**Connector Appeals Unit**  
**FINAL APPEAL DECISION**

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

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility for subsidies based upon the information supplied by the Appellant on her application.

**Hearing Date:** August 23, 2016

**Decision Date:** September 19, 2016

**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

Appellant submitted an application for subsidized health insurance. On December 30, 2015 the Connector informed the Appellant that she was required to submit documents regarding proof of residency by March 29, 2016. On June 29, 2016 the Connector informed the Appellant that she no longer qualified for coverage through the Health Connector because the Connector did not get the information needed to verify her eligibility to purchase a Health Connector plan. Specifically, proof of residency.

**ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was ineligible for a Health Connector Plan based on the information provided by June 29, 2016.

## **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on August 23, 2016. The procedures to be followed during the hearing were reviewed with Appellant and she was sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant. Appellant testified. Appellant testified that she is now enrolled in employer-sponsored health insurance. She testified that she wants to be enrolled with the Connector because the Connector premium is less expensive than her employer sponsored health insurance premium. Appellant also testified that her net pay has recently changed from \$911.00 monthly to about \$984.00 monthly.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated. Notice of appeal hearing dated August 1, 2000
- Exhibit 2: Affidavit of residence dated July 25, 2016 received by the Connector dated August 1, 2060
- Exhibit 3: Informal Dispute Resolution dated July 13, 2016 concerning residency.
- Exhibit 4: Appeal Receipt dated July 14, 2016
- Exhibit 5: Hearing Request Form dated July 11, 2016 received by the connector July 13, 2016. This includes a separate statement from the Appellant.
- Exhibit 6: Eligibility Termination Notice to the Appellant dated June 29, 2016.
- Exhibit 7: Connectors Request for Information sent to the Appellant dated December 30, 2015. The request asked for proof of residency.
- Exhibit 8: Agent Portal dated June 29, 2016.
- Exhibit 9: Appellant's pay statements.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied to obtain subsidized health insurance through the Connector.
2. When Appellant was found to be eligible for a Connector Health Plan she was informed on December 30, 2016 that she was required to submit documentation of proof of residency to confirm her eligibility by March 29, 2016.
3. Prior to June 29, 2016 Appellant did not submit the documentation of proof of residency as requested on December 30, 2015.
4. On June 29, 2016 the Connector informed Appellant that she was no longer eligible for a Health Connector Plan because the Connector did not get the information needed to verify eligibility.
5. In July, 2016, the Appellant filed an appeal.
7. Appellant is now enrolled in employer-sponsored health insurance.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant submitted an application for subsidized health insurance. On December 30, 2015 the Connector informed the Appellant that she was required to submit documents regarding proof of residency by March 29, 2016. On June 29, 2016 the Connector informed the Appellant that she no longer qualified for coverage through the Health Connector because the Connector did not receive the information needed to verify her eligibility to purchase a Health Connector plan.

## **ORDER**

Appellant's appeal is denied. The determination by the Connector is affirmed. If Appellant has not already done so she should immediately update her information about her residency with Customer Service.

## **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.

Cc: Health Connector Appeals Unit

**Addendum:** Appellant should call Health Connector Customer Service at 1-877-623-6765 to update her information concerning her employer sponsored health insurance and changes in her income.

**Massachusetts Health Connector Appeals Unit**  
**FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** October 4, 2016

**Decision Date:** December 28, 2016

**AUTHORITY**

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

**JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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.*; 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 June 28, 2016, the Health Connector determined that the Appellant was no longer eligible for Health Connector plans, due to her failure to verify her immigration status.

**ISSUE**

Whether the Health Connector correctly determined, on June 28, 2016, that the Appellant was no longer eligible for Health Connector plans, based on the Appellant's failure to verify her immigration status.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 4, 2016. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Connector Appeals Unit
- Exhibit 2: 6/28/16 Eligibility Termination Notice (6 pages)
- Exhibit 3: 7/25/16 Appeal (4 pages)
- Exhibit 4: 7/25/15 Appeal Entry (2 pages)
- Exhibit 4A: 7/25/16 Appeal Ack. (3 pages)
- Exhibit 5: 2/14/15 Request for Information (6 pages)
- Exhibit 6: 7/25/16 2016 Elig Results for 6/28/16 determination (5 pages)
- Exhibit 7: 7/25/16 2016 Elig Results for 8/20/15 determination (5 pages)
- Exhibit 8: 7/25/16 2016 Elig Results for 7/21/16 determination (5 pages)
- Exhibit 9: 9/9/16 (2 pages)
- Exhibit 10: 9/19/16 Hearing Notice (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. By letter dated December 10, 2014, in response to the Appellant's application for health insurance coverage through the Connector, the Connector notified the Appellant that she needed to provide proof of immigration status to the Connector in order to qualify for coverage. The letter included a list of acceptable documents as proof of immigration status and stated that she might lose coverage if the proof was not provided. The letter also stated that the Appellant could send in the proof by mail or fax and that the fax number was 617-887-8770. (Exhibit 3)
2. On January 16, 2015, the Appellant faxed proof of her immigration status to "EOHHS." No destination fax number was indicated on the transmission log. (Exhibit 3; Appellant's testimony)
3. By letter dated February 14, 2015, the Connector again notified the Appellant that she needed to provide proof of immigration status to the Connector in order to qualify for coverage. The letter again included a list of acceptable documents as proof of immigration status and stated that she might lose coverage if the proof was not provided. The letter again stated that the Appellant could send in the proof by mail or fax and that the fax number was 617-887-8770. (Exhibit 5)
4. On June 10, 2016, the Appellant again faxed proof of her immigration status to "EOHHS." No destination fax number is indicated on the transmission log. The Appellant faxed at this time in response to a reminder that she had received

from the Health Connector that she needed to submit proof of immigration status by June 15<sup>th</sup> or risk losing her insurance coverage. The notice stated that the Appellant could send the proof by mail or by fax to 857-323-8300. (Exhibit 3; Appellant's testimony)

5. As of June 28, 2016, the Appellant had not provided any proof of residency to the Connector. (Exhibit 5)
6. By Notice of Eligibility Termination, dated June 28, 2016, the Appellant was notified that she no longer qualified for Health Connector Plans because the Connector had not received from the Appellant information needed to verify her eligibility to purchase a Health Connector plan. The Notice further stated that her coverage would terminate on June 30, 2016. The Notice also indicated that the Connector had mailed the Appellant a letter previously, requesting her to provide proof of immigration status. (Exhibit 2)
7. On July 20, 2016, the EDMC received the Appellant's appeal along with a copy of both sides of her Resident Alien card. As of July 21, 2016, the Appellant's application was updated with her immigration status. (Exhibits 3 and 4)
8. On July 25, 2016, the Connector received from EDMC the Appellant's appeal of the 6/28/16 Eligibility Termination. (Exhibit 3)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant has the right to a hearing to appeal any adverse eligibility decision based on any eligibility factor in accordance with 956 CMR 12.09.

The Appellant contends that she had submitted the requested proof of immigration status to the Health Connector twice—on January 16, 2015, and again on June 10, 2016—both times by fax. However, the evidence submitted by the Appellant is insufficient to support this finding. Neither of the fax transmittal logs in evidence shows that the Appellant faxed her proof of immigration to the fax number that the Connector had provided in the letters to the Appellant requesting proof of immigration status. Under “Fax Name/Number,” neither the 1/16/15 fax nor the 6/10/16 fax shows a fax number; only “EOHHS” is shown. “EOHHS” stands for Executive Office of Health and Human Service, and the Health Connector is not a department or division of EOHHS. While the Appellant succeeded in faxing her proof of immigration status to a government body on 1/16/15 and again on 6/10/16, there is no evidence that the faxes were transmitted to the Connector, and the Appellant offered no explanation for why the proof was not faxed to the fax number provided by the Connector for that purpose. It was the Appellant's responsibility to submit the requested proof directly to the Health Connector.

## **Massachusetts Health Connector Appeals Unit**



As the Health Connector had not received from the Appellant the proof of immigration status needed to verify her eligibility to purchase a Health Connector plan, the Appellant was no longer eligible for Health Connector coverage on June 28, 2016.

Therefore, I conclude that the Health Connector correctly determined, on June 28, 2016, that the Appellant was no longer eligible for Health Connector plans, based on the Appellant's failure to verify her immigration status, under 45 CFR §155.315(c).

Accordingly, the Appellant's appeal is 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. 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 following receipt of this letter.

Cc: Connector Appeals Unit

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** October 4, 2016

**Decision Date:** December 28, 2016

#### **AUTHORITY**

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

#### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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.*; 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 July 18, 2016, the Appellant submitted an application to the Connector for health insurance coverage for herself and her dependent daughter. On that date, the Connector issued to the Appellant a Notice of Eligibility Approval for ConnectorCare Plan Type 3A with Advance Premium Tax Credits of \$154.00, for the Appellant and her daughter.

#### **ISSUE**

Whether the Health Connector correctly determined the Appellant's eligibility for subsidized health insurance coverage, based on the information provided by the Appellant on her 7/18/16 application.

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 4, 2016. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Connector Appeals Unit
- Exhibit 2: 7/18/16 Eligibility Approval Notice (4 pages)
- Exhibit 3: 7/26/16 Appeal (9 pages)
- Exhibit 4: 7/26/16 Appeal Entry
- Exhibit 5: 7/26/16 to 8/5/16 Outreach Notes
- Exhibit 5A: 7/27/16 Appeal Ack. (3 pages)
- Exhibit 6: New Applic/Determ Record
- Exhibit 7: 7/26/16 2016 Elig Results (7 pages)
- Exhibit 8: 8/5/16 2016 Elig Results (7 pages)
- Exhibit 9: 8/15/16 Hearing Notice (4 pages)
- Exhibit 10: 9/19/16 Hearing Notice (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On July 18, 2016, the Appellant applied to the Connector for health insurance coverage for herself and her dependent daughter. On that date, the Connector issued to the Appellant a Notice of Eligibility Approval for ConnectorCare Plan Type 3A with Advance Premium Tax Credits (APTC) of \$154.00, for the Appellant and her daughter. The Appellant's household income was determined to be 247.13 percent of FPL at that time. (Exhibits 2 and 7)
2. When the Appellant received the 7/18/16 Notice of Eligibility Approval, the Appellant did not understand how the APTC worked. At that time, the Appellant thought that the APTC could not be used until she did her taxes for 2016 and that, until then, she would have to pay the full monthly premium. The Appellant could not afford to pay the full premium. (Appellant's testimony)
3. On July 26, 2016, the Appellant submitted her appeal of the Connector's 7/18/16 determination. On the hearing request form, the Appellant circled "income" and "premium waiver/reduction" as the reasons for her appeal and wrote, "can't afford," in the explanation section. (Exhibit 3)
4. On July 27, 2016, the Appeals Unit spoke with the Appellant. In response to the Appellant stating that she was unable to afford her premium, the Appeals Unit advised the Appellant to contact Customer Service to report her income status, shop for a plan within her budget, and request a premium hardship

- application. The Appellant stated that she still wanted to go ahead with her appeal. (Exhibit 5)
5. On August 4, 2016, the Appellant submitted another application to the Connector for 2016 health insurance coverage for herself and her dependent daughter. On that date, the Connector determined that the Appellant and her dependent were eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits of \$278.00, based on household income that was 185.2 percent of FPL. (Exhibit 8)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant has the right to a hearing to appeal any adverse eligibility decision based on any eligibility factor in accordance with 956 CMR 12.09.

In this case, the Appellant's misunderstanding about how the federal APTC subsidy is used led her to believe that she could not afford the monthly premium for the state-subsidized ConnectorCare plan for which she was determined eligible on July 18, 2016. This was not a reasonable misunderstanding, since the whole purpose of the federal and state subsidies is to ensure that the monthly premium for health insurance coverage is affordable for those who qualify for the subsidies. Receiving the APTC when filing taxes the following year, rather than monthly in advance, would not serve this purpose.

However, while the Appellant submitted a revised application on August 8, 2016, and received a more favorable determination regarding subsidies, the issue before me is whether the Connector made the correct determination on July 18, 2016, based on what was known at the time. There is no evidence in the record to support the conclusion that the Connector erred in making its determination on July 18, 2016.

Therefore, I conclude that the Health Connector correctly determined the Appellant's eligibility for subsidized health insurance coverage, based on the information provided by the Appellant on her 7/18/16 application, under 956 CMR 12.05 and 956 CMR 12.09.

Accordingly, the Appellant's appeal is 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. 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 following receipt of this letter.

**Addendum:** The Appellant indicated at the close of the hearing that she would be contacting Customer Service immediately following the hearing to enroll in a ConnectorCare plan using her APTC. If the Appellant has not done so already, I encourage her to do so as soon as possible, as it is open enrollment for 2017 coverage only until the end of January 2017.

Cc: Connector Appeals Unit

## **Massachusetts Health Connector Appeals Unit FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** September 21, 2016

**Decision Date:** December 22, 2016

### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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.*; 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**

The Appellant's spouse submitted an application for subsidized health insurance for the Appellant. On August 3, 2016, the Connector issued to the Appellant's spouse a Notice of Eligibility Approval for Health Connector Plans with Advance Premium Tax Credits of \$0.00, for the Appellant.

### **ISSUE**

Whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the information provided on her application.

### **HEARING RECORD**

The Appellant's spouse appeared at the hearing, which was held by telephone, on September 21, 2016. The Appellant did not appear at the hearing. The Appellant's spouse testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the testimony of the Appellant's spouse and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Connector Appeals Unit
- Exhibit 2: 8/3/16 Eligibility Approval Notice (8 pages)
- Exhibit 3: 8/11/16 Appeal
- Exhibit 4: 8/12/16 Appeal Entry
- Exhibit 4A: 8/12/16 Appeal Ack. (3 pages)
- Exhibit 5: 8/12/16 2016 Elig Results (3 pages)
- Exhibit 6: 8/12/16 Review Application (3 pages)
- Exhibit 7: 8/12/16 AVV – View App
- Exhibit 8: 8/26/16 Hearing Notice (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant and the Appellant's spouse file a joint tax return. (Exhibit 6)
2. By Notice of Eligibility Approval, dated August 3, 2016, the Appellant's spouse (the primary applicant) was notified that the Appellant qualified for Health Connector Plans with Advanced Premium Tax Credit of \$0.00. (Exhibit 2 and Exhibit 5)
3. On August 11, 2016, the Connector received the Appellant's appeal of the Eligibility Approval. In the appeal, the Appellant's spouse circled "income" and "premium waiver/reduction" as the reasons for the appeal. In the explanation section, the Appellant's spouse stated: "\$0 for Advance Premium Tax Credit. I cannot afford paying for the premium for my spouse. I have other expense from vehicles. Living, health insurance and continue education." (Exhibit 3)
4. People with household incomes at 300% of the Federal Poverty Level (FPL) or lower may qualify for state-subsidized ConnectorCare health plans. (ConnectorCare information sheet for 2016)
5. Households with income at 400% or less of FPL may qualify for federal assistance in paying health insurance premiums through Advance Premium Tax Credits, based on how much help is needed to make a high-quality health insurance plan affordable. The federal government determines how much a household can afford to pay for insurance coverage, based on household income, and the Connector compares this amount to the cost of the second least-expensive Silver tier insurance plan offered by the Connector. If the monthly

- premium for that plan is the same or less than what the federal government has determined the household can afford to pay, then the amount of the APTC will be determined to be \$0.00. (ConnectorCare information sheet for 2016)
6. The Appellant's household income comes entirely from the Appellant's spouse. Her self-attested monthly income is \$4,110.17, and her projected yearly income is \$49,322, which is 309.62 percent of the FPL for a household of two. (Exhibit 5; Exhibit 6; Testimony of Appellant's spouse)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant has the right to a hearing to appeal any adverse eligibility decision based on any eligibility factor in accordance with 956 CMR 12.09.

In this case, the Appellant's spouse acknowledged that her household income was \$4,110.17 monthly, or \$49,332 yearly, when she applied to the Connector on August 3, 2016, and that her household income has not changed to date. As this projected yearly household income placed her household at just over 300 percent of the FPL for a household of two, the Appellant did not qualify for health insurance through a ConnectorCare plan.

Since the Appellant's household income was less than 400 percent of the FPL, she qualified for Advance Premium Tax Credits. However, the determination of the amount of the APTC is based on how much help is needed to make a quality health insurance plan affordable. In the Appellant's case, based on her household income, the amount the federal government determined the Appellant could afford to pay for insurance coverage, and the availability of quality insurance coverage through the Health Connector at that price, the APTC amount was determined to be \$0.00. As the APTC is a federal subsidy and the federal government determines how much an applicant can afford to pay for health insurance coverage, the amount of the APTC is cannot be appealed to the Health Connector.

Therefore, I conclude that the Health Connector correctly determined that the Appellant was not eligible for government-sponsored subsidies, based on the information provided on her application.

Accordingly, the Appellant's appeal is denied.

## **ORDER**

The appeal is denied.

## **Massachusetts Health Connector Appeals Unit**



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

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

Cc: Connector Appeals Unit

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellant's eligibility to enroll in subsidized health insurance coverage through the Health Connector.

**Hearing Date:** December 16, 2016

**Decision Date:** December 29, 2016

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#### **AUTHORITY**

This hearing was conducted pursuant to Section 1411 of the Patient Protection and Affordable Care Act (the "ACA"), 42 U.S.C. § 18081, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 45 C.F.R. § 155.500 *et seq.*, the 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.*, 45 C.F.R. § 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02., 801 Mass. Code Regs. 1.02., and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15, 956 Mass. Code Regs. 12.15.

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

The Health Connector notified Appellant by letter dated August 9, 2016 that Appellant did not qualify for health insurance coverage through the Health Connector because the Health Connector's records indicated that it did not receive information requested to verify Appellant's eligibility to purchase a Health Connector plan.

#### **ISSUE**

The issue presented by Appellant's request for hearing on the Health Connector's August 9, 2016 eligibility determination is whether Appellant submitted requested information and, specifically, documentation that Appellant is not incarcerated, to establish that Appellant is eligible for health insurance coverage through the Health Connector.

#### **HEARING RECORD**

A hearing was conducted in Boston, Massachusetts on December 16, 2016 at which time Appellant appeared and testified. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection at the hearing:

Exhibit 1: Print-out from the Health Connector's "AVV" tool showing information from the application database in Appellant's September 7, 2016 application for health insurance coverage;

Exhibit 2: Health Connector letter dated March 28, 2016 request for information;

Exhibit 3: Print-out of the Results and Summary pages of Appellant's August 8, 2016 application for health insurance;

Exhibit 4: Health Connector's Eligibility Denial Notice dated August 9, 2016;

Exhibit 5: Appellant's Hearing Request dated August 18, 2016 with attachments;

Exhibit 6: Health Connector letter dated August 24, 2016 acknowledging Appellant's hearing request;

Exhibit 7: Health Connector Internal Dispute Resolution / Outreach record;

Exhibit 8: Print-out of the Results and Summary pages of Appellant's September 6, 2016 application for health insurance;

Exhibit 9: Notice of Hearing dated September 26, 2016;

Exhibit 10: Email correspondence dated October 24 and 25, 2016;

Exhibit 11: Notice of Hearing dated November 22, 2016;

Exhibit 12: Affidavit from Health Connector Keeper of Records; and

Exhibit 13: Copy of Appellant's 2015 Form SSA-1099 – Social Security Benefit Statement.

## **FINDINGS OF FACT**

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

The record shows, and I so find:

1. Appellant, who is a resident of Massachusetts, was incarcerated from April 7, 2015 to December 10, 2015 when he was discharged from imprisonment. Exhibit 5 at 6; Testimony of Appellant.
2. On March 28, 2016, Appellant submitted an application to the Health Connector for subsidized health insurance coverage. Exhibit 1. Based on Appellant's attestations regarding household income and other eligibility criteria, the Health Connector determined that Appellant is qualified for enrollment in a ConnectorCare Plan Type 2A with an Advance Premium Tax Credit subject to submission of required documentation of his incarceration status. *Id.*
3. On March 28, 2016, the Health Connector sent Appellant a "Request for Information" letter which directed Appellant to submit several categories of eligibility documentation including proof of

incarceration status by June 26, 2016. Exhibit 2. This letter warned Appellant that failure to submit the requested documentation could result in a loss of eligibility. *Id.* at 1.

4. On August 9, 2016, the Health Connector determined that Appellant is not eligible “based on data from other sources” because Appellant did not submit the requested documentation. Exhibit 3.
5. On August 9, 2016, the Health Connector issued an “Eligibility Denial” notification letter which informed Appellant that Appellant did not qualify for health insurance coverage through the Health Connector because the Health Connector’s records indicated that it did not receive information requested to verify Appellant’s eligibility to purchase a Health Connector plan. Exhibit 4.
6. Appellant filed a request for hearing on the Health Connector’s Eligibility Denial, and Appellant attached a Certificate of Discharge with the hearing request that confirmed Appellant’s discharge from imprisonment on December 10, 2015. Exhibit 5.
7. Appellant received Social Security benefits in 2015 from which premiums for Medicare Part B were deducted. Exhibit 13.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Congress enacted the ACA in 2010 “to increase the number of Americans covered by health insurance and decrease the cost of health care.” *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 132 S.Ct. 2566, 2580 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans (“QHPs”). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts. To further the ACA’s goal of making health insurance affordable, the Internal Revenue Code was amended to make tax credits (“APTCs”) available as a form of subsidy to individuals who purchase health insurance through the Exchanges. 26 U.S.C. § 36B(c)(2)(A)(i). In addition to the APTC, eligible Massachusetts residents may receive premium assistance payments from the Health Connector by enrolling in a subsidized Connector Care plan. 956 Code Mass. Regs. 12.04, 12.12(9). In order to enroll in ConnectorCare, an individual must be eligible for the Federal APTC. 956 Code Mass. Regs. 12.04(1)(b). Eligibility for the APTC and enrollment in a QHP is based on several criteria including requirements that the individual be lawfully present in the United States and not incarcerated. 26 C.F.R. § 1.36B-2(b)(4).

Appellant applied to the Health Connector for health insurance shortly after being discharged from imprisonment. Pursuant to the ACA and its implementing regulations, the Health Connector requested Appellant to provide documentation of eligibility including proof of incarceration status by June 26, 2016. The record in this case shows, and Appellant does not contend otherwise, that Appellant did not submit documentation of his discharge from imprisonment until Appellant’s request for hearing was filed on or about August 18, 2016. Accordingly, I conclude that the Health Connector’s determination on August 9, 2016 that Appellant is not eligible to purchase health insurance coverage because the requested documentation of incarceration status was not submitted was consistent with the ACA and its implementing regulations.

## **ORDER**

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector's August 9, 2016 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law based on the information provided by Appellant in the March 28, 2016 and contained in the Health Connector's records.

**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

**Connector Appeals Unit**  
**FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** October 11, 2016

**Decision Date:** December 29, 2016

**AUTHORITY**

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

**JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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.*; 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 July 22, 2016, the Connector issued to the Appellant a Notice of Eligibility Denial for health insurance coverage through the Health Connector, because the Appellant was not a resident of Massachusetts.

**ISSUE**

Whether the Health Connector correctly determined that the Appellant was not eligible for insurance coverage through the Health Connector based on the information that the Connector had on July 22, 2016.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 11, 2016. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Connector Appeals Unit
- Exhibit 2: 7/22/16 Eligibility Denial Notice (6 pages)
- Exhibit 3: 8/24/16 Appeal (3 pages)
- Exhibit 4: 8/24/16 Appeal Entry (2 pages)
- Exhibit 4A: 9/7/16 Appeal Ack. (3 pages)
- Exhibit 5: 8/25/16 2016 Elig Results et al. (4 pages)
- Exhibit 6: 9/20/16 Hearing Notice (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On July 22, 2016, the Appellant applied to the Connector for health insurance coverage. On her application, the Appellant provided a Maine address under the “Contact Information” section and under the “Family & Household” section. (Exhibit 5)
2. On July 22, 2016, the Connector issued to the Appellant a Notice of Eligibility Denial for health insurance coverage through the Massachusetts Health Connector, because “You do not live in Massachusetts.” On the first page of the six-page notice, immediately after the reason for the Appellant’s disqualification is provided, the letter stated under the bold-faced “How you can send us information” heading: “If your information has changed, please let the Health Connector know as soon as possible” and “To let us know about a change, call the Health Connector at 1-877-623-6765.” (Exhibits 2 and 5)
3. On August 24, 2016, the Appellant submitted her appeal to the Health Connector. On the Hearing Request Form, the Appellant provided her current address in Massachusetts and wrote in the explanation section: “I am actually a MA resident, I have been for over a year, but I was in the process for moving so my mailing address was listed as my parents.” Enclosed with the appeal was a copy of her lease of an apartment in another part of Massachusetts from July 2015 to July 10, 2016. (Exhibit 3)
4. On August 26, 2016, the Appeals Unit contacted the Appellant and advised her to contact Customer Service to update her address and to call the Appeals Unit back once she had done so to discuss what she wanted to do with the appeal request. As of August 30, 2016, the Appellant had not updated her address on her application. (Exhibit 4)

5. As of the date of the hearing, the Appellant had not yet contacted Customer Service to change the address on her application for coverage. The Appellant assumed that since the Connector mailed the 9/20/16 Notice of Hearing to the Massachusetts address that she had put on her Hearing Request Form that the address on her application for Connector coverage had also been changed. (Appellant's testimony; Exhibit 4)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant has the right to a hearing to appeal any adverse eligibility decision based on any eligibility factor in accordance with 956 CMR 12.09.

One of the eligibility requirements for insurance coverage through the Health Connector is residency in Massachusetts, under 45 CFR Section 155.305(a)(3). In this case, while the evidence submitted with her appeal shows that the Appellant was residing in Massachusetts until July 10, 2016, when the Appellant's lease expired, there is nothing in the Appellant's 7/22/16 application, or elsewhere in the record, showing that the Appellant resided in Massachusetts on July 22, 2016, when the Connector determined that the Appellant did not qualify for Connector coverage because she was not a Massachusetts resident. To the contrary, the Appellant provided the same out-of-state address in both places on her application where she was requested to provide her address. While the Appellant had resided in Massachusetts up until just twelve days before submitting her application and intended to resume her residency later that summer, these circumstances were not stated anywhere in her application. Hence, the Connector had no opportunity to consider these circumstances in making its determination on July 22, 2016.

Therefore, I conclude that the Health Connector correctly determined that the Appellant was not eligible for insurance coverage through the Health Connector because she was not a resident of Massachusetts, based on the information that the Connector had on July 22, 2016. 45 CFR Section 155.305(a)(3).

Accordingly, the Appellant's appeal is 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. 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 following receipt of this letter.

Cc: Connector Appeals Unit

**Connector Appeals Unit**  
**FINAL APPEAL DECISION**

**Appeal Decision:** The Connector's denial of Appellant's application for the purchase of health insurance through the Connector is affirmed.

**Hearing Issue:** Whether the Connector correctly determined that Appellant was not eligible to purchase health insurance through the Connector because of failure to establish lawful present in the United States.

**Hearing Date:** October 14, 2016

**Decision Date:** December 22, 2016

## **AUTHORITY**

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

## **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 CONNECTOR**

On April 18, 2016, Appellant was denied eligibility to obtain health insurance through the Connector because of failure to establish lawful present in the United States.

## **HEARING RECORD**

The appellant and an interpreter appeared at the hearing which was held by telephone on October 14, 2016. The procedures to be followed during the hearing were reviewed with Appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated September 22, 2016 addressed to Appellant
- Exhibit 3: Hearing Request Form signed by Appellant on August 22, 2016
- Exhibit 4: Connector Appeals Unit letter dated August 29, 2016 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing with request for Appellant to send in proof of lawful presence
- Exhibit 5: Summary of Appellant's application
- Exhibit 6: Results of Appellant's application showing Appellant not eligible
- Exhibit 7: Connector letter to Appellant dated August 9, 2016 denying Appellant's eligibility to obtain health insurance through the Connector
- Exhibit 8: AVV print-outs regarding appellant's program determination

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant arrived in the United States in 2004 on a visa which has since expired (Testimony of Appellant).
2. Appellant applied to purchase health insurance through the Connector in August, 2016. At the time Appellant applied, Appellant indicated on the application for insurance that Appellant had no lawful immigration status (Exhibit 5, Testimony of Appellant).
3. On August 9, 2016, the Health Connector determined, based upon the information supplied by the appellant on Appellant's application, that the appellant was not eligible to purchase health insurance through the Connector because of failure to establish lawful present in the United States (Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance coverage through the Connector in August, 2016. On August 9, 2016, the Connector denied Appellant's eligibility for health insurance because the appellant was determined to be unlawfully present in the United States based upon the responses the appellant gave on the application for insurance. Appellant appealed the Connector's denial on August 22, 2016. See Exhibits 3, 5, and 7.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in

the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR155.305(a)(1).

It is clear from the record that Appellant attested on the application for health insurance that Appellant had no lawful immigration status. See Exhibit 5. Appellant also testified that the visa Appellant had when Appellant entered the United States had expired. I find Appellant's testimony to be credible.

What is at issue here is whether the Connector made the correct determination at the time it decided that appellant was ineligible for coverage. Given the record, the Connector did make the correct determination at the time it was made. Appellant did not present any evidence of being lawfully present.

**ORDER:** The action taken by the Connector denying Appellant's eligibility is affirmed.

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

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

Cc: Connector Appeals Unit

**Connector Appeals Unit**  
**FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** October 18, 2016

**Decision Date:** December 29, 2016

**AUTHORITY**

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

**JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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.*; for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02; and, for hearings set forth in Title 956 of the Code of Massachusetts Regulations, section 12.15.

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 3, 2016, the Connector issued to the Appellant a Notice of Eligibility Approval for ConnectorCare Plan Type 2A with Advance Premium Tax Credit.

**ISSUE**

Whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plan Type 2A with Advance Premium Tax Credit.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 18, 2016. The Appellant testified under oath or affirmation. At the end of the hearing, the

record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Connector Appeals Unit
- Exhibit 2: 8/3/16 Eligibility Approval Notice (8 pages)
- Exhibit 3: 8/29/16 Appeal (3 pages)
- Exhibit 4: 8/29/16 Appeal Entry (2 pages)
- Exhibit 5: 8/30/16 2016 Elig Results et al. (5 pages)
- Exhibit 6: 9/1/16 Appeal Ack. (3 pages)
- Exhibit 7: 9/18/16 Email from Appeals Unit
- Exhibit 8: 9/22/16 Hearing Notice (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On August 3, 2016, the Health Connector issued a Eligibility Approval Notice to the Appellant, informing her that she qualified for ConnectorCare Plan Type 2A with an Advance Premium Tax Credit of \$196 and a first available start date of September 1, 2016. The Notice also informed her that she qualified for a 60-day special enrollment period and had until October 2, 2016, to enroll. (Exhibit 2)
2. On August 29, 2016, the Appellant appealed the Connector's 8/3/16 determination, indicating on the appeal form that the reason for her appeal was "Income" and "Other: Paying out of pocket for college tuition."
3. The lowest-cost ConnectorCare Plan Type 2A for 2016 cost a monthly premium of \$0.00. (2016 ConnectorCare Health Plans Information Sheet)
4. On September 1, 2016, and again on September 7, 2016, the Appeals Unit attempted to reach the Appellant by phone and left a voice-mail message, asking the Appellant to call back. On September 18, 2016, the Appeals Unit sent an email message to the Appellant, informing her that she was eligible for a zero premium and how she could enroll in coverage beginning October 1, 2016. (Exhibits 4 and 7)
5. The Appellant received the 9/18/16 email message from the Appeals Unit. The Appellant has not done anything yet in response. (Appellant's testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant has the right to a hearing to appeal any adverse eligibility decision based on any eligibility factor in accordance with 956 CMR 12.09.

The Appellant appealed the Connector's 8/3/16 determination because she thought that she could not afford the coverage for which she qualified, based on her income and on-going college tuition payments. However, the Appellant's income qualified her for ConnectorCare Plan Type 2A, and the lowest-cost ConnectorCare Plan Type 2A for 2016 had a monthly premium of \$0.00. As the coverage was entirely subsidized at no cost to the Appellant, the coverage was affordable. The only thing that the Appellant needed to do was enroll.

Therefore, I conclude that the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plan Type 2A with Advance Premium Tax Credit, under 45 CFR Section 155.305.

Accordingly, the Appellant's appeal is 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. 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 following receipt of this letter.

Cc: Connector Appeals Unit

## **CONNECTOR APPEALS UNIT**

### **FINAL APPEAL DECISION**

**Appeal Decision:** The Connector's denial of Appellant's application for the purchase of health insurance through the Connector is affirmed.

**Hearing Issue:** Whether the Connector correctly determined that Appellant was not eligible to purchase health insurance through the Connector because of failure to establish lawful present in the United States.

**Hearing Date:** October 14, 2016

**Decision Date:** December 27, 2016

### **AUTHORITY**

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

### **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 CONNECTOR**

On August 23, 2016, Appellant was denied eligibility to obtain health insurance through the Connector because of failure to establish lawful present in the United States.

### **HEARING RECORD**

The appellant and an interpreter appeared at the hearing which was held by telephone on October 14, 2016. The procedures to be followed during the hearing were reviewed with Appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing the record was left open to give Appellant time to submit additional evidence. Documents sent in by the appellant were received at the Connector on October 17,

2016. These have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated September 28, 2016 addressed to Appellant
- Exhibit 3: Hearing Request Form signed by Appellant on August 28, 2016
- Exhibit 4: Connector Appeals Unit letter dated August 31, 2016 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 4a: Appeals Unit letter to Appellant dated September 28, 2016
- Exhibit 4b: Appeals Unit notes of outreach to Appellant
- Exhibit 5: Summary of Appellant's application
- Exhibit 6: Results of Appellant's application, August 23, 2016
- Exhibit 7: Connector letter to Appellant dated August 23, 2016 denying Appellant's eligibility to obtain health insurance through the Connector
- Exhibit 8: Affidavit of Residency signed by Appellant on September 9, 2016
- Exhibit 9: Appellant's 2015 Form 1040 Federal Tax return, first page
- Exhibit 10: Copies of cancelled checks signed by Appellant, 2016
- Exhibit 11: Letter from United States Internal Revenue Service to Appellant dated April 15, 2005 assigning Appellant Individual Taxpayer Identification Number
- Exhibit 12: Pages from Appellant's Polish passport with expiration date of September, 2023

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant arrived in the United States in 2004 (Testimony of Appellant).
2. Appellant applied to purchase health insurance through the Connector in August, 2016. At the time Appellant applied, Appellant indicated on the application for insurance that Appellant had no lawful immigration status (Exhibits 5, 7).
3. On August 23, 2016, the Health Connector determined, based upon the information supplied by the appellant on Appellant's application, that the appellant was not eligible to purchase health insurance through the Connector because of failure to establish lawful present in the United States (Exhibit 7).

4. Appellant had been on MassHealth. As of the date of this hearing, Appellant no longer had the coverage, but was scheduled for a hearing on October 26, 2016 with the Medicaid Board of Hearings (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance coverage through the Connector in August, 2016. On August 23, 2016, the Connector denied Appellant's eligibility for health insurance because the appellant was determined to be unlawfully present in the United States based upon the responses the appellant gave on the application for insurance. Appellant appealed the Connector's denial on August 28, 2016. See Exhibits 3, 5, 6, and 7.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR 155.305(a)(1).

It is clear from the record that Appellant attested on the application for health insurance that Appellant had no lawful immigration status. See Exhibit 5.

What is at issue here is whether the Connector made the correct determination at the time it decided that appellant was ineligible for coverage. Given the record, the Connector did make the correct determination at the time it was made. It based its decision on information supplied by the Appellant regarding his immigration status on the application for coverage.

**ORDER:** The action taken by the Connector denying Appellant's eligibility is affirmed.

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

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

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

Cc: Connector Appeals Unit

Addendum: If Appellant still has no health insurance coverage, and if Appellant can submit proof of lawful presence, Appellant may wish to contact the Connector at 1-877-623-6765.

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** November 29, 2016

**Decision Date:** January 5, 2017

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#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

Eligible for ConnectorCare Plans type 3A with Advance Premium Tax Credit.

#### **ISSUE**

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

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 29, 2016. The hearing was recorded. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (10-20-16) (7 pages);
- Exhibit 3: Outreach notes (1 page);
- Exhibit 4: Acknowledgment of Appeal (9-7-16) (4 pages);

- Exhibit 5: Hearing Request Form (8-25-16) (with letter and documents) (9 pages);  
Exhibit 6: Eligibility Approval letter (8-9-16) (8 pages);  
Exhibit 7: Information from application and re results (5 pages); and  
Exhibit 8: Notice of Prior Hearing Date (9-22-16) (4 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant filed an application for subsidized health insurance through the Health Connector (Exhibits 6, 7).
2. The Appellant has a tax household size of one (Exhibit 7).
3. The amount of projected yearly modified adjusted gross income (MAGI) that was listed on the application for Appellant was \$27,274.00 (Exhibit 7 and Testimony).
4. Based upon the information provided, the Appellant was determined to be at 231.72 percent of the Federal Poverty Level (FPL) (Exhibit 7).
5. Appellant was determined eligible for ConnectorCare plan Type 3A, with Advanced Premium Tax Credits (Exhibit 6).
6. Appellant confirmed that the income was correct, but felt the premiums were more than could be afforded (Testimony).
7. The determination of the Connector was correct based upon the information provided.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In this case, the FPL is under 300%, and, therefore, Appellant is eligible for the additional Massachusetts subsidy, as well as the Advance Premium Tax Credits.

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

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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**ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2015 from the federal government will be reconciled when you file your taxes in 2016. This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2015 (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2015 (meaning the modified adjusted gross income on file with was us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2015 will be paid to you when you file your taxes in 2016.

**Massachusetts Health Connector Appeals Unit**  
**FINAL APPEAL DECISION**

**Appeal Decision:** The Connector's determination to terminate Appellant's Health Connector plan for failure to submit proof of residency is affirmed.

**Hearing Issue:** Whether the Connector correctly determined that Appellant was no longer eligible for a Health Connector plan based upon Appellant's failure to submit proof of residency.

**Hearing Date:** October 28, 2016      **Decision Date:** December 21, 2016

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

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

**Original Action Taken By the Connector:** On June 28, 2016, the Connector determined that Appellant was ineligible for a Health Connector plan because the appellant had not provided proof of residency in Massachusetts.

**Hearing Record:** The appellant appeared at the hearing which was held by telephone on October 28, 2016. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 21, 2016 sent to Appellant for hearing on October 28, 2016
- Exhibit 2a: E-mail from Connector Appeals Unit dated October 21, 2016 regarding notice of hearing
- Exhibit 3: Hearing Request Form submitted by Appellant on September 13, 2016
- Exhibit 4: Letter to Appellant from Connector Appeals Unit acknowledging receipt of appeal request dated September 19, 2016
- Exhibit 5: Health Connector's Summary of Appellant's application computer print-out, 2016
- Exhibit 6: Health Connector's Results of Appellant's applications, computer print-outs, June 28, 2016, and August 10, 2016
- Exhibit 7: Letter to Appellant dated April 8, 2015 from the Health Connector requesting proof of residency
- Exhibit 8: Letter to Appellant dated June 28, 2016 from the Health Connector regarding termination of Health Connector plan coverage
- Exhibit 9: Letter to Appellant dated August 10, 2016 from the Health Connector regarding eligibility

**Findings of Fact:**

The record shows, and I so find:

1. Appellant applied for insurance through the Connector in 2015. On April 8, 2015, the Connector sent the appellant a letter requesting proof of residency in Massachusetts. Attached to the letter was a list of acceptable documents to prove residency (Testimony of Appellant, Exhibit 7).
2. Appellant enrolled in a Health Connector plan; he did not send in proof of residency (Testimony of Appellant, Exhibits 6, 8).
3. In June, 2016, because proof of residency had not been received, the Connector notified Appellant that Appellant's coverage would be terminated at the end of June (Exhibit 8).
4. From January through July, 2016, the appellant was in China. Appellant did not pay the June premium for Appellant's Health Connector plan. Appellant believes that coverage was terminated because of this failure to pay the monthly premium (Testimony of Appellant).

5. Since returning to the United States, Appellant has contacted the Connector's Customer Service. In August, Appellant received notice from the Connector that Appellant was eligible to enroll in a Health Connector plan (Exhibit 9, Testimony of Appellant).
6. Appellant has lived in Massachusetts for over ten years (Testimony of Appellant).

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

The issue on appeal is whether the Connector correctly determined on June 28, 2016 that the appellant was no longer eligible for a Health Connector plan because the appellant had not verified the appellant's eligibility by sending in proof of residency. Appellant appealed this determination. See Exhibits 3, 7, and 8.

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)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

To be eligible to purchase a plan through the Connector, an individual must reside within the Commonwealth. See 45 CFR 155.305 (a). After receiving an application, the Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by an applicant, including the applicant's residency status. See 45 CFR 155.315(d). When the Health Connector cannot verify the applicant's residency electronically, it requests verifying information from the applicant. See 45 CFR 155.315(f). If the applicant does not provide proper verifying information, the Health Connector will consider the information not verified.

In this matter, in April, 2015, the appellant was found to be eligible for a Health Connector plan and was asked by the Connector to submit proof of residency. In June, 2016, the Connector determined that the appellant was not eligible for Health Connector coverage because of the appellant's failure to verify residency. See Exhibits 7 and 8. Appellant testified that Appellant thought the coverage was lost because of a failure to pay June's monthly premium. Appellant also testified that Appellant had lived in Massachusetts for over ten years.

What is at issue here is whether the original determination to terminate Appellant's Health Connector coverage made by the Connector was correct. The determination was

based upon the fact that the appellant did not submit proof of residency as the Connector requested in April, 2015. Since the Connector's determination was based the appellant's failure to provide proof of residency, the determination is upheld. See 45 Code of Federal Regulations 155.315 and 45 CFR 155.305(a).

Since the appellant contacted Customer Service, the appellant has been notified that Appellant may re-enroll in a Health Connector plan. See Exhibit 9. If the appellant has not yet re-enrolled, the Connector should take steps to help the appellant re-enroll.

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

**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

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellant's eligibility to obtain health insurance through the Connector based on access to Medicare

**Hearing Date:** October 28, 2016

**Decision Date:** December 22, 2016

#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

On September 1, 2016, the appellant was determined ineligible to purchase Health Connector plans because Appellant had access to 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 to obtain health insurance through the Connector based on Appellant's access to Medicare.

#### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on October 28, 2016. A social worker helping the appellant also appeared with permission of the appellant. The procedures to be followed during the hearing were explained to the appellant. The appellant was sworn in. The documents in the appellant's appeals file were reviewed with the appellant. Each was marked as an exhibit and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated September 27, 2016 sent to Appellant

Exhibit 3: Hearing Request Form submitted by Appellant on September 12, 2016

Exhibit 4: Letter to Appellant from Connector Appeals Unit acknowledging receipt of appeal request dated September 16, 2016

Exhibit 5: Health Connector's Summary of Appellant's application computer print-out

Exhibit 6: Health Connector's Results of Appellant's application computer print-out

Exhibit 7: Letter to Appellant dated September 1, 2016 from the Health Connector regarding eligibility for purchase of health insurance plan

Exhibit 8: Connector's "AVV" print-out regarding program determinations for Appellant from the application database for the appellant

Exhibit 9: Page from Appellant's Connector application regarding access to other insurance

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance coverage through the Connector on September 1, 2016 (Exhibits 5, 6, and 7, Testimony of Appellant).
2. On September 1, 2016, Appellant was found to be ineligible to purchase a Connector health plan because Appellant had access to Medicare or was enrolled in Medicare (Exhibits 6, 7, and 8).
3. Appellant filed an appeal of the Connector's determination on September 12, 2016 (Exhibit 3).
4. Appellant was enrolled in Medicare when Appellant applied for Connector coverage. Appellant attested to this on Appellant's application. Appellant has had Medicare coverage, Parts A and B, since August, 2015 (Testimony of Appellant, Exhibits 5, 8, 9).
5. Appellant wants to have coverage to supplement the Medicare coverage (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance in September, 2016. The Connector determined that Appellant was ineligible to enroll in coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's denial on September 12, 2016. See the testimony of the appellant and Exhibits 3, 6, 7, 8.

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

Appellant testified that Appellant was enrolled in Medicare when she applied for health insurance through the Connector. She attested to having Medicare coverage on her application. See Exhibits 5 and 9, and the testimony of the appellant which I find to be credible.

The Connector correctly determined that because she was enrolled in Medicare, Appellant was ineligible to purchase any health insurance plan through the Connector. This determination was based upon attestations made by the appellant on her application. See citations above. This determination is affirmed.

## **ORDER**

The appeal is denied.

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

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

Cc:      Health Connector Appeals Unit

## **Addendum**

Appellant stated during the hearing that she is interested in obtaining coverage which will supplement her Medicare coverage. The Appellant is advised to look into the **Serving the Health Insurance Needs of Everyone (SHINE)** program, which is a state health insurance assistance program that provides free health insurance

information, counseling and assistance to Massachusetts residents with Medicare. She can contact SHINE at 1-800-243-4636.

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

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

### **Hearing Issue:**

Appellant's eligibility for subsidized insurance based on tax filing status

**Hearing Date:** October 27, 2016

**Decision Date:** December 20, 2016

### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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**

On August 17, 2016, Appellant submitted an application for subsidized health insurance. The Health Connector determined Appellant to be eligible for Health Connector plans without subsidies due to not being an applicable tax filer.

### **ISSUE**

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

## **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on October 27, 2016. Also present was an interpreter. Appellant and the interpreter were sworn in. The procedures to be followed during the hearing were reviewed with Appellant. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellants' file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 3, 2016 addressed to Appellant
- Exhibit 3: Hearing Request Form signed by Appellant on August 22, 2016
- Exhibit 4: Acknowledgement letter from Health Connector dated September 16, 2016
- Exhibit 5: Eligibility Letter dated August 17, 2016
- Exhibit 6: Review of Appellants' application
- Exhibit 7: Results of Appellants' application

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied to obtain subsidized health insurance through the Connector on August 17, 2016 (Exhibit 5).
2. On August 17, 2016, Appellant was notified by the Connector that Appellant was deemed eligible for a Health Connector plan but was not eligible for help paying for coverage (Exhibit 5).
3. Appellant was denied help paying for coverage due to not being an applicable tax filer (Exhibit 5).
4. Appellant did not work or file taxes and he was not planning to work or file taxes (Testimony of Appellant).
5. On August 22, 2016 Appellant filed for an appeal stating that Appellant had no job and no income (Exhibit 3, Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance coverage through the Connector in August, 2016. Appellant filed for an appeal on August 22, 2016, stating that Appellant did not work or have any income. Appellant did not plan to file taxes. Appellant was deemed to be eligible for a Health Connector plan but was not deemed eligible for help paying for coverage through a tax credit or a Connector Care plan. See Exhibits 3, 5, and Testimony of Appellant which I find to be credible.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. In order to be eligible for APTC, an applicant must be an applicable tax filer. See 45 CFR 155.300 and 26CFR 1.36B-2(b)

Based upon the information given, the Connector determined that Appellant was eligible to purchase health insurance through the Connector but was not eligible for a tax credit or a Connector Care plan because Appellant was not an applicable tax filer. The determination of the Connector based upon the information supplied to the Connector by Appellant is affirmed

## **ORDER**

Appellant's appeal is denied. The determination by the Connector finding Appellant ineligible for subsidies 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.

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** The Connector's denial of Appellants application for the purchase of health insurance outside of open enrollment is affirmed.

**Hearing Issue:** Whether Appellant was properly excluded from obtaining health insurance through the Connector at the time of application because it was not an open enrollment period and Appellant did not have a qualifying event for a special enrollment period.

**Hearing Date:** October 27, 2016

**Decision Date:** December 27, 2016

### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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 for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

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

On September 20, 2016, Appellant was denied eligibility to obtain health insurance through the Connector because it was not an open enrollment period and Appellant did not have an event to qualify for a special enrollment period. Appellant was found eligible for enrollment during open enrollment for 2017, with coverage beginning on January 1, 2017.

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on October 27, 2016. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was held open so that Appellant could submit additional documents. On November 7, 2016, Appellant submitted additional documents and they have been marked as Exhibit 8.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 3, 2016 addressed to Appellant
- Exhibit 3: Hearing Request Form dated September 20, 2016
- Exhibit 4: Connector Appeals Unit letter dated September 30, 2016 acknowledging receipt of Appellant's Request for Hearing
- Exhibit 5: Connector letter dated September 20, 2016, with eligibility beginning in January 2017
- Exhibit 6: Review of Appellant's application
- Exhibit 7: Results of Appellant's application
- Exhibit 8: Letters about MassHealth coverage and doctor's bill

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had been covered by MassHealth in 2015 into early 2016 (Exhibits 6 and 7 and Testimony of Appellant).
2. In early 2016, MassHealth sought to verify Appellant's eligibility for MassHealth (Exhibits 6 and 7).
3. On March 9, 2016, Appellant was notified by the Health Connector that based on data from other sources, Appellant was eligible for a plan from the Health Connector, but was required to send in proof of income and proof of residency prior to enrolling in a new plan (Exhibits 6 and 7).
4. Appellant did not recall receiving the requests from MassHealth or the Health Connector in March 2016 and did not send in the requested documents. Appellant had moved during this time (Testimony of Appellant).
5. Appellant was unenrolled from MassHealth on April 30, 2016. The determination was based on data from other sources since Appellant did not send the documents that were requested (Exhibits 6, 7 and 8).
6. In August 2016, Appellant received another determination from the Health Connector based on data from other sources because Appellant still had failed to send in the documents that were requested in March 2016 (Exhibits 6 and 7).
7. At the time of Appellant's new determination in August 2016, Appellant was again asked for proof of income (Exhibits 6 and 7)

- 8.. At the time of Appellant's new determination in August 2016, Appellant was notified that Appellant may qualify for a Special Enrollment period if Appellant sent in proof of loss of insurance (Exhibits 6 and 7 and Testimony of Appellant).
9. Appellant did not learn of the disenrollment from MassHealth (which occurred on April 30, 2016) until August 2016, when Appellant contacted the Health Connector (Testimony of Appellant).
10. On September 20, 2016, Appellant submitted updated residency and income information and was determined eligible for a Health Connector Plan with Advance Premium Tax Credits beginning on January 1, 2017 (Exhibit 5)
11. On September 20, 2016, Appellant submitted proof that the MassHealth coverage had been terminated on April 30, 2016 (Testimony of Appellant)
12. On September 20, 2016, Appellant's request for a special enrollment period to enroll prior to January 1, 2017 was denied (Testimony of Appellant and Exhibit 3)
13. Appellant appealed the Connector's decision on September 20, 2016 (Exhibit 3 ).

14. Appellant claimed that Appellant did not become aware of the loss of MassHealth Coverage in April 30, 2016 until September 2016 and that Appellant should be eligible for a Special Enrollment Period (Exhibit 3 and Testimony of Appellant)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant had been covered by MassHealth in 2015 into early 2016. MassHealth sought to verify Appellant's eligibility in early 2016. Appellant did not respond to the requests by MassHealth. Due to Appellant's failure to supply the required documentation, the Health Connector sought to verify the information by seeking data from other sources. See 45CFR 155.315 (f)(5) and 956 CMR12.05. On March 9, 2016, after the Health Connector received data from other sources, a new determination was made based on data from other sources. Appellant was notified by the Health Connector that based on data from other sources, Appellant was eligible for a plan from the Health Connector, but was required to send in proof of income and proof of residency prior to enrolling in a new plan. Appellant had moved during this time period and was not aware that the MassHealth coverage had terminated or that a new plan had been offered.

On August 2, 2016 Appellant received another notice about eligibility for a Connector Care Plan with Advance Premium Tax credits and Appellant was again asked for proof of residency. Appellant was also notified that Appellant might qualify for a Special Enrollment Period and was required to send acceptable proof of loss of health insurance. The notices in August 2016 were also based on information from other sources as Appellant still had not sent in the requested documents. In September, 2016, Appellant did contact the Health Connector and provided information about residency and income and a new determination was made with a start date of

January 1, 2017. In September 2016, Appellant also requested a Special Enrollment period based upon the loss of MassHealth coverage in April 2016, but the request was denied. See Exhibits 3, 5, 6, 7 and 8 and Testimony of Appellant, which I find to be credible.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, eligible applicants can enroll during open enrollment periods or special enrollment periods. See 45 CFR 155.410(a)(2) and 45 CFR 155.420(d). Appellant lost coverage on April 30, 2016 when Appellant did not provide information about residency and income. Appellant's request for a Special Enrollment period in September 2016 was denied since the request was not made within sixty days of the date of the loss of coverage. Applicants have 60 days from the date of a triggering event to enroll under a special enrollment period. 45 CFR 155.420(c) (1). Although Appellant claims that Appellant was unaware of the April 30, 2016 cancellation, several notices had been sent to Appellant. Appellant had moved during this time and had not submitted the required information. Appellant did not send in requested information about residency and income until September 2016.

The Connector's action in denying Appellant eligibility for a Special Enrollment Period in September, 2016 is affirmed.

**ORDER:** The action taken by the Connector denying Appellant's eligibility for a Special enrollment period is affirmed. Appellant is eligible for enrollment beginning on January 1, 2017.

#### **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.

**ADDENDUM:** Appellant was found eligible to enroll for a Health Connector Plan with a start date of January 1, 2017. Appellant is encouraged to enroll during this open enrollment period, which runs from November 1, 2016 through January 31, 2017

**Massachusetts Health Connector Appeals Unit**  
**FINAL APPEAL DECISION**

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

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

**Hearing Date:** November 4, 2016      **Decision Date:** December 28, 2016

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

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

**Original Action Taken By the Connector:** On September 7, 2016, the Connector determined Appellant to be eligible to purchase a Health ConnectorCare plan with an advance premium tax credit.

**Hearing Record:** The appellant appeared at the hearing which was held by telephone on November 4, 2016. The procedures to be followed during the hearing were reviewed with the appellant who was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 17, 2016 sent

to Appellant

- Exhibit 3: Hearing Request Form signed and dated by Appellant on September 29, 2016
- Exhibit 4: Letter to Appellant from Connector Appeals Unit dated October 11, 2016 acknowledging receipt of request for hearing
- Exhibit 5: Health Connector's Review of Appellant's applications computer print-outs
- Exhibit 6: Health Connector's Results of Appellant's applications computer print-outs, September 7, 2016 and September 21, 2016
- Exhibit 7: Letter to Appellant dated July 1, 2016 from the Health Connector regarding eligibility for purchase of health insurance in 2016
- Exhibit 7a: Letter to Appellant dated September 7, 2016 from the Health Connector regarding eligibility for purchase of health insurance in 2016

**Findings of Fact:**

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector in July and again in September, 2016. In September, the appellant attested to two different projected incomes (Exhibits 5, 6, 7, 7a, Testimony of Appellant).
2. Based upon the appellant's first application in July, the Connector determined that the appellant was eligible to purchase a Health ConnectorCare plan with an advance premium tax credit. Appellant was found to be eligible for a Type 3A plan (Exhibits 6, and 7).
3. On the appellant's second application, Appellant first attested that the appellant would have income in 2016 of \$19,112. This income was found to amount to 162.38% of the Federal Poverty Level. The Connector determined, based upon the information on the appellant's application, that the appellant was eligible to purchase a Health ConnectorCare plan with an advance premium tax credit, Type 2B (Exhibits 5,6, 7a, Testimony of Appellant).
4. The appellant then amended the second application and attested to a projected income of \$24,700. This income amounts to 209.86% of the Federal Poverty Level. Appellant was found to be eligible for a Type 3A plan based on the new income attestation. This income projection is accurate (Exhibits 5, 6, and Testimony of Appellant).

5. Appellant filed an appeal on September 29, 2016 because Appellant had received two letters from the Connector with different amounts of advance premium tax credits (Exhibit 3, Testimony of Appellant).
6. By the date of this hearing, Appellant had enrolled in a ConnectorCare plan with an effective start date of November 1, 2016 (Testimony of Appellant).

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

The issue on appeal is whether the Connector correctly determined on July 1, September 7, 2016, and September 21, 2016 that the appellant was eligible to purchase a Health ConnectorCare plan with an advance premium tax credit. Appellant appealed this determination. See Exhibits 3, 5, 6, 7, 7a.

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

Appellant filed two applications for health insurance through the Connector. Appellant also amended the second application to show a different projected income. Based upon the appellant's first application in July, the Connector determined that the appellant was eligible to purchase a Health ConnectorCare plan with an advance premium tax credit. Appellant was found to be eligible for a Type 3A plan.

On the second application, filed on September 7, 2016, Appellant attested to a projected income for 2016 of \$19,112 and a tax household size of one. Based upon this, the Connector determined that the appellant's income would be equal to 162.38% of the Federal Poverty Level and that the appellant was eligible to purchase a ConnectorCare plan with an advance premium tax credit, Type 2B. Appellant later amended the attestation as to her projected income for 2016, indicating an income of \$24,700. Appellant was then found to be eligible for a Type 3A plan based on the new income attestation. See Exhibits 3, 5, 6, 7a and the testimony of the appellant which I find to be credible.

What is at issue here is whether the determination made by the Connector was correct. That determination was based upon the information given on the appellant's application. Appellant testified to having projected differing incomes. Appellant testified that the projected income of \$24,700 was accurate. No error was made by the Connector. Appellant did attest to projected incomes and tax household size of one which the Connector used in making its determination. Because of this, the determination of the Connector is affirmed.

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

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

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

Cc: Connector Appeals Unit

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellant's eligibility to enroll in subsidized health insurance coverage through the Health Connector.

**Hearing Date:** December 16, 2016

**Decision Date:** December 29, 2016

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#### **AUTHORITY**

This hearing was conducted pursuant to Section 1411 of the Patient Protection and Affordable Care Act (the "ACA"), 42 U.S.C. § 18081, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 45 C.F.R. § 155.500 *et seq.*, the 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.*, 45 C.F.R. § 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02., 801 Mass. Code Regs. 1.02., and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15, 956 Mass. Code Regs. 12.15.

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

The Health Connector notified Appellant by letter dated September 7, 2016 that Appellant, Appellant's spouse and a dependent child did not qualify for health insurance coverage through the Health Connector because the Health Connector's records indicated that they were not lawfully present in the United States.

#### **ISSUE**

The issue presented by Appellant's request for hearing on the Health Connector's September 7, 2016 eligibility determination is whether Appellant submitted sufficient documentation to establish that Appellant, Appellant's spouse and the dependent child are lawfully present in the United States for purposes of qualifying for health insurance coverage through the Health Connector.

#### **HEARING RECORD**

A hearing was conducted with the assistance of a Portuguese language interpreter by telephone on December 16, 2016 at which time Appellant appeared and testified. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection at the hearing:

Exhibit 1: Print-out from the Health Connector's "AVV" tool showing information from the application database in Appellant's September 7, 2016 application for health insurance coverage;

Exhibit 2: Print-out of the Summary pages of Appellant's September 7, 2016 application for health insurance;

Exhibit 3: Print-out of the Results pages of Appellant's September 7, 2016 application for health insurance;

Exhibit 4: Health Connector's Eligibility Denial Notice dated September 7, 2016;

Exhibit 5: Appellant's Hearing Request dated September 28, 2016;

Exhibit 6: Health Connector Internal Dispute Resolution / Outreach record;

Exhibit 7: Health Connector letter dated October 3, 2016 acknowledging Appellant's hearing request;

Exhibit 8: Notice of Hearing dated October 17, 2016;

Exhibit 9: Dismissal for failure to appear dated November 4, 2016;

Exhibit 10: Appellant's request to reopen dated November 17, 2016;

Exhibit 11: Notice of Hearing dated November 22, 2016; and

Exhibit 12: Affidavit from Health Connector Keeper of Records.

## **FINDINGS OF FACT**

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

The record shows, and I so find:

1. Appellant, Appellant's spouse and their dependent child were residing in Massachusetts on September 7, 2016. Testimony of Appellant; Exhibits 1 - 3.
2. Appellant and Appellant's family entered the United States on tourist visas and, after arrival, Appellant applied for an R1 visa as a Temporary Nonimmigrant Religious Worker. Testimony of Appellant. However, Appellant suspended processing of the R1 visa because issues arose relating to the church where Appellant intended to serve in the United States, and Appellant's tourist visa expired prior to September 7, 2016. *Id.*

3. On September 7, 2016, Appellant submitted an application to the Health Connector for subsidized health insurance coverage for Appellant, Appellant's spouse and the dependent child. Exhibits 1 - 3.
4. The Health Connector notified Appellant by letter dated September 7, 2016 that Appellant, Appellant's spouse and dependent child did not qualify for health insurance coverage through the Health Connector because the Health Connector's records indicated that they were not lawfully present in the United States. Exhibit 4.
5. Appellant filed a hearing request, asserting therein that the family could not afford to pay for medical insurance. Exhibit 5.
6. Upon receipt of Appellant's hearing request, the Health Connector mailed Appellant an acknowledgment letter together with a list of acceptable documents for establishing lawful presence in the United States.<sup>1</sup> Exhibit 7.
7. Since Appellant's tourist visa has expired along with that of Appellant's spouse and dependent child, and since the R1 visa has not been issued, Appellant has no documentation to establish lawful presence in the United States for any family member.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Congress enacted the ACA in 2010 "to increase the number of Americans covered by health insurance and decrease the cost of health care." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 132 S.Ct. 2566, 2580 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans ("QHPs"). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts. To further the ACA's goal of making health insurance affordable, the Internal Revenue Code was amended to make tax credits ("APTCs") available as a form of subsidy to individuals who purchase health insurance through the Exchanges. 26 U.S.C. § 36B(c)(2)(A)(i). In addition to the APTC, eligible Massachusetts residents may receive premium assistance payments from the Health Connector by enrolling in a subsidized Connector Care plan. 956 Code Mass. Regs. 12.04, 12.12(9). In order to enroll in ConnectorCare, an individual must be eligible for the Federal APTC. 956 Code Mass. Regs. 12.04(1)(b). Eligibility for the APTC is based on several criteria including requirements that the individual be lawfully present in the United States. 26 C.F.R. § 1.36B-2(b).

The record in this case contains no evidence that Appellant, Appellant's spouse and dependent child are lawfully present in the United States as that term is defined in the ACA's implementing regulations. See 45 C.F.R. § 152.2. Additionally, Appellant concedes inability to document lawful presence. Accordingly, I conclude that the Health Connector correctly determined that they are not qualified to enroll in health insurance coverage through the state Health Benefits Exchange administered by the Health Connector.

## **ORDER**

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<sup>1</sup> The listing of acceptable document for proving lawful presence under the ACA may be found at <https://www.healthcare.gov/help/lawful-immigration/immigration-document-types>.

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector's September 7, 2016 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law based on the information provided by Appellant in the September 7, 2016 application and contained in the Health Connector's records.

**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

## **CONNECTOR APPEALS UNIT** **FINAL APPEAL DECISION**

**Appeal Decision:** The Connector's denial of Appellant's application for the purchase of health insurance through the Connector is affirmed.

**Hearing Issue:** Whether the Connector correctly determined that Appellant was not eligible to purchase health insurance through the Connector because Appellant voluntarily withdrew Appellant's application

**Hearing Date:** October 14, 2016

**Decision Date:** December 27, 2016

### **AUTHORITY**

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

### **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 CONNECTOR**

On September 16, 2016, Appellant was denied eligibility to obtain health insurance through the Connector because Appellant voluntarily withdrew Appellant's application.

### **HEARING RECORD**

The appellant and an interpreter appeared at the hearing which was held by telephone on October 14, 2016. The procedures to be followed during the hearing were reviewed with Appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At this same hearing, a second appeal filed by the appellant was also heard. Exhibits for the other appeal were also marked and admitted in evidence with no objection from the appellant.

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

**Appeal No. 1 (ACA16-5393)**

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 7, 2016 addressed to Appellant
- Exhibit 3: Hearing Request Form signed by Appellant on October 1, 2016
- Exhibit 4: Connector Appeals Unit letter dated October 7, 2016 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 5: Summary of Appellant's application
- Exhibit 6: Results of Appellant's application, September 16, and October 7, 2016
- Exhibit 7: Connector letter to Appellant dated September 16, 2016 denying Appellant's eligibility to obtain health insurance through the Connector
- Exhibit 8: "AVV" print-out regarding Appellant's program determination

**Appeal No. 2: ACA16-5132)**

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated September 28, 2016 addressed to Appellant
- Exhibit 3: Hearing Request Form signed by Appellant on August 28, 2016
- Exhibit 4: Connector Appeals Unit letter dated August 31, 2016 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 4a: Appeals Unit letter to Appellant dated September 28, 2016
- Exhibit 4b: Appeals Unit notes of outreach to Appellant
- Exhibit 5: Summary of Appellant's application
- Exhibit 6: Results of Appellant's application, August 23, 2016
- Exhibit 7: Connector letter to Appellant dated August 23, 2016 denying Appellant's eligibility to obtain health insurance through the Connector
- Exhibit 8: Affidavit of Residency signed by Appellant on September 9, 2016
- Exhibit 9: Appellant's 2015 Form 1040 Federal Tax return, first page
- Exhibit 10: Copies of cancelled checks signed by Appellant, 2016
- Exhibit 11: Letter from United States Internal Revenue Service to Appellant dated April 15, 2005 assigning Appellant Individual Taxpayer Identification Number
- Exhibit 12: Pages from Appellant's Polish passport with expiration date of September, 2023

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant arrived in the United States in 2004 (Testimony of Appellant).
2. Appellant applied to purchase health insurance through the Connector in August, 2016. At the time Appellant applied, Appellant indicated on the application for insurance that Appellant had no lawful immigration status (Exhibits 5, 7).
3. On August 23, 2016, the Health Connector determined, based upon the information supplied by the appellant on Appellant's application, that the appellant was not eligible to purchase health insurance through the Connector because of failure to establish lawful present in the United States (Exhibit 7).
4. Appellant had been on MassHealth. As of the date of this hearing, Appellant no longer had the coverage, but was scheduled for a hearing on October 26, 2016 with the Medicaid Board of Hearings (Testimony of Appellant).
5. Appellant completed a second, separate application for Connector coverage on September 16, 2016 (Exhibits 5 and 6 for ACA16-5393).
6. Appellant withdrew this application (Exhibit 7, Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance coverage through the Connector in August, 2016. On August 23, 2016, the Connector denied Appellant's eligibility for health insurance because the appellant was determined to be unlawfully present in the United States based upon the responses the appellant gave on the application for insurance. Appellant appealed the Connector's denial on August 28, 2016. See Exhibits 3, 5, 6, and 7, Appeal No. 2 (ACA16-5132). A separate decision has been issued for Appeal No. 2, also dated December 27, 2016.

Appellant applied a second time for coverage through the Connector in September, 2016. The appellant then withdrew this application. See Exhibits 3, 5, 6, and 7 for this appeal (No. 1). On September 16th, the Connector notified the appellant that Appellant was not eligible to purchase insurance through the Connector because Appellant had withdrawn the application. See Exhibit 7.

At this hearing, Appellant testified that he had withdrawn the application. I find Appellant's testimony to be credible. What is at issue here is whether the Connector made the correct determination at the time it decided that appellant was ineligible for coverage based upon the withdrawal. See 45 CFR 155.430(b)(1). Given the record, the Connector did make the correct determination at the time it was made.

**ORDER:** The action taken by the Connector denying Appellant's eligibility is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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: Since filing both applications, Appellant has submitted proof of lawful presence to the Connector. As of October 7, 2016, Appellant has been found eligible to enroll in a ConnectorCare plan. If Appellant has not already done so, Appellant may wish to call the Connector at 1-877-623-6765 to enroll. Appellant may also enroll online at the Connector website.

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** The Connector's determination to terminate Appellant's Health Connector plan for failure to submit proof of eligibility to purchase a Health Connector plan is affirmed.

**Hearing Issue:** Whether the Connector correctly determined that Appellant was no longer eligible for a Health Connector plan based upon Appellant's failure to submit proof of eligibility.

**Hearing Date:** November 28, 2016

**Decision Date:** January 16, 2017

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

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

**Original Action Taken By the Connector:** On June 28, 2016, the Connector determined that Appellant was ineligible for a Health Connector plan because the appellant had not provided proof of eligibility to purchase a Health Connector plan.

**Hearing Record:** The appellant appeared at the hearing which was held by telephone on November 28, 2016. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was kept open until December 12, 2016 to give Appellant and the Connector time to submit additional evidence. As of today, no additional evidence has been submitted by the appellant. The Connector has produced documents which have been marked as exhibits and entered into evidence. The record of this hearing is now closed.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 2, 2016 sent to Appellant for hearing on November 28, 2016
- Exhibit 3: Hearing Request Form submitted by Appellant on September 26, 2016 received by Connector on October 11, 2016 with attachments
- Exhibit 4: Letter to Appellant from Connector Appeals Unit rejecting appeal dated October 11, 2016
- Exhibit 4a: Letter from Appellant dated October 24, 2016 requesting appeal
- Exhibit 4b: Letter to Appellant from Connector Appeals Unit dated October 28, 2016 acknowledging receipt of Appeal Request form
- Exhibit 5: Health Connector's Summaries of Appellant's application computer print-out, 2016
- Exhibit 6: Health Connector's Results of Appellant's applications, computer print-outs, dated August 18, 2015, June 28, 2016, and September 20, 2016
- Exhibit 7: Letter to Appellant dated November 17, 2014 from the Health Connector regarding eligibility
- Exhibit 8: Letter to Appellant dated April 27, 2015 from the Health Connector requesting information from Appellant
- Exhibit 9: Letter to Appellant dated August 18, 2015 from the Health Connector regarding eligibility determination
- Exhibit 10: Final Renewal Notice to Appellant dated October 14, 2015 from the Health Connector
- Exhibit 11: Letter to Appellant dated June 28, 2016 from the Health Connector regarding eligibility termination
- Exhibit 12: Letter to Appellant dated September 20, 2016 from the Health Connector regarding special enrollment period
- Exhibit 13: Letter to Appellant dated September 20, 2016 from the Health Connector regarding eligibility approval
- Exhibit 14: Letter to Appellant dated September 20, 2016 from the Health Connector regarding 2017 eligibility
- Exhibit 15: Letter to Appellant dated October 3, 2016 from the Health Connector regarding 2017 termination warning
- Exhibit 16: Appellant's utility bill dated May, 2016 sent to Connector as proof of residency on July 20, 2016
- Exhibit 17: Connector Appeal's Unit case notes
- Exhibit 18: Connector's Call Center notes of contact with Appellant, 2016

**Findings of Fact:**

The record shows, and I so find:

1. Appellant first applied for insurance through the Connector in 2014. In April, 2015, the Connector sent the appellant a letter requesting proof of residency in Massachusetts. Attached to the letter was a list of acceptable documents to prove residency (Testimony of Appellant, Exhibit 8).
2. Appellant enrolled in a Health Connector plan, but did not send in proof of residency (Testimony of Appellant, Exhibits 6, 10).
3. In October, 2015, the Connector again asked the appellant to send in proof of eligibility (Exhibit 10).
4. In June, 2016, because proof of eligibility had not been received, the Connector notified Appellant that Appellant's coverage would be terminated at the end of June (Exhibit 11).
5. Appellant's coverage was terminated at the end of June, 2016. Appellant did not realize the coverage had been terminated immediately. Appellant did not open mail the appellant received. Appellant relied upon a girlfriend to open Appellant's mail and to let Appellant know if Appellant needed to do anything. Once Appellant realized the coverage was terminated, Appellant took steps to re-enroll in a Connector Health plan and appealed the termination (Testimony of Appellant, Exhibits 13, 16, 18).
6. On July 20, 2016, the appellant faxed to the Connector a copy of a utility bill as proof of residency in Massachusetts. The Connector verified the appellant's residency on July 29, 2016 (Exhibits 16 and 18, Testimony of Appellant).
7. Appellant was re-enrolled in a Connector Health plan in October, 2015 (Testimony of Appellant, Exhibits 13, 18).

**Analysis and Conclusions of Law:**

The issue on appeal is whether the Connector correctly determined on June 28, 2016 that the appellant was no longer eligible for a Health Connector plan because the appellant had not verified the appellant's eligibility by sending in proof of residency. Appellant appealed this determination. See Exhibits 3, 11.

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)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

To be eligible to purchase a plan through the Connector, an individual must reside within the Commonwealth. See 45 CFR 155.305 (a). After receiving an application, the Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by an applicant, including the applicant's residency status. See 45 CFR 155.315(d). When the Health Connector cannot verify the applicant's residency electronically, it requests verifying information from the applicant. See 45 CFR 155.315(f). If the applicant does not provide proper verifying information, the Health Connector will consider the information not verified.

In this matter, in November, 2014, the appellant was found to be eligible for a Health Connector plan. In April and in October, 2015, Appellant was asked by the Connector to submit proof of residency. In June, 2016, the Connector determined that the appellant was not eligible for Health Connector coverage because of the appellant's failure to verify residency and that the appellant's coverage would end at the end of June, 2016. See Exhibits 7, 8, 10, and 11. Appellant testified that Appellant did not open mail, but relied upon someone else to do this. Appellant also testified that proof of residency was sent to the Connector in July, 2016, after the coverage was already terminated. See Exhibits 16 and 18.

What is at issue here is whether the original determination to terminate Appellant's Health Connector coverage made by the Connector was correct. The determination was based upon the fact that the appellant did not submit proof of residency as the Connector requested in April and October, 2015. Since the Connector's determination was based the appellant's failure to provide proof of residency, the determination is upheld. See 45 Code of Federal Regulations 155.315 and 45 CFR 155.305(a).

Since the appellant contacted Customer Service and submitted proof of residency, the appellant has been notified that Appellant may re-enroll in a Health Connector plan. Appellant has re-enrolled.

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

**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

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

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

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

**Hearing Date:** November 28, 2016

**Decision Date:** December 28, 2016

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

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

**Original Action Taken By the Connector:** On September 28, 2016, the Connector determined Appellants to be eligible to purchase a Health ConnectorCare plan with an advance premium tax credit.

**Hearing Record:** One of the appellants appeared at the hearing which was held by telephone on November 28, 2016. The procedures to be followed during the hearing were reviewed with the appellant who was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 2, 2016 sent

to Appellant

Exhibit 3: Hearing Request Form signed and dated by Appellant on October 17, 2016 with attachment

Exhibit 4: Letter to Appellant from Connector Appeals Unit dated October 17, 2016 acknowledging receipt of request for hearing

Exhibit 5: Health Connector's Review of Appellants' application computer print-out

Exhibit 6: Health Connector's Results of Appellants' application computer print-out

Exhibit 7: Letter to Appellant dated September 28, 2016 from the Health Connector regarding eligibility for purchase of health insurance in 2016

Exhibit 8: Appellant's pay stubs for May 20, 2016, September 3, 2016, and November 12, 2016 with fax coversheet

**Findings of Fact:**

The record shows, and I so find:

1. Appellants applied to obtain health insurance through the Connector in September, 2016 (Exhibits 5, 6, 7).
2. On the appellants' application, Appellants attested that they had a biweekly income of \$1,479 in 2016 and a tax household size of three. This income amounts to 191.5% of the Federal Poverty Level based upon \$38,473 annual income for a tax household of three (Exhibits 5, 6, and Testimony of Appellant).
3. On September 28, 2016, the Connector determined, based upon the information on the appellants' application, that the appellants were eligible to purchase a Health ConnectorCare plan Type 2B with an advance premium tax credit (Exhibits 6, 7).
4. Appellants filed an appeal in October, 2016 because the projected income on their application was incorrect. Only one of the appellants is employed. The appellant only works during the academic year; Appellant does not receive pay during the summer months. The projected income should have been \$30,000 on the application (Exhibit 3, Testimony of Appellant).
5. As of the date of this hearing, the appellants were enrolled in a ConnectorCare plan (Testimony of Appellant).

**Analysis and Conclusions of Law:**

The issue on appeal is whether the Connector correctly determined on September 28, 2016 that the appellants were eligible to purchase a Health ConnectorCare plan with an advance premium tax credit. Appellant appealed this determination. See Exhibits 3, 5, 6, 7.

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

Appellants attested to a projected income of \$1,479 biweekly and a tax household size of three for 2016 on Appellants' application for health insurance through the Connector. Based upon this, the Connector determined that the appellants' income would be equal to \$38,473 or 191.5% of the Federal Poverty Level. The appellants were determined to be eligible to enroll in a ConnectorCare plan with an advance premium tax credit. See Exhibits 5, 6, and 7. Appellants filed an appeal because their projected income is actually \$30,000. Only one of the appellants is employed. This appellant works and is paid only during the academic year. See the testimony of the appellant which I find to be credible and Exhibit 3.

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

If the Appellants' income has changed, Appellants should call the Connector's Customer Service Center at 1-877-623-6765 to amend the application to show any change in the projected income.

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

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

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

Cc: Connector Appeals Unit

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** November 28, 2016

**Decision Date:** December 28, 2016

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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 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**

By final renewal notice dated October 17, 2016, the appellant was advised that she qualified for Health Connector Plans with coverage beginning on January 1, 2017. She was further advised that her 2017 monthly premium would be \$431.45 if she stayed enrolled in her same insurance plan. (Ex. 1) The appellant filed a Hearing Request Form dated October 19, 2016 (Ex. 2) in which she stated that her income was not accurate. The matter was referred to a hearing after receipt of the appeal. (Ex.8)

## **ISSUE**

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on October 17, 2016, pursuant to 45 C.F.R. section 155.305 and 956 CMR 12.05?

## **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 28, 2016, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Health Connector Notice of Eligibility Determination dated October 17, 2016 (8 pages)
- Ex. 2—Hearing Request Form dated October 19, 2016
- Ex. 2A—Letter from the appellant dated October 19, 2016 (8 pages)
- Ex. 3—Acknowledgment of Appeal dated October 26, 2016 (4 pages)
- Ex. 4—Appeals Unit outreach notes (2 pages)
- Ex. 5—Computer printout of Health Connector's Review of Application (3 pages)
- Ex. 6—Computer printout of Health Connector's Eligibility Determination Results for 2016 (2 pages)
- Ex. 7—Computer printout of Health Connector's Eligibility Determination Results for 2017 (2 pages)
- Ex. 8—Notice of Hearing
- Ex. 9—Affidavit of Connector representative

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 63-years-old and is single. She has a tax household size of one. (Testimony, Exs. 1, 5)
2. The appellant has been enrolled in subsidized health insurance through the Health Connector since 2007. (Testimony)
3. The appellant filed a tax return in 2015 and 2016, and intends to file one in 2017. (Testimony)
4. Based on information that was verified by the Health Connector on December 19, 2014, the appellant was notified that she qualified for ConnectorCare Plan Type 2B with an Advanced Premium Tax Credit (APTC) of \$350.00/month with eligibility beginning on January 1, 2016. She was further notified that her annual household

income was determined to be within 154.26% of the Federal Poverty Level (FPL). (Testimony, Ex. 6)

5. The appellant enrolled in a plan with coverage beginning on January 1, 2016, for which she has been paying \$43.00/month. (Testimony)
6. On her application, the appellant entered a projected yearly income of \$18,156.00, derived from two sources: social security income of \$10,668.00 and income from part-time work in a dental practice of \$7488.00. (Ex. 5)
7. Based on information that was verified by the Health Connector on August 27, 2016, the appellant was notified that she qualified for Health Connector Plans with eligibility beginning on January 1, 2017. She was further notified that her annual household income was determined to be within 452.05% of the FPL. (Ex. 7)
8. In its final renewal notice dated October 17, 2016, the appellant was notified that her 2017 monthly premium would be \$431.45 if she stayed enrolled in the same insurance plan. (Ex. 1)
9. The appellant's mother died in 2014, and after her house was sold in 2015, the appellant received a one-time distribution of approximately \$35,000.00 which she reported on her 2015 tax return. The appellant believes that the distribution artificially inflated the income used to determine her eligibility for subsidized insurance in 2017. (Testimony, Ex. 2A)
10. The appellant projects that her income in 2017 will decrease by approximately \$4000.00 due to the loss of her part-time job in the dental practice. She projects her yearly income will be approximately \$13,826.00. She does not believe that she can afford a monthly insurance premium of \$432.45 based on that income. (Testimony, Ex. 2A)

## **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 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. 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 does not dispute that she attested to a projected yearly income of \$18,156.00 on her application and received a one-time distribution of approximately

\$35,000.00 in 2015 following the sale of her mother's home. Prior to that distribution, she had qualified for subsidized health insurance. It appears that the Health Connector's October 17<sup>th</sup> determination was based on a redetermination of eligibility which included the 2015 distribution, and which placed her household income above 400% of the FPL and beyond the range of subsidies.

With respect to the income changes for 2017, the appellant was advised to either make the changes through her online account at **mahealthconnector.org** or to contact customer service at 1-877-623-6765.

Based on the evidence in the record, it is concluded that the Connector's determination regarding the appellant's eligibility for Health Connector Plans was correct at the time of the application, 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 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.

Cc: Connector Appeals Unit

## **Massachusetts Health Connector Appeals Unit**

**Appeal Decision:** The Appellant's appeal is denied. Based on the information it had at the time it made its decision, the Massachusetts Health Connector (Connector) appropriately found the Appellant ineligible for financial help in paying for her health insurance through the Connector for 2017, based on her failure to file a federal tax return form for 2015 reconciling tax credits received.

**Hearing Issue:** Whether the Massachusetts Health Connector (Connector) appropriately found the Appellant ineligible for financial help in paying for her health insurance through the Connector for 2017, based on her failure to file a federal tax return form for 2015, reconciling tax credits she received.

**Hearing Date:** December 6, 2016

**Decision Date:** December 27, 2016

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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 forth in Title 956 of the Code of Massachusetts Regulations, section 12.15.

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

In September 2016, the Connector determined that the Appellant did not qualify for help paying for coverage in a Health Connector Plan through tax credits or enrollment in a ConnectorCare plan since the Connector did not have evidence that the Appellant filed a federal tax return for 2015 to reconcile the tax credits she received in 2015.

### **ISSUE**

Whether the Connector appropriately found the Appellant ineligible for financial help in paying for her health insurance through the Connector for 2017, based on her failure to file a federal tax return form for 2015, reconciling the Advance Premium Tax Credits received.

## **HEARING RECORD**

The Appellant appointed a representative in the within matter. The representative (Representative) appeared at the hearing; the Appellant was not present. The hearing was held by telephone on December 6, 2016. Testimony was recorded electronically. The hearing record consists of the Representative's testimony and the following documents, which were admitted into evidence.

- Exhibit 1: Affidavit of Record Verification
- Exhibit 2: Letter from the Connector to the Appellant dated 10/18/2016, 'Time to Renew Coverage'
- Exhibit 3: Appellant's Hearing Request Form dated 11/7/2016 with appointment of a Representative
- Exhibit 4: Letter from the Health Connector Appeals Unit (Appeals Unit) to the Appellant dated 11/8/2016, acknowledging her appeal
- Exhibit 5: E-mail from the Appeals Unit to the Appellant's Representative dated 11/8/2016
- Exhibit 6: E-mail from the Appellant's Representative to the Appeals Unit dated 11/8/2016
- Exhibit 7: Informal Dispute Resolution Notes
- Exhibit 8: Letter from the Internal Revenue Service to the Appellant dated 9/9/2016 regarding her failure to file a tax return in 2015
- Exhibit 9: Turbo Tax instructions for filing
- Exhibit 10: Appellant's 2015 Form 1040A
- Exhibit 11: Appellant's 2015 Form 8962
- Exhibit 12: Appellant's W-2 for 2015
- Exhibit 13: Appellant's 1099 HC
- Exhibit 14: Appellant's 2015 Form 1095-B with instructions
- Exhibit 15: Appellant's 2015 Form 1095-A
- Exhibit 16: Note from TurboTax
- Exhibit 17: Connector Computer Printout of Appellant's Application Summary
- Exhibit 18: Connector Computer Printout of Appellant's Application Results for 2016
- Exhibit 19: Connector Computer Printout of Appellant's Application Results for 2017
- Exhibit 20: TurboTax 'File by Mail Instructions' for 2015
- Exhibit 21: Transmission Journal
- Exhibit 22: Notice of Hearing dated 11/16/2016
- Exhibit 23: Open Enrollment Brochure

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was informed in a letter from the Connector dated October 18, 2016, that it was time to renew her health insurance coverage for 2017; and that for 2017, the Appellant was eligible to enroll in Health Connector Plans with no financial help. (Exhibit 2)
2. Appellant's 2017 Eligibility Results for Health Connector plans for 2017 had a verification date of September 29, 2016. (Exhibit 19)
3. The Appellant filed a 'Hearing Request Form' dated November 7, 2016. In this form the Appellant appointed an Appeal Representative. (Exhibit 2)
4. In her Hearing Request Form, the Appellant indicated that she qualified for tax help in paying for health insurance and that she was appealing the Connector's determination that she was not eligible. (Exhibit 2)
5. The Connector filed a 2015 Form 1095A with the IRS showing that the Appellant received \$2,370 in Advance Premium Tax Credits in 2015. (Exhibit 15)
6. The Appellant had not filed taxes in the past since her only income was not taxable. (Representative testimony and Exhibit 2)
7. In a letter dated September 9, 2016, from the Internal Revenue Service (IRS), the Appellant was informed that the IRS did not have a 2015 tax return from her reconciling the advance premium tax credits she received. She was told to file the return as soon as possible or she would not be eligible for financial assistance for Marketplace (Connector) health insurance for 2017. (Exhibit 8)
8. The Appellant filed her 2015 tax return with form 8962 (Premium Tax Credit), on October 17, 2016. (Representative testimony)
9. Based on the Appellant's Application Results for 2016 and 2017, the Connector determined that the Appellant's projected Modified Adjusted Gross Income was 183.52% of the Federal Poverty Level for 2016 and 181.82% of the Federal Poverty Level for 2017.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue in this appeal is whether the Connector correctly determined that the Appellant was eligible to enroll in Health Connector plans for 2017, without financial assistance. The Connector's determination was correct at the time it was made. The determination was based on the Appellant's failure to file a 2015 tax return with Form 8962 reconciling her Premium Tax Credit for 2015. The Connector's determination verification date was September 29, 2016. At that time, the Appellant had not filed her 2015 taxes, including 2015 Form 8962, with the IRS.

Pursuant to 45 CFR 155.305 (f) (4), the Connector may not "determine a tax filer eligible for advance payments of the premium tax credit if notified advance payments of the premium tax credit were made on behalf of the tax filer for a year for which tax data would be utilized for verification of household income and family size in accordance with § 155.320(c)(1)(i), and the tax filer did not comply with the requirement to file an income tax return for that year as required by 26 U.S.C. 6011, 6012, and implementing regulations and reconcile the advance payments of the

premium tax credit for that period.” Therefore, the Connector could not find the Appellant eligible for Advance Premium Tax Credits when it made its eligibility determination at the end of September 2016. Since eligibility for Advance Premium Tax Credits is a requirement for eligibility for ConnectorCare, the Connector also could not find her eligible for enrollment in ConnectorCare. 956 CMR 12.04 (1) (b).

Since the Appellant has now filed a 2015 tax return with Form 8962, she may want to contact the Connector and ask for a re-determination of her eligibility for financial help with her health insurance premiums.

## **ORDER**

The Appellant’s appeal is denied. The Connector appropriately determined in September 2016, that the Appellant was not eligible for financial assistance for Health Connector plans since she had not filed a 2015 tax return reconciling her Advance Premium Tax Credits.

## **NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

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

**Cc:** Connector Appeals Unit

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellant's eligibility for Health Connector plans based on residency

**Hearing Date:** January 20, 2017

**Decision Date:** January 25, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

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

On November 21, 2016, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was determined ineligible was because the Appellant was not a resident of Massachusetts

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on January 20, 2017. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 4, 2017 addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated December 29, 2016 acknowledging receipt of Appellant's Request for Hearing
- Exhibit 4: Hearing Request Form dated December 5, 2016
- Exhibit 5: Connector letter, dated November 21, 2016 denying Appellant's eligibility to obtain health insurance
- Exhibit 6: Review of Appellant's application
- Exhibit 7: Results of Appellant's application

Exhibit 8: Supporting documents from Appellant

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector on November 1, 2016 (Exhibit 7).
2. Appellant and family were found eligible for a Health Connector Plan 3B with Advance Premium Tax Credits on November 1, 2016 (Exhibit 7).
3. On November 21, 2016, Appellant received another letter from the Health Connector terminating Appellant's eligibility due to Appellant and family not living in Massachusetts (Testimony of Appellant).
4. On December 5, 2016, Appellant filed an Appeal, due to income, residency and qualifying event (Exhibit 5).
5. One of Appellant's children did not live in Massachusetts, but Appellant and other children were residents (Testimony of Appellant).
6. On December 30, 2016, Appellant provided updated information about the family members who were residents of Massachusetts (Exhibit 7).
7. On December 30, 2016, Appellant and the family members living in Massachusetts were determined eligible for a ConnectorCare Plan Type 3B with Advance Premium Tax Credit (Exhibit 7)

## ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied to obtain health insurance through the Health Connector on November 1, 2016. Appellant and family were found eligible for a Health Connector Plan 3B with Advance Premium Tax Credits on November 1, 2016. On November 21, 2016, Appellant received another letter from the Health Connector terminating Appellant's eligibility as of November 30, 2016, due to Appellant and family not living in Massachusetts. One of Appellant's children did not live in Massachusetts, but Appellant and other children were residents. On December 30, 2016, Appellant provided updated information about the family members who were residents of Massachusetts. Appellant and the family members living in Massachusetts were determined eligible for a ConnectorCare Plan Type 3B with Advance Premium Tax Credits on December 30, 2016. See Exhibits 4, 5, 6, 7 and 8 and Appellant's testimony, which I find to be credible.

Based upon the information given by the Appellant, the Appellant was found ineligible for Health Connector Plans based on residency. Under 45 CFR § 155.305(a)(3) and M.G.L. sec 176Q(1) and 956 CMR 12.08(1) only persons who are residents of Massachusetts are eligible for health insurance through the Massachusetts Health Connector. While the Appellant has now established residency for family members to be covered and is eligible for ConnectorCare Plan Type 3B, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans on November 21, 2016, based on the information provided by Appellant.

**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.

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Health Connector's termination of health insurance based on Appellant's withdrawal from the Health Connector.

**Hearing Date:** November 16, 2016

**Decision Date:** January 10, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On September 30, 2016 Appellant withdrew from Health Connector. The Health Connector determined that the Appellant was no longer eligible for ConnectorCare Plan 2A with Advance Premium Tax Credits of \$173.00.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was no longer eligible for ConnectorCare Plan 2A with Advance Premium Tax Credits , based on the Appellant withdrawing from the Helath Connector.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 16, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified. The Hearing was left open for the Health Connector to provide documents regarding Appellant's enrollment history for 2016.

Exhibit 1:      Health Connector notice of eligibility determination (6 pages, dated September 30, 2016)

- Exhibit 2: Appellant's appeal request form (2 pages dated October 18, 2016)
- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (5 pages, undated )
- Exhibit 4: Health Connector's Review Application Computer Print Out (7 pages, undated )
- Exhibit 5: Health Connector's printout from the AVV tool showing information from the application database for the Appellant
- Exhibit 6: Health Connector's Acknowledgement of Appeal (4 pages, dated October 25, 2016)
- Exhibit 7: Health Connector's Hearing Notice (5 pages, dated November 1, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 8: Appellant's 2016 Enrollment History

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant dis-enrolled from the Health Connector on September 30, 2016 (exhibit 1, Exhibit 3)
2. Appellant was previously found eligible for ConnectorCare Plan 2A with Advance Premium Tax Credits. On September 30, 2016, Appellant was notified that Appellant was not eligible for Health Connector plans because Appellant withdrew Appellant's application in a Health Connector plan. (Exhibit 1)
3. Appellant made no changes to the information on record. (Exhibit 1)
4. Appellant testified that Appellant inadvertently dis-enrolled from the Health Connector based on information that the Appellant received.
5. Appellant testified that Appellant does work. Appellant's income is projected to be \$19,968.00 in 2017. (Exhibit 3)
6. On October 18, 2016, Appellant filed for an appeal, based on Appellant's income. (Exhibit 2).
7. Appellant has since reapplied for subsidized ConnectorCare Plans and is eligible for ConnectorCare Plan 2A with Advanced Premium Tax Credits.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 45 CFR § 155.430((b)(1), 956 CMR s. 12.11(6) the Exchange must permit an enrollee to terminate his or her coverage. Appellant applied for health insurance through the Connector and Appellant was found eligible for Connector Care Plan 2A with Advance Premium Tax Credits. Appellant voluntarily dis-enrolled from the Health Connector on September 30, 2016. Appellant was informed that if Appellant's information had changed that Appellant should update Appellant's information. Appellant did update Appellant's information and has currently been enrolled in ConnectorCare Plan 2A with Advanced Premium Tax Credits.

The Connector made the correct determination based upon the information supplied by Appellant.

## **ORDER**

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

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

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

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Cc:      Connector Appeals Unit

**ADDENDUM**

# **Massachusetts Health Connector Appeals Unit**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** November 29, 2016

**Decision Date:** January 2, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

Appellant submitted an application for subsidized health insurance. The Health Connector determined that the Appellant was eligible for Health Connector plans with Advanced Premium Tax Credits.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies other than the Advanced Premium Tax Credits, based on the information provided on the application.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 29, 2016. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

- Exhibit 1: Health Connector notice of eligibility determination (10 pages, dated September 21, 2016)
- Exhibit 2: Appellant's appeal request form (3 pages dated October 20, 2016)
- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (2 pages, undated )
- Exhibit 4: Health Connector's Review Application Computer Print Out (3 pages, undated )
- Exhibit 5: Health Connector's Acknowledgement of Appeal (4 pages, dated October 28, 2016)
- Exhibit 6: Health Connector's Hearing Notice (5 pages, dated November 10, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 8: Member's Healthcare History

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 51 year old single person, who applied for subsidized health insurance through the Health Connector. (Exhibit 1, Exhibit 3, Exhibit 4)
2. The Appellant has a tax household of one. ( Exhibit 1, Exhibit 3, Exhibit 4)
3. On his application the Appellant entered a revised projected household income of \$36,223.00.
4. Appellant testified that he does work.
5. Appellant testified that the household income is what he thinks that he will earn in this year.
6. The Health Connector found that the Appellant's income placed him at 304.91% of the Federal Poverty Level (FPL). Appellant was eligible for Health Connector Plans, and he will therefore have access to insurance for a person who is at the Appellant's FPL%, which is 304.91%. (Exhibit 1, Exhibit 3)
7. The Health Connector correctly determined found that the Appellant was eligible for Health Connector plans.
8. The Appellant stated that he has not had Health insurance for fifteen years but was laid off from work last year and was found eligible for Mass Health until October 2016.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on a projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. In this case, the issue presented was whether the income determination was correct, and based on the income determination, the APTC amount and any additional state subsidy was accurate. Based upon the information provided by the Appellant in his application, which was that his projected income would be \$35,223.00 and his FPL was 304.91%, the determination of the Connector regarding eligibility for APTC and the Massachusetts subsidy 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. 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.

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Cc: Connector Appeals Unit

**ADDENDUM**

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied the Connector's determination of Appellant's eligibility for subsidies is affirmed

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

**Hearing Date:** December 5, 2016

**Decision Date:** January 2, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

On September 4, 2016 a determination was made based on Appellant's updated application for subsidized health insurance for coverage beginning on January 1, 2017. The Health Connector determined Appellant to be eligible for a ConnectorCare Plan Type 3B with Advance Premium Tax Credits.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for a ConnectorCare Plan Type 3B with Advance Premium Tax Credits based on the information provided on the updated application.

## **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on December 5, 2016. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 16, 2016 addressed to Appellant
- Exhibit 3: Acknowledgement letter from Health Connector
- Exhibit 4: Hearing Request Form signed by Appellant on October 26, 2016
- Exhibit 5: Eligibility Letter dated September 4, 2016
- Exhibit 6: Results of Appellant's Application
- Exhibit 7: Review of Appellant's Application

## **FINDINGS OF FACT**

The record shows, and I so find:

- 1. In 2016, Appellant had been covered by a ConnectorCare Plan Type 2B with Advance Premium Tax Credit (Testimony of Appellant and Exhibits 5, 6 and 7).
- 2. On September 4, 2016, Appellant was sent a letter regarding coverage for 2017.
- 3. The September 4, 2016 letter instructed Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from other sources to update the information. (Exhibit 5).
- 5. . On September 4, 2016, Appellant was notified by the Connector that Appellant was eligible for a ConnectorCare Plan Type 3B with an Advance Premium Tax Credit (Exhibit 5).
- 6. Appellant's income had decreased in September 2016, but Appellant did not update the income with the Health Connector (Testimony of Appellant).
- 7. On October 26, 2016, Appellant filed for an appeal, based upon income (Exhibit 4).
- 8. Appellant had a lot of medical issues and needed many prescriptions (Exhibit 4 and 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.

In 2016, Appellant had been covered by a ConnectorCarePlan Type 2B with Advance Premium Tax Credits. On September 4, 2016, the Health Connector sent Appellant a letter regarding coverage for 2017. The September 4, 2016 instructed Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from other sources to update the information. Appellant was notified by the Connector that for 2017, Appellant was eligible for ConnectorCare Plan Type 3B with an Advance Premium Tax Credits. Appellant's income had decreased in September 2016, but Appellant did not update the income with the Health Connector. On October 26, 2016, Appellant filed for an appeal, based upon income, as Appellant's income had decreased and Appellant had a lot of medical issues and needed many prescriptions. See Exhibits 4, 5, 6 and 7 and Testimony of Appellant which I find to be credible.

The Connector made the correct determination based upon the information that was provided to the Connector at the time of Appellant's renewal for 2017. However, if Appellant has not already done so, Appellant should update the application with new projected income information.

## **ORDER**

Appellant's appeal is denied. The determination by the Connector is affirmed. However, if Appellant has not already done so, Appellant should update income information with the Health Connector.

## **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.

**ADDENDUM:** If Appellant expects the income to be different than the amount attested to on the application for health insurance through the Connector, Appellant should contact customer service at 1-877-623-6765 and correct the information. Appellant should note that Appellant should provide a very accurate statement of income and also should update the income amount

whenever Appellant's income changes. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.

## **FINAL APPEAL DECISION**

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

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility for subsidies based upon the information supplied by the Appellant.

**Hearing Date:** December 5, 2016

**Decision Date:** January 2, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

On August 26, 2016 a determination was made based on Appellant's updated application for subsidized health insurance. The Health Connector determined Appellant to be eligible for a Health Connector Plan with Advance Premium Tax Credits.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on December 5, 2016. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 16, 2016 addressed to Appellant
- Exhibit 3: Acknowledgement letter from Health Connector
- Exhibit 4: Hearing Request Form signed by Appellant on October 27, 2016
- Exhibit 5: Eligibility Letter dated October 17, 2016
- Exhibit 6: Results of Appellant's Application
- Exhibit 7: Review of Appellant's Application

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had been covered by subsidized health insurance in 2016 (Testimony of Appellant and Exhibit s 5, 6 and 7).
2. Appellant updated Appellant's income in August, 2016 to verify and renew Appellant's subsidized health insurance through the Health Connector (Exhibit 5).
3. On October 17, 2016, Appellant was notified by the Connector that Appellant was eligible for a Health Connector Plan with an Advance Premium Tax Credit (Exhibit 5).
4. On October 27, 2016, Appellant filed for an appeal, based upon income (Exhibit 4).
5. Appellant's new premium for the Health Connector plan was \$100 more per month than the same plan that had covered Appellant for most of 2016 (Testimony of Appellant).
6. Appellant's projected income may be less than reported on the renewal application (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.

Appellant had been covered by government subsidized health insurance in 2016. Appellant updated Appellant's income in August to verify and renew the government subsidized health insurance. On October 17, 2016, Appellant was notified that Appellant was eligible for a Health Connector Plan with an Advance Premium Tax Credit. On October 27, 2016, Appellant filed for an appeal, based upon income. According to the determination, Appellant's premium for the Health Connector plan that covered Appellant for most of 2016 had increased in price more than \$100 per month. Appellant's projected income may be less than reported on the renewal application. See Exhibits 5, 6 and 7 and Testimony of Appellant which I find to be credible.

The Connector made the correct determination based upon the information supplied by Appellant at the time of her application. However, if Appellant has not already done so, Appellant should update the application with new projected income information.

## **ORDER**

Appellant's appeal is denied. The determination by the Connector is affirmed. However, if Appellant has not already done so, Appellant should update income information with the Health Connector.

## **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.

**ADDENDUM:** If Appellant expects the income to be different than the amount attested to on the application for health insurance through the Connector, Appellant should contact customer service at 1-877-623-6765 and correct the information. If Appellant wishes to change plans, Appellant can also review the different plans that are available, keeping in mind that Open Enrollment for 2017 will end on January 31, 2017. Appellant should note that Appellant should provide a very accurate statement of income and also should update the income amount whenever Appellant's income changes. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** November 29, 2016

**Decision Date:** January 2, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

Appellant submitted an application for subsidized health insurance. The Health Connector determined that the Appellant was eligible for ConnectorCare Plan 3A with Advanced Premiums Tax Credits.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for subsidies based on Appellants income derived from Appellant's application and data from other sources.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 29, 2016. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

Exhibit 1: Health Connector notice of eligibility determination (8 pages, dated October 27, 2016)

Exhibit 2: Appellant's appeal request form (1 page undated )

- Exhibit 3: Health Connector's Eligibility Determination Results Computer Printout (5 pages, undated )
- Exhibit 4: Health Connector's Review Application Computer Print Out (5 pages, undated )
- Exhibit 5: Health Connector's Acknowledgement of Appeal (2 pages, dated October 31, 2016)
- Exhibit 6: Health Connector's Hearing Notice (5 pages, dated November 10, 2016)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 69 year old married person, who applied for subsidized health insurance through the Health Connector. (Exhibit 1, Exhibit 3, Exhibit 4)
2. The Appellant has a tax household of two. ( Exhibit 1, Exhibit 3, Exhibit 4)
3. On his application the Appellant entered a projected household income of \$24,318.00.
4. Appellant testified that the household income is what he thinks that they will earn in this year.
5. The Health Connector found that the Appellant's income placed him at 151.8% of the Federal Poverty Level (FPL). Appellant's income was verified with data from other sources and that data placed him at 230.92% of the Federal Poverty Level (FPL). Appellant was eligible for ConnectorCare Plan 3A. (Exhibit 1, Exhibit 3)
6. The Health Connector correctly determined found that the Appellant was eligible for ConnectorCare Plan 3A.
7. The Appellant stated that he had sold stock in 2016 and this might have inflated his income. Appellant was asked to re-attest to his income.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on a projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. In this case, the issue presented was whether the income determination was correct, and based on the income determination, the APTC amount and any additional state subsidy was accurate. Based upon the information provided by the Appellant, which was that his projected income would be \$24,318.00 and his FPL would be 151.8%. However the Connector received data derived from other data sources and his FPL was increased to 230.92%. The determination of the Connector regarding eligibility for APTC and the Massachusetts subsidy was correct.

## **ORDER**

The appeal is denied. The Appellant should contact the Health Connector, if Appellant has not already done so, and re-attest as to Appellant's projected income for 2017.

**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**

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** November 28, 2016

**Decision Date:** December 28, 2016

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### **AUTHORITY**

Applicants and Enrollees are entitled to a hearing 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.*, 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.

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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**

By notice dated October 12, 2016, the appellant was advised that he did not qualify for health insurance through the Health Connector because he had access to Medicare or was enrolled in Medicare. (Ex. 1) The appellant filed a Hearing Request Form which was received on October 31, 2016, (Ex. 2) in which he stated “necessity”. The matter was referred to a hearing after receipt of the appeal. (Ex.8)

### **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 October 12, 2016, pursuant to 42 U.S.C. 1395ss?

## **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 28, 2016, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Health Connector Notice of Eligibility Determination dated October 12, 2016 (6 pages)
- Ex. 2—Hearing Request Form received on October 31, 2016
- Ex. 3—Acknowledgment of Appeal dated November 1, 2016 (6 pages)
- Ex. 4—Appeals Unit Outreach Notes
- Ex. 5— Computer printout of Health Connector’s Review of Application (4 pages)
- Ex. 6— Computer printout of Health Connector’s Eligibility Determination Results (3 pages)
- Ex. 7—Computer printout of Health Connector’s “AVV” tool showing information from the application database for the appellant
- Ex. 8—Notice of Hearing (5 pages)
- Ex. 9—Affidavit of Connector representative

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 59-years-old and is married. (Testimony)
2. The appellant has had health insurance through Medicare for approximately two years. He has been a recipient of social security disability benefits for two-and-a-half years. He has secondary insurance coverage through MassHealth. (Testimony, Exs.1,6,7)
3. The appellant received a letter from MassHealth about his coverage and was confused as to whether he still had Medicare. (Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant does not dispute that he has health insurance through Medicare, but was confused about the status of his Medicare insurance due to a letter from

MassHealth. His testimony was corroborated by information provided to the Health Connector from the federal government which established that he has access to or is enrolled in Medicare. His enrollment in Medicare makes him ineligible to shop at the Connector for subsidized or unsubsidized insurance pursuant to the aforesaid regulation.

Based upon the foregoing, it is concluded that the Connector's determination regarding the appellant's eligibility for health insurance through the Health Connector was correct at the time of the application, 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 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.

Cc: Connector Appeals Unit

## **ADDENDUM**

If the appellant needs additional information, he is advised to contact the SHINE (Serving the Health Insurance Needs of Everyone) program at 1-800-243-4636 for free health insurance information, counseling and assistance for Massachusetts residents with Medicare.

**Connector Appeals Unit**  
**FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** November 28, 2016

**Decision Date:** December 30, 2016

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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 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**

By notice dated October 18, 2016, the appellant was advised that she qualified for Health Connector Plans with eligibility beginning on January 1, 2017. She was further notified that her annual household income was within 420.88% of the Federal Poverty Level (FPL). (Exs. 1,7) The appellant filed a Hearing Request Form dated October 27, 2016 (Ex. 2) in which she stated that her daughter's primary residence is with her, but the daughter is claimed as a dependent by the father because he pays her child support. The appellant further stated that her family size and FPL are inaccurate. The matter was referred to a hearing after receipt of the appeal. (Ex.8)

**ISSUE**

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on October 18, 2016, pursuant to 45 C.F.R. section 155.305 and 956 CMR 12.05?

## **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 28, 2016, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Health Connector Notice of Eligibility Determination dated October 18, 2016 (8 pages)
- Ex. 2—Hearing Request Form dated October 27, 2016
- Ex. 3—Acknowledgment of Appeal dated November 1, 2016 (5 pages)
- Ex. 4—Appeals Unit outreach notes (2 pages)
- Ex. 4A—Customer Service outreach notes (3 pages)
- Ex. 5—Computer printout of Health Connector's Review of Application (3 pages)
- Ex. 6—Computer printout of Health Connector's Eligibility Determination Results for 2016 (2 pages)
- Ex. 7—Computer printout of Health Connector's Eligibility Determination Results for 2017 (2 pages)
- Ex. 8—Notice of Hearing (5 pages)
- Ex. 9—Affidavit of Connector representative

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

- Ex. 10—Commonwealth of Massachusetts Decree and Order of Appointment of Guardian for an Incapacitated Person dated November 1, 2013 (3 pages)
- Ex. 11—Article III and Article IV of Divorce Decree
- Ex. 12—2015 Form 1040 including Schedules A and B (6 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 56-years-old. She has a tax household size of one. (Testimony, Exs. 1, 4A,5)
2. The appellant has a 21-year-old daughter who is permanently disabled. The appellant and the daughter's father were appointed as guardians for the daughter by Decree and Order dated November 1, 2013. (Testimony, Ex. 10)

3. Pursuant to the terms of the appellant's divorce decree, the daughter's primary residence is with the mother. (Testimony, Ex. 11)
4. On the appellant's 2015 Individual Income Tax Return (Form 1040), she listed her filing status as "head of household" with a qualifying person. The daughter's name is listed after the following instruction: "If the qualifying person is a child, but not your dependent, enter the child's name." (Testimony, Ex. 12)
5. On the appellant's 2015 Form 1040, she claimed a number of medical expenses in connection with her daughter's care on Schedule A including: medicine and drugs, pool maintenance, and propane for the pool. Part of the daughter's in-home therapy requires use of a pool. (Testimony, Ex. 12))
6. The appellant's daughter is claimed as a dependent by her father. (Testimony, Ex. 2)
7. The appellant's daughter has had MassHealth Standard insurance since February, 2011. (Testimony, Ex. 4A)
8. The appellant believes that her daughter should be included in her tax household. (Testimony)
9. The appellant's monthly premium for Health Connector plans in 2016 was \$542.00. Her annual household income was determined to be within 424.81% of the FPL. The monthly premium for the same plan in 2017 will be \$721.33. Her annual household income was determined to be within 420.88% of the FPL. (Testimony, Exs. 6,7)
10. On her application, the appellant projected her annual modified adjusted income (MAGI) to be \$50,000.00. At the time of the instant hearing, she did not report any changes to that amount. (Testimony, Ex. 5)

## **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 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. 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 does not dispute the projected MAGI amount for 2017 that she attested to on her application, nor does she argue that there are any changes to that amount.

She maintains, however, that her 21-year-old daughter should be included in her tax household based on several factors including the daughter's primary residence with her, the care she provides for the daughter and the expenses she incurs which she takes as deductions on her tax return. She does not dispute that the daughter is claimed as a dependent by the father. Indeed, although the appellant's filing status on her 2015 Form 1040 is "head of household", the daughter is listed as a qualifying person, but **not** as a dependent. In general, eligibility for subsidized insurance is based on household income and family size, and household composition is primarily determined by the tax relationship between the individuals. Since the daughter is claimed as a dependent by the father, she cannot be regarded as a member of the appellant's tax household, and cannot therefore be considered in the eligibility determination.

Based on the evidence in the record, it is concluded that the Connector's determination regarding the appellant's eligibility for Health Connector Plans was correct at the time of the application, 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 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.

Cc: Connector Appeals Unit

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** November 28, 2016

**Decision Date:** December 29, 2016

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### **AUTHORITY**

Applicants and Enrollees are entitled to a hearing 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.*, 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.

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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**

By notice dated October 16, 2016, the appellant was advised that he did not qualify for health insurance through the Health Connector because he had access to Medicare or was enrolled in Medicare. (Ex. 1) The appellant filed a Hearing Request Form dated October 28, 2016, (Ex. 2) in which he stated he stated in part that he will be eligible for Medicare in January, 2017, that he is 61-years-old and is disabled. The matter was referred to a hearing after receipt of the appeal. (Ex.9)

## **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 October 16, 2016, pursuant to 42 U.S.C. 1395ss?

## **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 28, 2016, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Health Connector Notice of Eligibility Determination dated October 16, 2016 (6 pages)
- Ex. 2—Hearing Request Form dated October 28, 2016
- Ex. 3—Acknowledgment of Appeal dated November 1, 2016 (6 pages)
- Ex. 4—Appeals Unit Outreach Notes
- Ex. 5— Computer printout of Health Connector's Review of Application (3 pages)
- Ex. 6— Computer printout of Health Connector's Eligibility Determination Results for 2016 (3 pages)
- Ex. 7—Computer printout of Health Connector's Eligibility Determination Results for 2017 (2 pages)
- Ex. 8—Computer printout of Health Connector's "AVV" tool showing information from the application database for the appellant
- Ex. 9—Notice of Hearing (5 pages)
- Ex. 10—Affidavit of Connector representative

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 61-years-old and is single. (Testimony)
2. The appellant lost his employer provided health insurance in 2014 and became eligible for insurance through MassHealth. He was enrolled from March, 2014, until his coverage was terminated in October, 2016. After making an inquiry with MassHealth, he was advised that the reason for the termination was due to his access to Medicare. (Testimony)
3. The appellant will be eligible for Medicare on or about January 1, 2017. (Testimony)

4. The appellant is disabled and has been receiving social security disability income for approximately two years. He is aware of his Medicare eligibility date in January, 2017, and does not understand why his MassHealth insurance did not continue until then. (Testimony)
5. The appellant submitted an application to the Health Connector on May 23, 2016, and was determined to be eligible for ConnectorCare Plan Type 3A with a monthly Advanced Premium Tax Credit of \$335.00, with an effective date of June 1, 2016. He did not enroll in that coverage. (Ex. 6)
6. The appellant submitted a subsequent application to the Health Connector on September 12, 2016, and was determined ineligible for any program. (Ex. 7)<sup>1</sup>

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant does not dispute that he will be eligible for health insurance through Medicare in January, 2017, but was confused as to why his MassHealth insurance was terminated prior to then. His testimony was corroborated by information provided to the Health Connector from the federal government which established that he has access to or is enrolled in Medicare. His enrollment in Medicare makes him ineligible to shop at the Connector for subsidized or unsubsidized insurance pursuant to the aforesaid regulation.

Based upon the foregoing, it is concluded that the Connector's determination regarding the appellant's eligibility for health insurance through the Health Connector was correct at the time of the application, 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

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<sup>1</sup> It is not known why the appellant applied to the Health Connector for health insurance in May and September, 2016, given his then coverage with MassHealth.

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.

Cc: Connector Appeals Unit

## **ADDENDUM**

The appellant was advised to contact MassHealth customer service at 1-800-841-2900 to determine the reason for termination of his coverage prior to January, 2017. He was also advised that if he needs additional information, he should contact the SHINE (Serving the Health Insurance Needs of Everyone) program at 1-800-243-4636 for free health insurance information, counseling and assistance for Massachusetts residents with Medicare.

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** December 22, 2016

**Decision Date:** January 19, 2017

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#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

Eligible for ConnectorCare Plans type 3A with Advance Premium Tax Credit.

#### **ISSUE**

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

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 22, 2016. The hearing was recorded. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification and procedures (2 pages);
- Exhibit 2: Notice of Hearing (11-28-16) (6 pages);
- Exhibit 3: Outreach notes (1 page);
- Exhibit 4: Acknowledgment of Appeal (11-7-16) (6 pages);
- Exhibit 5: Hearing Request Form (11-3-16) (1 page);
- Exhibit 6: Final Renewal letter (10-18-16) (8 pages); and
- Exhibit 7: Information from application and re results (10 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant filed an application for subsidized health insurance through the Health Connector (Exhibits 6, 7).
2. The Appellant has a tax household size of one (Exhibit 7).
3. The amount of projected yearly modified adjusted gross income (MAGI) that was listed on the application for Appellant was \$21,196.00 (Exhibit 7 and Testimony). Based upon the information provided by Appellant, the Federal Poverty Level (FPL) would be approximately 178.42%.
4. Based upon the information available to the Connector, the Appellant was determined to be at 226.18% percent of the Federal Poverty Level (FPL) (Exhibit 7).
5. Appellant was determined eligible for ConnectorCare plan Type 3A, with Advanced Premium Tax Credits (Exhibit 6).
6. Appellant indicated that his income was less than determined by the Connector, but that his brother had recently died and things are uncertain about what his income will be. (Testimony).
7. The determination of the Connector was correct based upon the information available to the Connector.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In this case, the FPL is under 300%, and, therefore, Appellant is eligible for the additional Massachusetts subsidy, as well as the Advance Premium Tax Credits.

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

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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**ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2015 from the federal government will be reconciled when you file your taxes in 2016. This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2015 (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2015 (meaning the modified adjusted gross income on file with was us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2015 will be paid to you when you file your taxes in 2016.

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

## **Massachusetts Health Connector Appeals Unit**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** December 6, 2016

**Decision Date:** December 30, 2016

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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, 2016, the Health Connector determined that the Appellant continued to be eligible for ConnectorCare Plan Type 2B in 2017 and could renew her current health plan, Neighborhood Health Plan ConnectorCare, for 2017.

#### **ISSUE**

Whether the Health Connector correctly determined that the Appellant continued to be eligible for ConnectorCare Plan Type 2B in 2017 and could renew her current health plan, or enroll in a new plan, for 2017.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 6, 2016.

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

Exhibit 1:	Affidavit
Exhibit 2:	10/18/16 Final Renewal Notice (8 pages)
Exhibit 3:	11/8/16 Appeal (12 pages)
Exhibit 4:	11/8/16 Appeal Ack. (3 pages)
Exhibit 5:	11/8/16 2016 Elig Results et al. (5 pages)
Exhibit 6:	11/8/16 2017 Elig Results et al. (4 pages)
Exhibit 7:	11/16/16 Hearing Notice (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 18, 2016, the Health Connector issued a Final Renewal Notice to the Appellant, informing her that it was time to renew her insurance coverage for 2017; that she continued to be eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit in 2017; and, that she could keep her current health plan, Neighborhood Health Plan ConnectorCare, or enroll in another ConnectorCare plan Type 2B available to her. The Notice further stated that the Appellant's 2017 Maximum APTC was \$305 monthly and that her 2017 monthly premium for her current plan, reduced by her \$305 APTC, would be \$161. (Exhibit 2)
2. On November 8, 2016, the Appellant appealed the Connector's 10/18/16 determination, underlining "Income" on the appeal form as the reason for her appeal and, in the explanation section, stating: "I had a \$200.00 rent increase and my premium has gone up \$98 monthly." (Exhibit 3)
3. On November 8, 2016, the Appeals Unit sent a letter, acknowledging receipt of the appeal, informed the Appellant of open enrollment, and referred the Appellant to her on-line account or to Customer Service to find out about other options for coverage. (Exhibits 3 and 4)
4. During 2016, the Appellant's rent went from \$1,000 monthly to \$1,200 monthly. (Exhibit 3; Appellant's testimony)
5. The Appellant's monthly premium for health insurance in 2016 has been \$63. (Exhibit 3)
6. The 10/18/16 Final Renewal Notice included a list of four other 2017 ConnectorCare plans available to the Appellant with lower-cost monthly premiums ranging from \$43 to \$107. The Appellant checked them out and found that none of her current doctors was in the provider network of any of these plans. The Appellant has a long-term relationship with her current doctors and wants to continue receiving care through them. (Appellant's testimony; Exhibits 2 and 3)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant would like to renew her current ConnectorCare plan in 2017, but she cannot afford the nearly \$100 increase in her monthly premium for 2017. While I am very sympathetic to the Appellant's concerns about the monthly premium for her current coverage rising significantly in 2017 (up over 250% from 2016) and about losing the continuity of care with her current doctors, the \$161 monthly premium is already much lower than the actual cost of the plan (as it has been reduced by the Appellant's \$305 APTC federal subsidy). Moreover, there are four other health plans available to the Appellant with significantly lower monthly premiums (two under \$45) and all with the same ConnectorCare benefits and co-pays as her current plan.

Therefore, I conclude that the Health Connector correctly determined that the Appellant continued to be eligible for ConnectorCare Plan Type 2B in 2017 and could renew her current health plan, or enroll in a new plan, for 2017, under 956 CMR 12.00.

## **ORDER**

The appeal is denied.

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

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

**Addendum:** Although the Appellant indicated at the hearing that she has already spent time “shopping” the four lower-cost plans and checking out their provider networks, I encourage the Appellant to check again with her medical providers and the lower-cost plans to see if there is some way that she can smooth the transition to a lower-cost plan.

Cc:      Health Connector Appeals Unit

# **Massachusetts Health Connector Appeals Unit**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** December 22, 2016

**Decision Date:** January 19, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

Eligible for Health Connector Plans with Advance Premium Tax Credit.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 22, 2016. The hearing was recorded. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification and procedures (2 pages);
- Exhibit 2: Notice of Hearing (11-28-16) (6 pages);
- Exhibit 3: Outreach notes (1 page);
- Exhibit 4: Acknowledgment of Appeal (11-14-16) (6 pages);

Exhibit 5: Hearing Request Form (11-9-16) (with documents) (3 pages);  
Exhibit 6: Final Renewal letter (10-27-16) (8 pages);  
Exhibit 7: Information from application and re results (10 pages); and  
Exhibit 8: Manual Verified Income Information (2 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant filed an application for subsidized health insurance through the Health Connector (Exhibits 6, 7).
2. The Appellant has a tax household size of one (Exhibit 7).
3. The amount of projected yearly modified adjusted gross income (MAGI) that was listed on the application for Appellant was \$42,000.00 (Exhibits 7 and 8 and Testimony). Based upon the information provided by Appellant, the Federal Poverty Level (FPL) would be 353.54%.
4. Based upon the information available to the Connector, the Appellant's income was manually verified to be \$41,600.00 (Exhibit 8).
5. Appellant was determined eligible for Health Connector Plans, with Advanced Premium Tax Credits (Exhibit 6).
6. The determination of the Connector was correct based upon the information available to the Connector.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In this case, the FPL is over 300% but under 400%, and, therefore, Appellant is eligible for the Health Connector Plans with the Advance Premium Tax Credits. Appellant is not eligible for ConnectorCare plans with the additional Massachusetts subsidy because Appellant is over 300% FPL. In this case, the issue presented was whether the determination of eligibility was correct based upon the information provided and available to the Connector. Based upon the information available to the Connector, the determination was correct.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2015 from the federal government will be reconciled when you file your taxes in 2016. This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2015 (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2015 (meaning the modified adjusted gross income on file with was us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2015 will be paid to you when you file your taxes in 2016.

**Massachusetts Health Connector Appeals Unit**  
**FINAL APPEAL DECISION**

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

**Hearing Issue:** Eligibility for ConnectorCare, based on failure to reconcile prior tax credits

**Hearing Date:** January 5, 2017

**Decision Date:** January 10, 2017

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**AUTHORITY**

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

**JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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 October 27, 2016 Appellant was determined eligible for Health Connector plans without subsidies. The determination was based on the Appellant's failure to verify income.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 05, 2017. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit notice of Hearing with attachments dated December 5, 2016.
- Exhibit 3: Appellant's appeal request form received by the Health Connector on November 14, 2016 with Informal Dispute Resolution notes attached.

- Exhibit 4: Health Connector's notice of eligibility determination for 2017 dated October 27, 2016.
- Exhibit 5: Health Connector's Results Computer Print Out, showing program determination for 2017 and an Application Summary for the application submitted on August 27, 2016.
- Exhibit 6: Health Connector's Results Computer Print Out, showing program determination for 2015.

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a single individual, who plans to file a federal income tax return as a single individual for tax year 2017 (Appellant testimony).
2. The Appellant expects to make less than \$10,000 in 2017 (Exhibit 3, Appellant Testimony)
3. The Appellant is not eligible for employer-sponsored insurance that meets federal affordability standards (Exhibit 5, Appellant Testimony).
4. The Appellant is not eligible for government-sponsored insurance (Exhibit 5, Appellant Testimony).
5. The Appellant was enrolled in ConnectorCare in 2015 and received advance premium tax credits in 2015 (Exhibit 6, Appellant Testimony).
6. The Appellant did not file a federal income tax return for 2015, and did not reconcile receipt of advance premium tax credits received in 2015, because the Appellant was not otherwise required to file an income tax return (Exhibit 3, Appellant Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

On October 27, 2016, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant disputes this determination citing the fact that Appellant will make less than \$10,000 in 2017 and is otherwise eligible for subsidies.

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

In 2015, the Appellant was eligible for ConnectorCare, and received APTC. However, the Appellant did not file an income tax return for 2015, because the Appellant was not otherwise required to file an income tax return. Because the Appellant did not reconcile receipt of APTC from a prior year, the Appellant is not eligible to receive APTC in 2017. 45 CFR § 155.305(f)(4).

The Appellant should comply with the requirement to reconcile receipt of 2015 premium tax credits by filing a 2015 federal income tax return, including Form 8962. The Appellant will need to use Form 1095A

in order to complete Form 8962. If the Appellant does not have their Form 1095A, and because the Appellant received APTC in 2015 through the Health Connector, the Appellant should contact the Health Connector's customer service center to request a duplicate 1095A form. Once the Appellant complies with the requirement to reconcile 2015 APTC, the Appellant can report a change to their 2017 application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2016 federal income tax return with Form 8962, and reconciling any APTC received in 2016.

## **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.

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 2017 from the federal government will be reconciled when you file your 2017 federal income tax return (usually in the spring of 2018). This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2017 (meaning the modified adjusted gross income on 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 2017 (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 2017 will be paid to you when you file your 2017 federal income tax return.

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** January 10, 2017                   **Decision Date:** January 19, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

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

On October 18, 2016, Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant had access to affordable employer sponsored insurance that met minimum value standards.

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on January 10, 2017. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 15, 2017

- addressed to Appellant
- Exhibit 3: Hearing Request Form dated November 14, 2016
- Exhibit 4: Connector Appeals Unit letter dated November 18, 2016 acknowledging receipt of Appellant's Request for Hearing
- Exhibit 5: Connector letter, dated October 16, 2016, denying Appellant's eligibility to obtain subsidized health insurance
- Exhibit 6: Review of Appellant's application
- Exhibit 7: Results of Appellant's application showing Appellant not eligible

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had had a ConnectorCare Plan Type 3A with Advance Premium Tax Credit during 2016 (Exhibit 6 and Testimony of Appellant).
2. In August 2016, Appellant was sent a letter from the Health Connector asking for review of Appellant's information in order to determine eligibility for a 2017 plan (Exhibit 6).
3. In October 2016, Appellant updated the information with the Health Connector (Exhibit 6 and 7)
4. Appellant was determined eligible for Health Connector plans without subsidies on October 18, 2016 (Exhibits 5, 6 and 7).
5. Appellant was not found eligible for subsidies because the updates made by Appellant indicated that Appellant had access to employer sponsored health insurance that meets minimum essential coverage standards (Exhibits 5, 6 and 7).
6. Appellant appealed the Connector's action on November 14, 2016, stating that the premium for the employer sponsored health insurance was unaffordable (Exhibit 3).
7. Appellant testified that the cost of the employer sponsored health insurance was very high, but did not know the current amount that it would cost (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant had been covered by a ConnectorCare Plan Type 3A in 2016. In August 2016, Appellant was sent a letter asking for review of Appellant's information in order to determine eligibility for a 2017 plan. Appellant updated the information with the Health Connector and on October 18, 2016, the Connector determined that Appellant was eligible for Health Connector plans without subsidies. Appellant was denied subsidies because the updates made by Appellant stated that Appellant had access to employer sponsored insurance that met minimum value standards. Appellant appealed the Connector's denial on November 14, 2016, stating that the premium for the employer sponsored health insurance was unaffordable. Appellant testified that the cost of the employer sponsored health insurance was very high but Appellant did not

know the current amount that it would cost. See Testimony of Appellant which I find to be credible and Exhibits 3, 5, 6 and 7.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2016 if the employee's required contribution for self-only coverage is 9.66 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

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

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

**ORDER:** The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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 contact information for customer service at the Health Connector (1-877-623-6765) and encouraged to update the application with information regarding the cost of the employer sponsored insurance as soon as possible.

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied The Connector's determination of Appellant's eligibility for subsidies for 2017 is affirmed

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility for subsidies for 2017 based on income

**Hearing Date:** January 20, 2017

**Decision Date:** January 25, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

On October 27, 2016 a determination was made finding Appellant eligible for a Health Connector Plan with Advance Premium Tax Credit for 2017

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit for 2017

### **HEARING RECORD**

Appellant appeared at the hearing which was held on January 20, 2017. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 21, 2016

addressed to Appellant

- Exhibit 3: Acknowledgement letter from Health Connector dated November 28, 2016
- Exhibit 4: Hearing Request Form dated October 27, 2016
- Exhibit 5: Eligibility Letters dated August 28, 2016 and October 27, 2016
- Exhibit 6: Results of Appellant's Application
- Exhibit 7: Review of Appellant's Application and new determination

## **FINDINGS OF FACT**

The record shows, and I so find:

1. In 2016, Appellant had been covered by a ConnectorCare Plan Type 2B with Advance Premium Tax Credit (Testimony of Appellant and Exhibits 6 and 7).
2. On August 28, 2016, Appellant was sent a Preliminary Eligibility Determination for 2017, instructing Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from other sources to update the information (Exhibit 5).
3. Appellant did not respond the Preliminary Eligibility Determination of August 28, 2016 (Exhibit 6).
4. On October 27, 2016, Appellant was notified by the Connector that for 2017, Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit but not a ConnectorCare Plan (Exhibit 5).
5. Appellant's October 27, 2016 determination was based on data from other sources (Exhibit 6)
6. Appellant had not updated the information with the Health Connector prior to October 27, 2016 (Testimony of Appellant).
7. On October 27, 2016, Appellant filed for an appeal, based upon income (Exhibit 4).
8. On December 13, 2016, Appellant updated the projected income and a new eligibility determination was made finding Appellant eligible for a ConnectorCare Plan Type 2B with Advance Premium Tax Credit (Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 USC § 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. At the time of application or renewal, the Exchange must verify eligibility by requesting information from electronic data sources. Applicants are also required to attest to family size and projected annual household income and to provide verifying documentation. 45 CFR 155.320 (c)(1)(i) and (c)(3). 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), and 155.320(c)(3)(i)(D).

In 2016, Appellant had been covered by a ConnectorCarePlan Type 2B with Advance Premium Tax Credit. On August 28, 2016, the Health Connector sent Appellant a Preliminary Eligibility Determination

regarding coverage for 2017. The August 28, 2016 letter instructed Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from other sources to verify the information. Appellant did not respond to the August 28, 2016 letter. On October 27, 2016, Appellant was notified by the Connector that for 2017, Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit and was not eligible for a ConnectorCare plan. The new eligibility determination was based on electronic data from other sources. Appellant had not updated the information with the Health Connector prior to October 27, 2016. On October 27, 2016, Appellant filed for an appeal, based upon income. In December 2016, Appellant updated the projected income and a new eligibility determination was made. See Exhibits 4, 5, 6 and 7 and Testimony of Appellant which I find to be credible.

The Connector made the correct determination based upon the information that was provided to the Connector at the time of Appellant's renewal for 2017 and Appellant's failure to update and attest to information. See 45 CFR 155.320 (c)(1)(i) and (c)(3) and sections 155.315 (f) (5) .

## **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.

**ADDENDUM:** Appellant was encouraged to contact customer service at 1-877-623-6765 or to go to a walk in center immediately to verify enrollment and also to send in any requested documents immediately. Appellant could also review other plans with different premiums and different providers, but if desired, any change needed to be made during open enrollment, which ends on January 31. 2017. Appellant should note that Appellant should provide a very accurate statement of income and also should update the income amount whenever Appellant's income changes. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied The Connector's determination of Appellant's eligibility for subsidies for 2017 is affirmed

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility for subsidies for 2017 based on income

**Hearing Date:** January 10, 2017

**Decision Date:** January 23, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

On October 27, 2016 a determination was made denying Appellant eligibility for subsidized health insurance for coverage beginning on January 1, 2017. The Health Connector determined Appellant to be eligible for a Health Connector Plan without subsidies.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plans without subsidies for 2017.

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on January 10, 2017. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

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

- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 15, 2016 addressed to Appellant
- Exhibit 3: Acknowledgement letter from Health Connector dated December 12, 2016
- Exhibit 4: Hearing Request Form signed by Appellant on November 28, 2016
- Exhibit 5: Eligibility Letters dated August 28, 2016 and October 27, 2016
- Exhibit 6: Results of Appellant's Application
- Exhibit 7: Review of Appellant's Application

## **FINDINGS OF FACT**

The record shows, and I so find:

1. In 2016, Appellant had been covered by a ConnectorCare Plan Type 3A with Advance Premium Tax Credit (Testimony of Appellant and Exhibits 6 and 7).
2. On August 28, 2016, Appellant was sent a Preliminary Eligibility Determination for 2017, instructing Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from other sources to update the information. (Exhibit 5).
3. Appellant did not respond the Preliminary Eligibility Determination of August 28, 2016 (Testimony of Appellant).
4. On October 27, 2016, Appellant was notified by the Connector that for 2017, Appellant was eligible for a Health Connector Plan with no financial help (Exhibit 5).
5. Appellant's October 27, 2016 determination was based on data from other sources (Exhibit 6)
6. Appellant's income and family size had changed, but Appellant had not updated the information with the Health Connector prior to October 27, 2016 (Testimony of Appellant).
7. On November 28, 2016, Appellant filed for an appeal, based upon income (Exhibit 4).
8. Appellant expected Appellant's income for 2017 to be lower than the information the Health Connector had used for its determination (Exhibit 4 and 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. At the time of application or renewal, the Exchange must verify eligibility by requesting information from electronic data sources. Applicants are also required to attest to family sized and projected annual house hold income and to provide verifying documentation. 45 CFR 155.320 (c)(1)(i) and (c)(3). 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), and 155.320(c)(3)(i)(D).

In 2016, Appellant had been covered by a ConnectorCarePlan Type 3A with Advance Premium Tax Credits. On August 28, 2016, the Health Connector sent Appellant a Preliminary Eligibility Determination

regarding coverage for 2017. The August 28, 2016 letter instructed Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from electronic sources to verify the information. Appellant did not respond to the August 28, 2016 letter. On October 27, 2016, Appellant was notified by the Connector that for 2017, Appellant was eligible for a Health Connector Plan with no financial help. The new eligibility determination was based on electronic data from other sources. Appellant's income and family size had changed, but Appellant had not updated the information with the Health Connector prior to October 27, 2016. On November 28, 2016, Appellant filed for an appeal, based upon income, as Appellant's income had decreased. See Exhibits 4, 5, 6 and 7 and Testimony of Appellant which I find to be credible.

The Connector made the correct determination based upon the information that was provided to the Connector at the time of Appellant's renewal for 2017 and Appellant's failure to update and attest to information. See 45 CFR 155.320 (c)(1)(i) and (c)(3) and sections 155.315 (f) (5) .

## **ORDER**

Appellant's appeal is denied. The determination by the Connector is affirmed. However, if Appellant has not already done so, Appellant should update projected income information with the Health Connector and provide all of the documents requested by the Health Connector.

## **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.

**ADDENDUM:** Appellant should contact customer service at 1-877-623-6765 and update information about projected income and family size. Appellant should note that Appellant should provide a very accurate statement of income and also should update the income amount whenever Appellant's income changes. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied The Connector's determination of Appellant's eligibility for subsidies for 2017 is affirmed

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility for subsidies for 2017 based on income

**Hearing Date:** January 10, 2017

**Decision Date:** January 23, 2017

### **AUTHORITY**

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

### **JURISDICTION**

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

On October 27, 2016 a determination was made finding Appellant eligible for a Health Connector Plan with Advance Premium with Advance Premium Tax Credit of \$0 for 2017

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit of \$0 for 2017

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on January 20, 2017. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 21, 2016 addressed to Appellant

- Exhibit 3: Acknowledgement letter from Health Connector dated December 16, 2016
- Exhibit 4: Hearing Request Form dated December 9, 2016
- Exhibit 5: Eligibility Letters dated August 28, 2016 and October 27, 2016
- Exhibit 6: Results of Appellant's Application
- Exhibit 7: Review of Appellant's Application

## **FINDINGS OF FACT**

The record shows, and I so find:

1. In 2016, Appellant had been covered by a ConnectorCare Plan Type 2B with Advance Premium Tax Credit (Testimony of Appellant and Exhibits 6 and 7).
2. On August 28, 2016, Appellant was sent a Preliminary Eligibility Determination for 2017, instructing Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from other sources to update the information. (Exhibit 5).
3. Appellant did not respond the Preliminary Eligibility Determination of August 28, 2016 (Testimony of Appellant).
4. On October 27, 2016, Appellant was notified by the Connector that for 2017, Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit of \$0 (Exhibit 5).
5. Appellant's October 27, 2016 determination was based on data from other sources (Exhibit 6)
6. Appellant's had not updated the information with the Health Connector prior to October 27, 2016 (Testimony of Appellant).
7. On December 9, 2016, Appellant filed for an appeal, based upon income (Exhibit 4).
8. In January 2017, Appellant updated the projected income and sent in the requested verifications for a new eligibility determination (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. At the time of application or renewal, the Exchange must verify eligibility by requesting information from electronic data sources. Applicants are also required to attest to family size and projected annual household income and to provide verifying documentation. 45 CFR 155.320 (c)(1)(i) and (c)(3). 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), and 155.320(c)(3)(i)(D).

In 2016, Appellant had been covered by a ConnectorCarePlan Type 2B with Advance Premium Tax Credits. On August 28, 2016, the Health Connector sent Appellant a Preliminary Eligibility Determination regarding coverage for 2017. The August 28, 2016 letter instructed Appellant to review the income and other information for accuracy. The letter stated that the Health Connector might use information from

other sources to verify the information. Appellant did not respond to the August 28, 2016 letter. On October 27, 2016, Appellant was notified by the Connector that for 2017, Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit of \$0. The new eligibility determination was based on electronic data from other sources. Appellant had not updated the information with the Health Connector prior to October 27, 2016. On November 28, 2016, Appellant filed for an appeal, based upon income, as Appellant's income had decreased. In January 2017, Appellant updated the projected income and sent in the requested verifications for a new eligibility determination. See Exhibits 4, 5, 6 and 7 and Testimony of Appellant which I find to be credible.

The Connector made the correct determination based upon the information that was provided to the Connector at the time of Appellant's renewal for 2017 and Appellant's failure to update and attest to information. See 45 CFR 155.320 (c)(1)(i) and (c)(3) and sections 155.315 (f) (5) .

## **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.

**ADDENDUM:** Appellant was encouraged to contact customer service at 1-877-623-6765 to verify enrollment and also to pay the premium. Appellant should note that Appellant should provide a very accurate statement of income and also should update the income amount whenever Appellant's income changes. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.

## **CONNECTOR APPEALS UNIT**

### **FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** January 20, 2017

**Decision Date:** January 24, 2017

#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

On December 13, 2016 Appellant was found not to be eligible for insurance through the Health Connector. After updating the application on January 18, 2017, Appellant was determined eligible for Health Connector plans without subsidies. Appellant was denied subsidies because Appellant stated that Appellant had access to affordable employer sponsored insurance that met minimum value standards.

#### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on January 20, 2017. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 21, 2016 addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated December 19, 2016 acknowledging receipt of Appellant's Request for Hearing
- Exhibit 4: Hearing Request Form dated December 14, 2016

- Exhibit 5: Connector letter, dated April 12, 2016  
Exhibit 6: Review of Appellant's application  
Exhibit 7: Results of Appellant's application showing Appellant not eligible

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector on December 13, 2016 (Exhibit 6).
2. Appellant updated the application on January 18, 2017. The Health Connector determined Appellant's income to be 195.16% of the Federal Poverty Level (Exhibit 6).
3. Appellant was determined eligible for Health Connector plans without subsidies on January 18, 2017 (Exhibits 6 and 7).
4. Appellant was not found eligible for subsidized health insurance through the Health Connector because Appellant's application stated that Appellant had access to employer sponsored health insurance (Exhibits 6 and 7).
5. Appellant did not know if the employer sponsored insurance was considered affordable (Testimony of Appellant).
6. The providers on Appellant's employer sponsored health insurance would require Appellant to drive two hours each way (Testimony of Appellant).
7. Appellant was unsure of the exact cost of the employer sponsored insurance, but believed that it would cost \$75 per week, which would be 17% of Appellant's income (Testimony of Appellant).
8. Appellant appealed the Connector's action on December 14, 2016 (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for subsidized health insurance coverage through the Connector on December 13, 2016. Appellant updated the application on January 18, 2017. The Connector determined that Appellant's income was 195.1% of the federal poverty level. Appellant's application stated that affordable employer sponsored insurance was available. The Connector determined that Appellant was eligible for Health Connector plans without subsidies because Appellant had access to affordable employer sponsored insurance. Appellant appealed the Connector's denial on December 14, 2016. Appellant testified that Appellant was unsure of the exact cost of the employer sponsored insurance, but believed that it would cost \$75.00 per week, which would be 17% of Appellant's income. Appellant also testified that the providers on the employer sponsored insurance would require Appellant to drive two hours each way. See Testimony of Appellant which I find to be credible and Exhibits 4, 6 and 7.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households

eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2017 if the employee's required contribution for self-only coverage is 9.66 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

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

**ORDER:** The appeal is denied.

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

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

**ADDENDUM:** Appellant was encouraged to contact customer service at 1-877-623-6765 to update the application and to provide accurate information regarding the cost and details of the employer sponsored health insurance to see if Appellant might be eligible for subsidies. Appellant should be sure to timely provide all documents that are requested.