

FINAL APPEAL DECISION-ACA 21-12420

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: December 28, 2020

Decision Date: January 15, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 30, 2020, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to reconcile previous Advance Tax Credits he had received.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare since the Appellant did not verify that he had provided documentation that he had reconciled previous Advance Tax Credits he had received.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 28, 2020.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Appellant's Appeal Request Form	(2 pages, received 11/11/2020)
Exhibit 2(a)	IRS Correspondence 7/15/20, 2019 8962, 1095A Forms	(5 pages, received 11/13/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(1 page, dated 10/26/ 2020)
Exhibit 4:	Health Connector's Notice of Hearing	(3 pages, dated 12/1/2020)

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Exhibit 5	Health Connector's Appeals Unit Staff Notes	(2 pages, dated	10/19/ 2020)
Exhibit 6:	Health Connector's Application Summary	(3 pages, dated	9/4/2020)
Exhibit 7:	Health Connector's Eligibility Approval	(9 pages, dated	9/16/2020)
Exhibit 8:	2017-2019 IRS Forms 1095A-8962		
Exhibit 9:	Email to Appellant	(1 page, dated	11/13/2020)
Exhibit 10:	MassHealth Doc	(1 page, dated	12/10/2020)
Exhibit 11:	Health Connector's Eligibility Results	(3 pages, dated	10/28/2020)
Exhibit 12:	Health Connector's Eligibility Results	(4 pages, dated	11/27/2020)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who plans to file a federal income tax return in 2020, testified he filed a 2019 tax return in February 2020. (Appellant Testimony).
2. The Appellant testified he filed the IRS Form 8962 for 2019 tax on or about September 2020. (Appellant Testimony, Exhibit 8).
3. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 (Exhibit 6, Appellant Testimony).
4. The Appellant's plan changed to an unsubsidized plan on September 30, 2020. (Exhibits 1, 3(a), 7).
5. The Appellant did not reconcile receipt of advance premium tax credits received in 2019 because the Appellant filed the 2019 IRS Form 8962 on or about September 2020. (Appellant Testimony, Exhibit 8).
6. The Appellant testified he is now eligible for MassHealth effective November 13, 2020 with a premium of \$87 a month.
7. The Appellant testified he lost his job on December 1, 2020 and was encouraged to contact MassHealth and report any income changes.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect because the Appellant's income was only \$20,000, or half of the projected income on his application and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On September 30, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. Prior thereto in 2020, the Appellant was eligible for ConnectorCare and received APTC's. However, although the Appellant timely filed an income tax return for 2019, he filed the 2019 IRS Form 8962 on or about September 2020, and thus did not timely file the 2019 IRS Form 8962. (Appellant Testimony, Exhibit 8). Because the

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Appellant did not reconcile receipt of APTC from a prior year, the Appellant was determined not to be eligible to receive APTC in 2020. 45 CFR § 155.305(f)(4). The Appellant testified he is now eligible for MassHealth effective November 13, 2020 with a premium of \$87 a month.

Based on the Appellant's failure to provide evidence that he had filed taxes reconciling his past Advance Premium Tax Credits, the Connector's decision to deny the Appellant access to those credits is upheld. The Appellant was encouraged to contact MassHealth to report a change to his application and verify and report changes to his income. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2020 federal income tax return with Form 8962 and reconciling any APTC received in 2020.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (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 2020 (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 2020 will be paid to you when you file your 2020 federal income tax return.

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FINAL APPEAL DECISION-ACA 21-13130

Appeal Decision: Appeal Denied.

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

Hearing Date: January 15, 2021

Decision Date: January 22, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 6, 2020, the appellant was advised that in 2021 she qualified for Health Connector Plans (with subsidies) after the Appellant submitted an application for subsidized health insurance on November 6, 2020. (Ex. 6). The appellant filed an appeal dated November 20, 2020 (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.4).

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for subsidies, based on the information provided on the application.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 15, 2021.

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

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

Exhibit 2:	Appellant's Appeal Request Form with correspondence	(12 pages, received	11/20/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(1 page, dated	12/4/ 2020)
Exhibit 4:	Health Connector's Notice of Hearing	(3 pages, dated	12/21/2020)
Exhibit 5:	Health Connector's Appeals Unit Staff Notes	(2 pages, dated	12/4/ 2020)
Exhibit 6:	Health Connector's Eligibility Approval	(9 pages, dated	11/6/ 2020)
Exhibit 7:	Health Connector's Application Summary	(3 pages, dated	11/6/2020)
Exhibit 8:	Health Connector's Eligibility Results	(4 pages, dated	11/6/2020)
Exhibit 9:	Health Connector Email to Appellant to update income	(1 page, dated	12/4/2020)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is a 60-year-old who had subsidized health insurance through the Health Connector and applied for renewal for 2021. (Exhibit 1, Exhibit 6, Exhibit 7)
2. The appellant has a tax household size of one. (Exhibit 1, Exhibit 3, Exhibit 4, Exhibit 5)
3. On her application, the Appellant attested to a monthly income of \$2,600.40. (Exhibit 7)
4. The Appellant's projected annual modified adjusted gross income (MAGI) is \$33,804 for 2021. (Exhibit 7)
5. The Health Connector found, based on this projected income and household size, that the appellant's projected MAGI would place her at approximately 264.92% of the Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidies under the ACA are available only to individuals whose household income is below 400% FPL, and because subsidized coverage through the state's ConnectorCare program is available only to individuals whose household income is below 300% FPL. (Exhibits 1, 6-8)
6. The Health Connector correctly found that the Appellant was eligible for subsidized health insurance because the appellant's self-attested projected income placed her household at less than 400% of the Federal Poverty Level. (Exhibit 3, Exhibit 5)
7. The Appellant reported a change of income on October 2, 2020 for a temporary increase in income from \$2,400 to \$2,600 that was for pay periods from May 2020-July 1, 2020, which resulted in an eligibility determination that increased the Appellant's premium for November and December 2020 from \$87 to \$130 a month. (Appellant's Testimony, Exhibits 1,2,5-8)
8. The Appellant' reported her premium for January 2021 has increased to \$145. (Appellant's Testimony, Exhibits 1, 2, 5-8)

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. On her application, the Appellant attested to a monthly income of \$2,600.40 per month. The Appellant's projected income from her application is \$33,804(Exhibits 1 and 7), which, for a household of one, puts the appellant at approximately 264.92% of the

Federal Poverty Level (Exhibits 1 and 7). This means the Appellant's household income was less than the 400% limit for eligibility for subsidies, and therefore the Health Connector correctly found that the appellant was eligible for subsidized coverage.

The appellant testified at hearing that she reported the temporary income increase which she had received but had stopped in July 2020. Even though the Appellant now asserts that Appellant's income for 2021 will not include the additional temporary income she had received, the determination issued by the Health Connector was correct. The Appellant was encouraged to contact the Connector and report any changes to her income.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

FINAL APPEAL DECISION-ACA 20-12639

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: December 17, 2020

Decision Date: January 15, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 7, 2020, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to reconciled previous Advance Tax Credits he had received.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare since he did not verify that he had provided documentation that he had reconciled previous Advance Tax Credits he had received.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 17, 2020.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Health Connector's Notice of Hearing	(3 pages, dated 11/19/2020)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(4 pages, dated 11/17/ 2020)
Exhibit 3(a)	Health Connector's Appeals Unit Staff Notes	(2 pages, dated 10/19/ 2020)
Exhibit 4:	Health Connector's Notice to Appellant Final Renewal Notice	(9 pages, dated 10/10/ 2020)

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Exhibit 5:	Appellant's Appeal Request Form	(6 page, received	11/16/2020)
Exhibit 6:	Request for Information Form	(4 pages, dated	7/22/2020
Exhibit 7:	Health Connector's Application Summary	(3 pages, dated	9/4/2020)
Exhibit 8:	Health Connector's Eligibility Results	(4 pages, dated	9/4/2020)
Exhibit 9:	Email to Appellant from Health Connector For Income.	(1 page, dated	10/24/2020)
Exhibit 10:	Health Connector's Application Summary	(3 pages, dated	11/10/2020)
Exhibit 11:	Health Connector's Eligibility Results	(4 pages, dated	11/10/2020)

The record was left open until January 8, 2021 for the Appellant to submit copies of the 2018 and 2019, IRS Form 8962, proof of 2018 and 19 tax filings, and income documentation. On December 18, 2020 the Appellant submitted the following documents to the Connector:

Exhibit 12:	An email from Turbo Tax to the Appellant re: acceptance of federal tax return. (3 pages, dated 4/29/2020)
Exhibit 13:	Appellant's 2018 1040 and Form 8962 with USPS receipt (6 pages, dated 10/1/2020)
Exhibit 14:	Appellant's Personal Earnings Statement from 12/17/20 pay period (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who plans to file a federal income tax return in 2020, testified he filed a 2019 tax return on April 29, 2020. (Appellant Testimony).
2. The Appellant testified he filed the IRS Form 8962 that was submitted with his 2019 tax return. (Appellant Testimony).
3. The Appellant testified he filed his 2018 tax return on September 30, 2020. (Appellant Testimony).
4. The Appellant testified he filed the IRS Form 8962 with his 2018 tax return. (Appellant Testimony).
5. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 (Exhibit 6, Appellant Testimony).
6. The Appellant's plan changed to an unsubsidized plan in April 2020. (Exhibits 1, 3(a), 4).
7. The Appellant did not reconcile receipt of advance premium tax credits received in 2018 because the Appellant filed his 2018 tax return on September 30, 2020. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect because the Appellants income was 202.72 % of the Federal Poverty Level in 2020 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).

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On April 1, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. From January 1 through March 31, 2020, the Appellant was eligible for ConnectorCare and received APTC's. However, although the Appellant timely filed an income tax return for 2019, he did not file a timely income tax return for 2018. Because the Appellant did not reconcile receipt of APTC from a prior year, the Appellant was determined not to be eligible to receive APTC in 2020. 45 CFR § 155.305(f)(4).

Based on the Appellant's failure to provide evidence that he had filed taxes reconciling his past Advance Premium Tax Credits, the Connector's decision to deny the Appellant access to those credits is upheld. The Appellant was encouraged to contact the Health Connector to report a change to his application and verify and report changes to his income. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2020 federal income tax return with Form 8962 and reconciling any APTC received in 2020.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020 (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 2020 (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.

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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 2020 will be paid to you when you file your 2020 federal income tax return.

FINAL APPEAL DECISION

Appeal Decision: Appeal allowed.

Hearing Issue: Eligibility for subsidized Health Connector plans

Hearing Date: January 20, 2021

Decision Date: January 27, 2021

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 was notified by the Health Connector on November 4, 2020 that she was not eligible for subsidies to reduce the cost of health insurance.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidies

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 20, 2021.

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

- Exhibit 1: Appeals Request Form (dated 11/20/20) (3 pages)
- Exhibit 2: Response to notice of informal resolution (12/22/20) (3 pages)
- Exhibit 3: Health Connector Record Affidavit (1 page)

- Exhibit 4: Eligibility Notice (11/9/20) (9 pages)
- Exhibit 5: Screen Shot of Eligibility Determination (11/9/20) (2 pages)
- Exhibit 6: Screen Shot of Application Summary (11/9/20) (3 pages)
- Exhibit 7: Notes from Appeals Database (2 pages)
- Exhibit 8: Email from Health Connector Appeals Unit (1 page)
- Exhibit 9: Eligibility Notice (8/29/20) (9 pages)
- Exhibit 10: Application Summary (11/30/20) (3 pages)
- Exhibit 11: Eligibility Summary (effective 1/1/21) (4 pages)
- Exhibit 12: Acknowledgement of appeal (11/30/20) (2 pages)
- Exhibit 13: Hearing Notice (12/28/20) (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On November 4, 2020, the Health Connector sent Appellant a notice that she was not eligible to receive financial subsidies to help pay for the cost of health insurance. Exhibit 4.
2. Appellant filed a timely appeal of that determination. Exhibit 1.
3. In the notice, the Health Connector stated that Appellant was being denied eligibility for one of the following reasons: (a) her income was too high; (b) she had access to health insurance from another source that met minimum essential coverage standards; or (c) she did not plan to file a tax return, was married and planned to file taxes separately, or advance premium tax credits were made to lower their premium in a prior year and the Health Connector was not able to confirm that she had filed a 2019 Federal tax return and reconciled the advance premium tax credits on their tax return
4. Appellant's income was not too high to qualify for subsidies In the November 4 notice, the Health Connector stated that Appellant's household income was 221% of the federal poverty level, which is within the income level eligible to receive subsidies.
5. Appellant did not have access to insurance meeting minimum essential coverage standards from another source. She was not eligible for other government programs, such as Medicare or Medicaid. She was unemployed at the time and so did not have access to employer-sponsored insurance.
6. Finally, Appellant had filed income taxes for 2019, although she stated that there had been problems in completing the electronic filing.
7. Prior to the start of 2020, Appellant had been enrolled in the Health Connector's Connector Care program for a number of years. She had been paying a monthly premium of \$50 a month. Appellant testimony. The size of the premium in Connector Care is based on the insured's income.
8. Appellant had worked in the health care field. However, starting in March 2020, she had been laid off because of an office closure caused by the Covid-19 pandemic.
9. At that point, she began receiving unemployment payments of \$531 weekly. Exhibit 1; Appellant testimony. Annualized, this amount equals \$27,612 a year.
10. Appellant lives in a household of one person.
11. For a household of one person, the federal poverty limit (FPL) is \$12,760.
<https://www.healthcare.gov/glossary/federal-poverty-level-fpl> . Thus, 221% of that amount is approximately \$28,000. This is consistent with the determination in the November 4, 2020 notice that Appellant's income was 221% of the FPL.

12. However, on August 29, 2020, the Health Connector sent Appellant a notice stating that it had determined her income to be 298% of the federal poverty level. Exhibit 9. As a result of this determination, her premium was increased from \$50 a month to \$130 a month. She was unable to pay that amount. Appellant testimony.
13. Appellant did not appeal the August 29 notice. She also did not pay the increased premium for several months. As a result, she accumulated an arrears on her account, and faced the prospect of disenrollment.
14. Appellant called the Health Connector in November to complain about the increased premium. At that point, she was able to report that her income was actually \$515 a month.
15. Following her conversations with the Health Connector and her appeal, the Health Connector re-determined her eligibility and determined that she was eligible for insurance subsidies and lowered the required premium to match her actual income.
16. As of the date of the hearing, Appellant stated that she was enrolled in Connector Care coverage for 2021 without a premium.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible to receive financial assistance from the government to help pay for health insurance.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These federal subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The cutoff for eligibility is 400% of the FPL. *Id.* Thus, persons whose household income is greater than 400% of FPL are not eligible to receive APTCs. *Id.* See also 26 CFR § 1.36B-2; 45 CFR § 155.305(f). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

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

Appellant's income was below these levels. The FPL for a household of one person is \$12,760. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 300 % of that amount is \$38,280. Appellant's projected household income of \$27,612 is below that amount and so, based on income, she is eligible for Connector Care and for APTCs.

Additionally, in order to be eligible for APTCs, an individual cannot be eligible to receive health insurance meeting minimum essential coverage standards from another source. 26 U.S.C. §36B(c)(1). Such coverage includes coverage under another government plan, such as Medicare or Medicaid, or coverage through an employer-sponsored plan. 26 U.S.C. §5000A(f). However, Appellant was not eligible for any of these other forms of coverage.

Finally, in order to be eligible to receive APTCs, an individual who has received APTCs in a prior year must file federal taxes for that year and “reconcile” the APTCs received. This means that the federal government will annually determine whether the income an APTC-recipient has reported on their taxes in fact qualified them to receive the APTCs that they got in the tax year. 26 U.S.C. § 36B(f). In order to implement this requirement, persons who received APTCs are required annually to file a Form 8962 with their federal income taxes on which they report the amount of APTCs that they got in the tax year. If an individual who has received APTCs in a prior year does not file the required Form 8962 for that year, then under federal law that person is no longer eligible to receive APTCs. 45 CFR 155.305(f)(4).

Appellant did in fact file a Form 8962. She stated that there had been a problem with the electronic filing, which may have resulted in a delay in the recording of that information. However, the fact that she filed the required form is established both by her credible testimony and by the fact that, subsequently, the Health Connector’s eligibility determination system reflected that she was eligible for Connector Care again.

Thus, the determination in the November 4, 2020 eligibility determination was erroneous. Appellant should have been eligible for subsidies at that point. Fortunately, shortly after filing the appeal in this matter, Appellant was able to get a new eligibility determination, which reflected that she was eligible for Connector Care. As a result, she was again enrolled in Connector Care at the time of the hearing.

Appellant also complained at the hearing about the fact that her premium had been increased in August 2020. It is unclear why that happened, except that the Health Connector determined that her income was higher than it actually was. Appellant did not timely appeal that determination and so this issue is not before me. However, it appears that Appellant has corrected the information about her income. The record establishes that as of November 2020, Appellant’s income was correctly determined. Exhibit 6.

ORDER

The appeal is allowed.

OPTION FOR RETROACTIVE COVERAGE

Because your appeal has been approved, you have the option to receive retroactive coverage. This means that you can have your coverage start in the past, as of the date you otherwise would have had coverage, had the Health Connector taken the correct action regarding your application. In order to receive retroactive coverage, you must pay all premiums owed for each month of coverage.

If you do not want retroactive coverage, you may instead have coverage starting on the first day of the month following the implementation of your correct eligibility, in accordance with Health Connector enrollment rules.

In order to receive retroactive coverage, please contact the Health Connector Appeals Unit within 30 days of receiving this decision. If you do not want retroactive coverage, then please contact Health Connector customer service to enroll, if you have not done so already.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: January 13, 2021

Decision Date: January 19, 2021

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 was notified by the Health Connector on November 3, 2020 that she was not eligible for subsidies to reduce the cost of health insurance because her income was too high.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidies, based on the information Appellant provided about her income.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 13, 2021. Appellant was accompanied by her daughter who also testified.

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

- Exhibit 1: Appeals Request Form (dated 11/13/20) (1 page)
- Exhibit 2: Health Connector Record Affidavit (1 page)

- Exhibit 3: Eligibility Notice (11/3/20) (9 pages)
- Exhibit 4: Screen Shot of Eligibility Determination in Health Connector electronic database (11/3/20) (2 pages)
- Exhibit 5: Screen Shot of Application Summary in Health Connector electronic database (11/3/20) (3 pages)
- Exhibit 6: Notes from Appeals Database (1 page)
- Exhibit 7: Appellant's 2019 Schedule A (1 page)
- Exhibit 8: Note of verification process (10/27/20) (1 page)
- Exhibit 9: Hearing Notice (12/21/20) (3 pages)
- Exhibit 10: Acknowledgement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is appealing a notice sent by the Health Connector on November 3, 2020 stating that she was not eligible to receive subsidies to offset the cost of insurance. Exhibit 1, 3.
2. The notice stated the reason for that eligibility determination was that Appellant's household income was too high to qualify for subsidies. The notice further stated that Appellant's household income was above 400 percent (400 %) of the federal poverty level (FPL.) Exhibit 3. The cutoff for eligibility for health insurance subsidies is 400 % of FPL.
3. Appellant had been enrolled in insurance through the Health Connector for three to four years. During that time, Appellant had qualified for subsidies which had reduced the cost of the insurance. Testimony of Appellant's daughter.
4. As part of the annual redetermination of eligibility conducted by the Health Connector, Appellant was required in the fall of 2020 to report her projected income for 2021. Appellant reported a projected income of \$54,032. Exhibit 5. Appellant also reported that she was in a household of one person. *Id.* Based on this information, the Health Connector determined that her household income was 418 % of FPL.
5. In November 2020, Appellant was 57 years old. She lived by herself in Barnstable County. She was self-employed and worked as a cleaner for an office building. Testimony of Appellant's daughter.
6. From that employment, Appellant earned \$2,700 biweekly. Testimony of Appellant's daughter. On an annual basis, this amounts to \$54,000 a year.
7. In early 2020, the hours that Appellant worked were significantly reduced because of the disruption caused by the COVID-19 pandemic. However, by the fall of 2020, she was working her regular number of hours again. Testimony of Appellant's daughter.
8. Prior to mid-2020, Appellant had lived with and supported her son who was a student. Thus, at that time, she was in a household of two persons. However, during 2020, the son finished his schooling and obtained a job. He moved out of Appellant's household and obtained health insurance through his employment. Thus, as of the time of the eligibility determination in November 2020, Appellant was in a household of one person.
9. The federal poverty limit is a threshold set by the federal government annually to determine eligibility for various government assistance programs. The federal poverty limit in 2020 for a household of one was

\$12,760. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 percent of the federal poverty level is four times that amount or \$51,040.

10. Based on the determination that Appellant's income was above 400 percent of the federal poverty limit, the Health Connector correctly determined that she was not eligible for any financial assistance from the government in paying for health insurance.
11. Appellant was notified of this determination by letter sent on November 3, 2020. Exhibit 3.
12. Appellant filed a timely appeal of that determination. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible to receive financial assistance from the government to help pay for health insurance.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The cutoff for eligibility is 400% of the FPL. *Id.* Thus, persons whose household income is greater than 400% of FPL are not eligible to receive APTCs. *Id.* See also 26 CFR § 1.36B-2; 45 CFR § 155.305(f). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

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

The Health Connector is required by federal law to re-determine an individual's eligibility for APTCs on an annual basis. 45 CFR § 155.335(a)(1). The Health Connector re-determined eligibility for 2021 in the fall of 2020. During that process, Appellant was required to provide updated information about her income and household size.

The most significant change in Appellant's situation for 2021 was that she was in a household of one person, as opposed to two persons, because her son had gotten a job and moved out of her house. Because he was working and supporting himself, he was no longer Appellant's tax dependent. Thus, he was not part of her household for purposes of determining eligibility.

As explained above, eligibility is based on household income as a percentage of FPL, and FPL is based on both household size and income. The FPL for a household of one person is \$12,760. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 % of that amount is \$51,040. Appellant's projected income of \$54,000 is above that amount. By contrast, the FPL for a household of two persons is \$17,240 and 400 % of that is \$68,960. Thus, when Appellant lived in a household of two persons, her income was below the 400% of FPL threshold and she would have qualified for subsidies. This change in circumstances explains why she had been eligible for subsidies at the start of 2020 but was not eligible after the redetermination in November 2020.

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Appellant noted that she paid taxes on the amount she earned and thus her income figure does not reflect the actual amount she had available to her. However, the fact that income is subject to taxation is taken into account in calculating the FPL. That is why gross (or pre-tax) income is used as the basis for the eligibility determination.

Appellant also noted that her income had fluctuated in 2020 because of the COVID-19 pandemic and she argued that her 2021 income could also be uncertain. As stated above, eligibility for subsidies in 2021 is based on projected annual income. Based on her situation at the end of 2020 and at the time of the hearing in January 2021, Appellant was working her regular number of hours and making \$2,700 biweekly, which amounted to \$54,000 annually. This is her projected income. If in the course of 2021, her situation changes and her income is reduced for some reason, she can report that change to the Health Connector by calling the customer service department at 1-877-623-6765 or by changing the information in her on-line application at www.mahealthconnector.org. A new eligibility determination will be made based on this changed information.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for ConnectorCare, based on income

Hearing Date: January 6, 2021

Decision Date: January 11, 2021

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 Massachusetts Health Connector (“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.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 1, 2020, Appellant was determined ineligible for subsidies to pay for health insurance for calendar year 2021. The determination was made by the Health Connector based on information that Appellant’s household income was too high to qualify for subsidies.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 6, 2021.

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

- Exhibit 1: Hearing Request Form (dated 11/13/20) (2 pages)
- Exhibit 2: Health Connector record affidavit (1 page)
- Exhibit 3: Renewal Notice issued to Appellant by Health Connector (dated 10/11/20) (10 pages)
- Exhibit 4: Screen Shot of Eligibility Determination in Health Connector’s eligibility database (dated 10/1/2020) (2 pages)

- Exhibit 5: Screen Shot of Application Summary in Health Connector's eligibility database) (10/1/20) (3 pages)
- Exhibit 6: Notes from Health Connector Appeals Database (12/12/20) (2 pages)
- Exhibit 7: Email from Appeals Unit to Appellant (1 page)
- Exhibit 8: Screen shot of eligibility determination in Health Connector's eligibility database (12/15/20) (2 pages)
- Exhibit 9: Screen shot of application determination in Health Connector's eligibility database (12/15/20) (2 pages)
- Exhibit 10: Hearing Notice (12/5/2020) (3 pages)
- Exhibit 11: Acknowledgement of Appeal (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is married. He and his wife live with their child whom they claim as a tax dependent. (Exhibit 5).
2. In 2020, Appellant, his wife, and his child were all insured through a Health Connector health plan and were receiving financial subsidies to offset the cost of that plan.
3. Both Appellant and his wife earn income. (Exhibits 5, 9).
4. On October 11, 2020, the Health Connector sent Appellant a notice that it had determined that he was not eligible for financial subsidies to help pay for health insurance in 2021. (Exhibit 3.) As a result of this determination, the monthly premium that Appellant had to pay for insurance for himself, his wife and his child increased.
5. The determination was based on the fact that Appellant had not submitted required information about the income he expected to make in 2021. (Exhibits 4, 5).
6. After receiving this notice, Appellant appealed by filing a request for a hearing. (Exhibit 1).
7. Appellant was advised by the Health Connector appeals department that he should update the information regarding his 2021 income in order to get a new determination of eligibility. (Exhibits 6, 7).
8. At some point in December 2020, Appellant called the Health Connector customer service department and provided information about his projected 2021 income. That information stated that Appellant expected to make \$41,582 over the course of the year and that his wife expected to make \$51,736 over the course of the year. (Exhibit 9). This projection was based on the amount that Appellant and his wife were earning at the time the report was made.
9. Based on this projected income, the Health Connector determined that Appellant's household income was 424 % of the federal poverty level. (Exhibit 9). As a result, Appellant and his family were again determined not to be eligible for financial subsidies to offset the cost of insurance. (Exhibit 8).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant was initially found ineligible to receive insurance subsidies in 2021 because he had failed to provide updated information about his 2021 income. After he provided that information, he was determined ineligible to receive subsidies because the income that he reported for 2021 was too high to qualify for subsidies. Both these determinations were correct.

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The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The cutoff for eligibility is 400% of the FPL. *Id.* Thus, persons whose household income is greater than 400% of FPL are not eligible to receive APTCs. *Id.* See also 26 CFR § 1.36B-2; 45 CFR § 155.305(f). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

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

The Health Connector is required by federal law to re-determine an individual's eligibility for APTCs on an annual basis. 45 CFR § 155.335(a)(1). As part of this process, the Health Connector must first obtain household income data from recent federal tax filing data. 45 CFR § 155.335(b). The Health Connector must provide notice of this information to the individual and permit the individual to report any changes to that information. 45 CFR § 155.335(e). If no change is reported, then the eligibility determination must be completed based on the information received from federal data sources. 45 CFR § 155.335(h). In this case, that procedure was followed. The Health Connector determined in October 2020 that, based on information contained in federal data sources, Appellant's household income was too high to qualify for subsidies in 2021 and notified him of that fact. Exhibit 3.

Appellant then did provide updated information regarding household income at some point in December 2020. That information reflected that Appellant was projecting that he would earn \$41,582 and his wife would earn \$51,736 annually in 2021. Exhibit 9. Appellant confirmed in his testimony that this projection was based on the amount Appellant and his spouse were earning as of the end of 2020; the income figures included the wife's salary, unemployment compensation received by Appellant, and certain self-employment income earned by Appellant. Thus, Appellant projected household income of \$93,318 for 2021.

The 2020 FPL, which is used to determine eligibility for APTCs, for a household of three persons like Appellant's is \$21,720. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400% of that amount is \$86,880. Accordingly, Appellant's projected household income of \$93,318 is above 400% of the FPL, and therefore Appellant's household is not eligible for APTCs. Further, because Appellant's household income is above 300% of FPL, Appellant is also not eligible for ConnectorCare.

If in the course of 2021, Appellant's household income changes and Appellant projects that the household income for 2021 will be 400% of FPL, then Appellant can update the information in his eligibility application by either calling customer service or updating the application on line. This updated information would lead to a new eligibility determination. However, based on the information provided as of this date, the Health Connector's determination that Appellant is ineligible for subsidies was correct and the appeal is accordingly denied.

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ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: January 20, 2021

Decision Date: January 27, 2021

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 was notified by the Health Connector on November 4, 2020 that she and her spouse were not eligible for subsidies to reduce the cost of health insurance because their income was too high.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant and her spouse were not eligible for subsidies, based on income.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 20, 2021.

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

- Exhibit 1: Appeals Request Form (dated 11/18/20) (3 pages)
- Exhibit 2: Statement attached to request (1 page)

- Exhibit 3: Health Connector Record Affidavit (1 page)
- Exhibit 4: Eligibility Notice (11/4/20) (8 pages)
- Exhibit 5: Screen Shot of Eligibility Determination (11/4/20) (2 pages)
- Exhibit 6: Screen Shot of Application Summary (11/4/20) (3 pages)
- Exhibit 7: Notes from Appeals Database (1 page)
- Exhibit 8: Hearing Notice (12/28/20) (3 pages)
- Exhibit 9: Acknowledgement of Appeal (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is appealing a notice sent by the Health Connector on November 4, 2020 stating that she and her spouse were not eligible to receive subsidies to offset the cost of insurance. Exhibit 1, 4.
2. The Health Connector determined that Appellant's household income was above 400 % of the federal poverty level (FPL.) Exhibit 5. The cutoff for eligibility for health insurance subsidies is 400 % of FPL. Thus, the Health Connector determined that Appellant's household income was too high to qualify for subsidies. Exhibit 5.
3. Appellant applied for insurance through the Health Connector in November using the Health Connector's online application and eligibility determination system.
4. In the application that she completed online, Appellant reported that she expected to earn \$5,000 monthly or \$60,000 annually in 2021. Exhibit 6.
5. Further, she reported that her spouse expected to earn \$18,198 annually in 2021. Thus, the couple's combined household income was \$78,198. Exhibit 6.
6. The FPL is a threshold set by the federal government annually to determine eligibility for various government assistance programs. The FPL in 2020 for a household of two persons was \$17,240. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 % of the FPL is four times that amount or \$68,960.
7. Based on the determination that Appellant's and her spouse's income combined was above 400 % of the federal poverty limit for a household of two persons, the Health Connector correctly determined that they was not eligible for any financial assistance from the government in paying for health insurance.
8. Appellant was notified of this determination by letter sent on November 3, 2020. Exhibit 4.
9. Appellant filed a timely appeal of that determination. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant and her spouse were not eligible to receive financial assistance from the government to help pay for health insurance.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The FPL is a threshold determined annually by the federal government based on household size and income; it is used

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to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2). The cutoff for eligibility is 400% of the FPL. Id. Thus, persons whose household income is greater than 400% of FPL are not eligible to receive APTCs. Id. See also 26 CFR § 1.36B-2; 45 CFR § 155.305(f).

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

As explained above, eligibility is based on household income as a percentage of FPL, and FPL is based on both household size and income. The FPL for a household of two persons is \$17,240.

<https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 % of that amount is \$69,680. Appellant's projected household income of \$78,198 is above that amount.

At the hearing, Appellant detailed a number of expenses that she and her spouse incurred in the course of the year, including tuition, rent, and payments of student loans, car loans and other debt. Unfortunately, under the governing law, the eligibility determination is based solely on income.

Further, Appellant noted that she paid taxes on the amount she earned and thus her income figure does not reflect the actual amount she had available to her. In calculating the FPL, the federal government takes into account certain expenses, such as food, shelter and taxes, that a household will normally incur. That is why eligibility is based on gross (pre-tax) income.

Based on the facts regarding Appellant's household income, the Health Connector correctly determined that she was not eligible for subsidies for health insurance. Accordingly, I must deny the appeal.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for ConnectorCare, based on income

Hearing Date: January 6, 2021

Decision Date: January 11, 2021

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 Massachusetts Health Connector Authority (“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.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 27, 2020, Appellant was determined ineligible for subsidies to pay for health insurance for calendar year 2021. The determination was based on information that Appellant’s household income was too high to qualify for subsidies.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 6, 2021.

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

- Exhibit 1: Hearing Request Form (dated 12/2/20) (1 page)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Notice sent to Appellant by Health Connector (11/27/20) (9 pages)
- Exhibit 4: Screen Shot of Eligibility Determination in Health Connector’s eligibility database (11/27/20) (3 pages)

- Exhibit 5: Screen Shot of Application Summary in Health Connector's eligibility database (11/27/20) (6 pages)
- Exhibit 6: Notes from Health Connector Appeals Database (1 page)
- Exhibit 7: Email from Appeals Unit to Appellant (12/9/20) (1 page)
- Exhibit 8: Appellant pay stub (11/20) (1 page)
- Exhibit 9: Note regarding income verification (11/27/20) (2 pages)
- Exhibit 10: Note regarding income verification (11/23/20) (1 page)
- Exhibit 11: Appellant's spouse's pay stub (11/20) (1 page)
- Exhibit 12: Reminder of proof of income required (7/28/20) (3 pages)
- Exhibit 13: Notice re proof of income (7/23/20) (4 pages)
- Exhibit 14: Hearing Notice (12/15/2020) (3 pages)
- Exhibit 15: Acknowledgement of Appeal (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant is married. She and her husband have two minor children whom they claim as tax dependents. (Exhibit 5).
2. At some point in 2020, Appellant and her husband were insured through a Health Connector health plan and were receiving financial subsidies to offset the cost of that plan.
3. Twice in July 2020, Appellant was notified that she was required to submit documentary proof of the household income that she had claimed when applying for the insurance subsidies. (Exhibits 12, 13). These notices warned Appellant that she risked losing coverage if she didn't respond by August 2020. However, Appellant did not provide the proof of income within that time frame.
4. In November 2020, Appellant provided proof of income consisting of a pay stub each for herself and for her husband. (Exhibits 8, 11). The information in these pay stubs was entered into the Health Connector eligibility determination system. (Exhibits 9, 10).
5. Based on the information provided, the Health Connector determined that Appellant's household income was too high to qualify her or her husband to receive insurance subsidies in 2021. Appellant was notified of that fact in on November 27, 2020. (Exhibit 3).
6. Appellant appealed that determination by filing a request for a hearing on December 2, 2020. (Exhibit 1).
7. Appellant testified that she applied for Health Connector subsidies in early 2020 after she and her husband lost their jobs due to cutbacks arising from the Covid pandemic. At that point, both she and her husband were receiving unemployment compensation payments that combined equaled between \$1800 and \$2000 a week.
8. In June, Appellant returned to work and in August her husband began working again. By November, Appellant was earning about \$1600 weekly and her husband was earning \$1000 weekly. That information was reflected in the pay stubs that they provided to the Health Connector in November. (Exhibits 8, 11).
9. Appellant stated that at some point in 2020 her Health Connector insurance was canceled because she hadn't timely returned proof of income.
10. Appellant stated that Husband was eligible to obtain insurance through his new job and the family would be covered in that insurance in 2021.

ANALYSIS AND CONCLUSIONS OF LAW

Appellant was found ineligible to receive insurance subsidies in 2021 because her household income was too high. Based on the information of the pay stubs provided by Appellant, and her testimony at the hearing, that determination was correct.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The cutoff for eligibility is 400 % of the FPL. *Id.* Thus, persons whose household income is greater than 400 % of FPL are not eligible to receive APTCs. *Id.* See also 26 CFR § 1.36B-2; 45 CFR § 155.305(f). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

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

In November, Appellant provided pay stubs to establish the household's current and projected income. The pay stubs showed that Appellant was earning \$2,768.57 every two weeks, which would annualize to \$71,982.82. The pay stubs also showed that Appellant's husband was earning \$1,000 every week, which would annualize to \$52,000. Appellant confirmed these amounts in her testimony at the hearing. Thus, Appellant's projected annual household income as reflected in the pay stubs was \$123,968.

The 2020 FPL, which is used to determine eligibility for APTCs, is \$26,200 for a household of four persons like Appellant's. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 400 % of that amount is \$104,800. Accordingly, Appellant's projected household income for 2021 is above 400 % of the FPL, and therefore Appellant and her family are not eligible for APTCs. Further, because Appellant and her family have household income above 300 % of FPL, they are also not eligible for state subsidies offered through Connector Care.

At the hearing, Appellant said she was not challenging this determination of eligibility for 2021 because she would be getting insurance for 2021 through her husband's employer. Appellant's request at the hearing was that she be given insurance retroactively for the month of November 2020, because she had incurred medical costs during that month. As reflected in the record, Appellant had been notified in July that she could lose insurance in August if she did not respond to requests for information verifying her income. Under federal law, when an applicant applies for subsidies, the Health Connector is required to ask for verification if the income provided in the application is not consistent with information in recent tax filings. 45 CFR § 155.320(c)(3)(iii)(C). If that verification is not provided in a timely manner, the Health Connector must base the eligibility determination on the information in the tax filings, not in the application. *Id.* See also 45 CFR 155.315(f)(5). The Health Connector followed that procedure and as a result, Appellant lost subsidies in August 2020 and so was not insured thereafter.

Massachusetts Health Connector Appeals Unit



If in the course of 2021, Appellant's household income changes and Appellant is able to project annual income below the 400% of FPL threshold, then Appellant can update the information in his eligibility application by either calling customer service or updating the application on line. This updated information would lead to a new eligibility determination. However, based on the information provided as of this date, the Health Connector's determination that Appellant is ineligible for subsidies was correct and the appeal is accordingly denied.

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ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-12255

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit based on failure to reconcile prior tax credits

Hearing Date: January 4, 2021

Decision Date: January 18, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated September 11, 2020, the appellant was advised that she was eligible for a Health Connector Plan with no financial help beginning on October 1, 2020. (Exs. 1,3) The appellant filed an appeal which was received on September 27, 2020 based on income. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Ex. 17)

ISSUE

Was the Connector's decision on September 11, 2020 regarding the appellant's eligibility for Health Connector Plans with no financial help correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 4, 2021, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for September 11, 2020 (2 pages)
- Ex. 2—Health Connector's Review of Application (2 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated September 11, 2020 (9 pages)
- Ex. 4—Online Appeal Form received on September 27, 2020 (6 pages)

- Ex. 5—Acknowledgment of Appeal dated September 28, 2020 (1 page)
- Ex. 6-- Health Connector's Eligibility Determination Results showing a program determination for September 28, 2020 (3 pages)
- Ex. 7—Health Connector's Review of Application (4 pages)
- Ex. 8-- Health Connector's Eligibility Determination Results showing a program determination for September 29, 2020 (3 pages)
- Ex. 9—Health Connector's Review of Application (4 pages)
- Ex. 10—Health Connector's letter re informal resolution dated September 29, 2020 (2 pages)
- Ex. 11—Health Connector's Order to Show Cause dated November 19, 2020 (2 pages)
- Ex. 12—Health Connector's email with letter from the appellant dated November 30, 2020 (5 pages)
- Ex. 13—Health Connector Decision and Order dated December 4, 2020 (1 page)
- Ex. 14-- Health Connector's Eligibility Determination Results showing a program determination for January 2, 2021 (3 pages)
- Ex. 15—Health Connector's Review of Application (4 pages)
- Ex. 16—Appeals Unit Case Notes (1 page)
- Ex. 17—Notice of Hearing (3 pages)
- Ex. 18—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 31-years-old and has a tax household size of two consisting of herself and her minor daughter. (Testimony, Exs. 2,7,9,15)
2. The appellant was enrolled in ConnectorCare Plan Type 2B from January through September, 2020 and paid a monthly premium of \$80.00. (Testimony, Ex. 16)
3. The appellant amended her 2019 tax returns on April 10, 2020 with the addition of Form 8962. She made numerous subsequent efforts to contact the IRS regarding the status of her amended return, but was unable to get any response or confirmation. (Testimony, Ex. 12)
3. By notice dated September 11, 2020, the appellant was determined eligible for a Health Connector Plan with no financial help beginning on October 1, 2020. On the application associated with the September 11, 2020 determination, the appellant estimated her projected yearly income to be in excess of \$1,000,000.00 and did not attest to filing taxes and reconciling all past APTCs (Advanced Premium Tax Credit). She paid the new premium of \$304.77 for the month of October which she understood to be an unsubsidized premium. (Testimony, Exs. 1,2,12)
4. After receiving the new determination, the appellant contacted the Appeals Unit on September 28, 2020. It appeared that she was blocked from subsidized insurance because she had overestimated her income and attested to access to other health insurance. She updated her income information on her application and the Appeals Unit member removed her access to other insurance. She was still blocked from subsidized insurance and, after advising the member that she had amended her 2019 tax returns in April with the addition of Form 8962, she was granted a 90-day provisional eligibility and told to follow up with the IRS for a transcript. On September 29, 2020, the appellant attested to filing taxes and reconciling all past APTCs. (Testimony, Exs. 6,7,8,9,16)

5. By notice dated September 29, 2020, the appellant was determined eligible for ConnectorCare Plan Type 3A with an APTC of \$39.00 beginning on November 1, 2020. Her new monthly premium was \$100.00 which she paid for the months of November and December. (Testimony, Ex. 8)

6. On November 18, 2020, the appellant was notified by the IRS that her 2019 tax return had been processed and a refund had been deposited into her bank account. She believed that the Health Connector would now be able to confirm that she had reconciled all past APTCs. (Testimony, Ex. 12)

7. The appellant appealed the Connector's September 11, 2020, determination on September 27, 2020 based on income. In her appeal, she stated in part that she got a new job and the employer did not offer health insurance. She further stated that she could not afford the new premium of approximately \$300.00/month and inquired whether a mistake had been made in the determination. (Ex. 4)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. 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.

According to the Connector's notice dated September 11, 2020, the appellant was found eligible for Health Connector Plans without financial help effective October 1, 2020. One of the requirements to be eligible for subsidies and APTC is that an individual who received APTC in a prior tax year must 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 section 155.305(f)(4). The appellant testified credibly that she amended her 2019 tax return with the addition of Form 8962 on April 10, 2020, and subsequently made several efforts to contact the IRS in order to confirm that it received the amended return, to no avail. She does not dispute that she did not attest to filing taxes and reconciling all past APTCs until September 29, 2020, after discussing the possible reasons for her September 11th eligibility determination with a member of the Appeals Unit. Following that attestation, she was granted a 90-day provisional eligibility and she was determined eligible for subsidized insurance for the months of November and December. At the conclusion of the hearing, she was provided with information on how to obtain a transcript of her tax filing from the I.R.S. ¹

Based upon the totality of the evidence, it is concluded that the Connector's determination on September 11, 2020, regarding the appellant's eligibility for Health Connector Plans without financial help due to her failure to attest to filing a tax return and reconciling prior tax credits, was correct and is therefore affirmed.

ORDER

The appeal is denied.

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

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

¹ The Health Connector has made members whose eligibility was blocked due to tax reconciliation matters provisionally eligible for 2021 due to the IRS backlog in processing returns as a result of the pandemic.

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant testified that she was determined eligible for Health Connector Plans with no financial help in December, 2020, effective January 1, 2021, and paid a monthly premium of \$340.00 for that month. She was determined eligible for ConnectorCare Plan Type 3A with an APTC of \$64.00 effective February 1, 2021. (Ex. 14) She was advised that the matter would be referred to the Appeals Unit with a request that a member outreach her to determine why she lost access to subsidized insurance for the month of January.

Any advance premium tax credits you received in 2020 from the federal government will be reconciled when you file your 2020 federal income tax return (usually in the spring of 2021). 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 2020, you may have to pay some of those credits back. On the other hand, if you got too little in tax credits during 2020, you will get the rest of the tax credits you are owed when you file your taxes.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-12771

Appeal Decision: Appeal Denied.

Hearing Issues: Eligibility for ConnectorCare based on access to affordable employer-sponsored insurance.
Eligibility for ConnectorCare based on access to a Veteran's health plan.

Hearing Date: December 11, 2020

Decision Date: January 4, 2021

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 ACTIONS TAKEN BY THE HEALTH CONNECTOR

On October 18, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant stated she had access to employer sponsored insurance that met minimum value standards.

On October 18, 2020, the Appellant Spouse was determined eligible for Health Connector plans without subsidies because the Appellant Spouse is eligible for a Veteran's (VA) Health Program.

ISSUES

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

The second issue addressed is whether the Health Connector correctly determined that the Appellant Spouse was not eligible for subsidies based on the Spouse's access to a VA Health Program.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 18, 2020. The Appellant Spouse did not attend. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated November 20, 2020.
Exhibit 3: Health Connector Appeals Unit Outreach Notes.
Exhibit 4: Health Connector Final Eligibility Renewal Notice dated October 18, 2020.
Exhibit 5: 2021 Eligibility Results with an Application Summary dated October 18, 2020
Exhibit 6: The Appellants' Hearing Request Form dated November 3, 2020.
Exhibit 7: Health Connector Open Record Form dated December 18, 2020.
Exhibit 8: Additional information submitted by the Appellant to the Appeals Unit dated December 29, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. In conjunction with the annual renewal process, on October 18, 2020, the Health Connector sent the Appellant a Final Eligibility Determination notice for 2021. The Appellant reported annual income of \$46,130. The Appellant Spouse reported annual income of \$10,740. The Health Connector determined that the family of five had income equal to approximately 178.85% of the federal poverty level. The Appellant's three children were determined eligible for MassHealth. The Appellant was determined eligible for Health Connector Plans without financial assistance because the Appellant reported having access to employer sponsored health insurance (ESI). The Appellant Spouse was determined eligible for Health Connector Plans with no financial assistance based on the Spouse having access to a VA Health Plan. The notice instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application and contact Health Connector Customer Service for assistance (Exhibits 4, 5).
2. On November 3, 2020, the Appellants filed an appeal to dispute this determination. The Appellant argues that that their employer sponsored health insurance is not affordable (Exhibit 6; Appellant Testimony).
3. The Appellant did not dispute the fact that the Appellant Spouse has access to a VA Health Program (Appellant Testimony).
4. The Appellant testified that they do have access to employer sponsored health insurance, but it is too expensive. The Appellant was unsure of the cost and mentioned a figure of \$209.00 bi-weekly. The Appellant also testified that their Spouse no longer has earned income (Appellant Testimony).
5. To be affordable, the cost of employer sponsored health insurance must not exceed 9.83% of the household's projected income. Based on the reported income of \$56,870, to be affordable the monthly cost of the Appellant's insurance must not exceed \$465.86 (Exhibit 5).
6. The record was left open until January 8, 2021 to allow the Health Connector Appeals Unit to send the Appellant a Form to have completed by their employer verifying the monthly cost of the employer sponsored health insurance for the Appellant. The Form was sent out by the Appeals Unit on December 18, 2020 (Exhibit 7).
7. On December 29, 2020, the Appellant contacted the Appeals Unit and reported that their employer had not yet filled out the form, but the Appellant attached a document entitled Fiscal Year 2021 Insurance

Update. The lowest cost individual health plan available to the Appellant through their employer is noted to be \$227.67 per bi-weekly paycheck. The monthly cost is \$493.36 (Exhibit 8).

8. The Appellant's employer sponsored health insurance is not affordable for the Appellant because the monthly cost of \$493.36 exceeds the \$465.86 deemed affordable to the Appellant based on 9.86% of the Appellant's reported income (Exhibits 5, 8).

ANALYSIS AND CONCLUSIONS OF LAW

The Health Connector is required to redetermine eligibility for its members annually. As part of this process, Health Connector is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

Individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

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 2021 if the employee's required contribution for self-only coverage is 9.83 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.

The Health Connector issued a Final Eligibility Renewal Notice to the Appellant's household on October 18, 2020. The Appellant's household of five reported annual income of \$56,870. The Health Connector determined that this income is equal to 175.85% of the federal poverty level. The Appellant's three children were determined eligible for MassHealth. The Appellant attested on their application that they have 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. The Final Renewal Notice advised the Appellant to contact Health Connector Customer Service if any information on the October 18, 2020 application was incorrect. The Appellant filed an appeal on November 3, 2020 and indicated that the basis for the Appeal was that the health insurance offered by their employer was not affordable. The Appellant did not submit any supporting evidence to the Health Connector. At the Hearing held on December 18, 2020 the Appellant

testified that they believed that their employer sponsored health insurance was not affordable. The Appellant was unable to say with certainty what the monthly cost of the insurance was. The Appellant mentioned a figure of \$209 bi-weekly. If this were the case, the monthly cost of \$452.90 would be less than the \$465.86 which represents 9.83% of the Appellant's reported monthly income of \$4,739. Based on the information available, the Health Connector correctly determined on October 18, 2020 that the Appellant was eligible for Health Connector Plans because as of that time the Appellant had not verified that the cost of their employer sponsored health insurance was not affordable.

The Appellant Spouse was also determined eligible for Health Connector Plans with no financial assistance. The Health Connector determined the Appellant Spouse is eligible for a VA Health Plan. The Appellant did not offer any evidence or testimony to dispute this determination. To be eligible for ConnectorCare, individuals must not have access minimum essential coverage through other government subsidized programs such as the VA. 45 CFR § 155.305(f)(1)(ii).

The Record was left open to allow the Appellant to submit additional evidence. On December 29, 2020, the Appellant submitted documentation verifying that the monthly cost of their employer sponsored health insurance would be \$493.36 for tax year 2021. This is more than 9.83% of the Appellant's reported monthly income. The Appellant does not have access to affordable employer sponsored health insurance. 45 CFR § 155.305(f)(1)(ii)(B). The Health Connector may consider this when determining the Appellant's ongoing eligibility. The Appellant testified at the December 18, 2020 Hearing that their Spouse no longer has earned income. The Appellant was advised to update their Application to report all changes. 956 CMR § 12.09.

ORDER

This Appeal is Denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded to update their Application and report any changes in income. The Appellant may contact Health Connector Customer Service at 1-877-623-6765 for assistance.

The Appellant should mail verification of the cost of their employer sponsored health insurance to the Health Connector at:

Health Insurance Processing Center
PO Box 4405
Taunton, MA 02780

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2012375

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, income

Hearing Date: December 9, 2020

Decision Date: January 8, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 23, 2020, the Appellants were determined eligible for Health Connector plans with no financial help.

ISSUE

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

HEARING RECORD

One of the Appellants appeared at the hearing, which was held by telephone, on December 9, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification and procedures (1 page);
- Exhibit 2: Notice of Hearing (11-12-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (10-10-20) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (9-30-20) (with document) (10 pages);
- Exhibit 6: Eligibility Approval letter (9-3-20) (10 pages);

- Exhibit 7: Eligibility detail printout and application summary printout (16 pages);
Exhibit 8: Request for Information letter (12-18-19) (4 pages); and
Exhibit 9: Medicaid Household determination and notes (22 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants had health insurance previously through the Health Connector. (appellant Testimony, Exhibit 5).
2. Appellants had been requested to submit information regarding their income in December 2019, due in March 2020. (Exhibit 8).
3. Appellants eligibility was redetermined in September 2020. (Appellant testimony).
4. Appellants stated that documents had been submitted however, the documents were deemed insufficient. (Appellant Testimony, Exhibit 4).
5. Appellants appealed alleging that income determination was incorrect. During the hearing, the Appellant indicated that they did not want to proceed with the appeal, but had not withdrawn. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

In September 2020, Appellants submitted additional documents regarding their income, but the documents were deemed insufficient. On September 23, 2020, the Appellants were determined eligible for Health Connector plans with no financial assistance based on verifying income from Appellant and from other sources. The Appellants appealed. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellants were eligible for Health Connector plans with no financial assistance on September 23, 2020, and that determination is upheld.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11158

Appeal Decision: Appeal Denied

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

Hearing Date: December 9, 2020

Decision Date: January 7, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 16, 2020, the Appellant was determined eligible for Health Connector plans with no financial help.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 9, 2020. The hearing was recorded. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (11-12-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (11-6-20) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (10-28-20) (with document) (6 pages);
- Exhibit 6: Eligibility Approval letter (10-16-20) (9 pages);

- Exhibit 7: Eligibility detail printout and application summary printout (10 pages);
Exhibit 8: Form 1095-A letter and form for TY 2019 (1-7-20) (8 pages); and
Exhibit 9: Enrollment information for 2021 (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. In 2019, Appellant had been covered by ConnectorCare plans (Exhibit 8).
2. Appellant had failed to reconcile receipt of advance premium tax credits prior to the date of the application on October 16, 2020. (Appellant Testimony).
3. On October 16, 2020, Appellant was determined eligible for Health Connector plans with no financial help. This was based on data from other sources (Exhibits 6, 7).
4. Appellant had not updated the information with the Health Connector prior to October 16, 2020.
5. On October 28, 2020, Appellant filed an appeal.
6. Appellant testified that they had filed the reconciliation forms with the taxes. (Appellant's Testimony, Exhibit 5).
7. The Connector had allowed the Appellant to provisionally enroll, and Appellant still was required to update the application to reflect the reconciliation (Exhibit 9).
8. The determination of the Connector was correct based upon the information available to the Connector at the time of the application on October 16, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

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

On October 16, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2019, the Appellant was eligible for ConnectorCare Plans, and received APTC. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c) – (g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On October 16, 2020, the Appellant was found eligible for Health Connector Plans with no financial help for plan year 2020, based on having failed to file the required reconciliation. The final determination was correct for

Appellant, based on information available to the Connector. This process complied with federal law at 45 CFR § 155.335.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

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

NOTE: Appellant was advised to update the tax filing and then attest to the filing of the taxes and reconciliation. In addition, Appellant’s passport was expired and the Appeals Unit assisted Appellant to update that information.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-12773

Appeal Decision Appeal Denied, Eligibility determination upheld

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

Hearing Date: December 14, 2020

Decision Date: January 18, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 9, 2020 Appellant was determined ineligible for Health Connector plans, due to failure to be a Massachusetts resident.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 14, 2020. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form dated October 29, 2020
- Exhibit 2: Eligibility results and Summary dated October 9, 2020
- Exhibit 3: Appeals Unit outreach and information about proving residency
- Exhibit 4: NONE
- Exhibit 5: Eligibility Results and summary dated December 10, 2020
- Exhibit 6: Correspondence from Health Connector

FINDINGS OF FACT

The record shows, and I so find:

1. On October 9, 2020, Appellant applied for health insurance from the Health Connector (Exhibit 2).
2. On October 9, 2020, Appellant was determined ineligible for Health Connector plans for failure to be a Massachusetts resident (Exhibit 2).
3. On October 29, 2020, Appellant filed an appeal (Exhibit 1).
4. On or about December 10, 2020, Appellant re-applied for coverage with updated information about Massachusetts residency (Exhibit 5).
5. On December 10, 2020, Appellant was found eligible for Health Connector Plans but was not found eligible for subsidies (Exhibit 5).
6. On December 10, 2020, Appellant was found not eligible for subsidies due to enrollment in the Veterans Administration Health Program (Exhibit 5).
7. Appellant had applied for the Veterans Health Program, but had been denied coverage (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

On October 9, 2020 Appellant was found ineligible for Health Connector Plans as Health Connector records indicated that Appellant did not live in Massachusetts. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d). When Appellant applied for coverage on October 9, 2020, Appellant was found not to be a resident of Massachusetts and Appellant was found ineligible for Health Connector plans. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

The decision by the Health Connector on October 9, 2020 correctly found that the Appellant was not eligible for Health Connector plans and that determination is upheld.

ORDER

The appeal is denied.

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

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

ADDENDUM:

After Appellant filed the appeal, Appellant updated the Health Connector with information that Appellant was a resident of Massachusetts. Appellant was subsequently found eligible for Health Connector Plans without subsidies, even though Appellant may have been income eligible for subsidies. Appellant's denial of subsidies was based on enrollment in Veterans Administration Program, which is Federal Minimum Essential Coverage and is a block to APTC and subsidies. Appellant testified that Appellant was denied coverage by the Veterans Administration.

Appellant was encouraged to immediately contact Health Care for All at 1877 910-2100 for information about options and procedures for subsidized health insurance coverage for veterans.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13016

Appeal Decision: Appeal denied

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

Hearing Date: January 4, 2021

Decision Date: January 14, 2020

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated September 2, 2020, the appellant was advised that he was eligible for ConnectorCare Plan Type 3A with an Advanced Premium Tax Credit (APTC) of \$362.00/month beginning on January 1, 2021. (Exs. 1,2) The appellant filed an appeal dated November 2, 2020 (Ex. 4) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex. 8)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for a ConnectorCare Plan with APTC on September 2, 2020 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 4, 2021, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for September 2, 2020 (2 pages)
- Ex. 2—Health Connector's Final Renewal Notice dated October 11, 2020 (9 pages)
- Ex. 3—Health Connector's Review of Application (3 pages)
- Ex. 4—Hearing Request Form dated November 2, 2020 (4 pages)
- Ex. 5—Acknowledgment of Appeal dated November 20, 2020 (1 page)

- Ex. 6—Appeals Unit case notes (1 page)
- Ex. 7—Health Connector email dated 11/20/2020 (1 page)
- Ex. 8—Notice of Hearing (3 pages)
- Ex. 9—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 52 years-old and has a tax household size of one. (Testimony, Ex. 3)
2. The appellant was enrolled in ConnectorCare Plan Type 2 in 2020 for which he paid a monthly premium of \$45.00. (Testimony, Ex. 6)
3. By notice dated September 2, 2020, and by Final Renewal Notice dated October 11, 2020, the appellant was determined eligible for ConnectorCare Plan Type 3A with an APTC of \$362.00/month based on having an income and household size equivalent to 222.49% of the Federal Poverty Level (FPL) effective January 1, 2021. On the application on which the September 2nd and October 11th determinations were based, the appellant attested to a projected yearly income of \$28,839.00. The new monthly premium for 2021 increased to \$148.00. (Testimony, Exs. 1,2,3)
4. The appellant appealed the Connector's October 11, 2020, determination on November 2, 2020 based on income and stated in part that he got an increase of \$.75/hour at work resulting in an additional \$1600.00/year. He further stated that his new premium would cost \$1800.00/year more than the previous year thereby wiping out his increase. Finally, he stated that he was contemplating giving up his raise in order to revert to an affordable insurance plan. (Testimony, Ex. 4)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant was determined eligible for ConnectorCare Plan Type 3A with APTC based on having an income and family size equivalent to 222.49% of the FPL. The appellant does not dispute that he attested to a projected yearly income of \$28,839.00 on his application, but testified that he was incredulous that a \$.75/hour salary increase would result in an \$1800.00/year increase in his premium.

Based on the evidence in the record, it is concluded that the Connector's determination on September 2, 2020 and October 11, 2020 regarding the appellant's eligibility for ConnectorCare Plan Type 3A with APTC was correct, and is therefore affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13023

Appeal Decision: Appeal denied

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

Hearing Date: January 4, 2021

Decision Date: January 15, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 10, 2020, the appellant was advised that he was eligible for a Health Connector Plan with no financial help beginning on January 1, 2021. (Exs. 1,3) The appellant filed an appeal dated November 9, 2020 (Ex. 4) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex. 8)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help on October 10, 2020 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 4, 2021, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for October 10, 2020 (2 pages)
- Ex. 2—Health Connector's Review of Application (2 pages)
- Ex. 3—Health Connector's Final Renewal Notice dated October 10, 2020 (10 pages)
- Ex. 4—Hearing Request Form dated November 9, 2020 (4 pages)
- Ex. 5—Acknowledgment of Appeal dated November 20, 2020 (1 page)
- Ex. 6—Appeals Unit case notes (1 page)

Ex. 7—Health Connector email dated November 20, 2020 (1 page)

Ex. 8—Notice of Hearing (3 pages)

Ex. 9—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 63-years-old and has a tax household size of one. (Testimony, Ex. 2)
2. In 2020, the appellant was enrolled in ConnectorCare Plan Type 2B for which he paid a monthly premium of \$45.00. (Testimony, Ex. 6)
3. The appellant took a distribution of \$138,000.00 from his IRA account in 2019 in order to purchase a place to live. This amount was reported on his 2019 tax returns. (Testimony)
4. By notice dated October 10, 2020, the appellant was determined eligible for Health Connector Plans with no financial help based on having an income and household size equivalent to 1189.38% of the Federal Poverty Level (FPL) effective January 1, 2021. On the application on which the October 10, 2020 determination was based, the appellant projected his yearly income to be \$24,975.00. (Testimony, Exs. 1,2,3)
5. The appellant appealed the Connector's October 10, 2020, determination on November 9, 2020 based on income and indicated that his work hours had been reduced to less than 20 per week. (Testimony, Ex. 4)
6. The appellant enrolled in an unsubsidized Health Connector plan for 2021 for which he is paying \$583.00/month. He estimates that his projected income for 2021 will be closer to \$20,000.00. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant was found eligible for Health Connector Plans with no financial help based on having an income and family size equivalent to 1189.38% of the FPL. The appellant testified that his income in 2019 was inflated by the distribution of \$138,000.00 he took from his IRA account to buy a place to live. He further testified that his projected yearly income for 2021 is approximately \$20,000.00. At the conclusion of the hearing, he was advised to report the income change on his application in order to receive a new eligibility determination.

Based on the evidence in the record, it is concluded that the Connector's determination on October 10, 2020 regarding the appellant's eligibility for Health Connector Plans with no financial help was correct in that it was based on his 2019 income, and is therefore affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to either update his application online with current income information or to contact the Appeals Unit at 617-933-3096 for assistance with reporting the change.

Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13243

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare plans based on income.

Hearing Date: January 15, 2021

Decision Date: January 27, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellants submitted an application for subsidized health insurance on October 28, 2020. The Health Connector determined the Appellant and her husband to be eligible for Health Connector plans.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellants were eligible for Health Connector plans.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 15, 2021. The procedures to be followed during the hearing were reviewed with all who were present. The Appellants

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

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated December 21, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (4 pages dated November 27, 2020)
- Exhibit 6: Notice of Eligibility Determination (9 pages, dated October 28, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (9 pages, dated October 28, 2020)
- Exhibit 8: Historical Notices & Printouts (10 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 46 year old married male and his wife is 43 years old (Exhibit 7)
2. The Appellant has a household of four. (Exhibit 7)
3. On his application, dated October 28, 2020 the Appellants entered a manual verified annual modified adjusted gross income of (MAGI) of 148,799.52. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place them at 567.94% of the 2021 Federal Poverty Level (FPL). An individual at that income level would be eligible for unsubsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.
5. Appellant then filed their appeal on October 28, 2020.

6. Appellants testified that they thought their income, which had substantially been reduced due to the pandemic should be put down as the same as the prior year. Therefore, they overestimated their income for 2021.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant's application stated their projected MAGI was \$148,799.52, which for a household of four, puts the Appellant's at approximately 567.94% of the 2020 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for unsubsidized Health Connector plans. The Appellant then appealed. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Appellant is urged to contact the Customer Service Department of the Health Connector and report changes for the year 2021.

Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13269

Appeal Decision: Appeal Allowed

Hearing Issue: Eligibility for ConnectorCare based on Failure to reconcile APTC.

Hearing Date: January 15, 2021

Decision Date: January 27, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellants submitted an application for subsidized health insurance on November 18, 2020. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies. The Appellant's determination was based on the Appellant's failure to establish that she had reconciled APTC'S the Appellant had received in a prior tax year

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans and not eligible for ConnectorCare based on the Appellant's failure to verify that he had reconciled APTC'S in the prior year.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 15, 2021. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated December 21, 2020)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 6 pages dated December 7, 2020)
- Exhibit 6: Notice of Eligibility Determination (9 pages, Dated November 17, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated November 18, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout 6 pages, dated November 28, 2020)
- Exhibit 8: Applicable Customer Service Notes

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 2020. (Appellant testimony)
2. The Appellant expects to make \$20,988.00 in 2021. (Appellant testimony, Exhibit 7)
3. The Appellant is not eligible for employer-sponsored insurance that meets federal affordability standards. (Appellant Testimony)
4. The Appellant is not eligible for government-sponsored insurance. (Appellant Testimony)
5. The Appellant was enrolled in ConnectorCare in 2020 and received advance premium tax credits in 2020 until December 2020 when her premium increased to \$855.00 for the month of December 2020. (Appellant Testimony & Exhibit 5)
6. The Appellant testified that she did not receive her 1095 from the Health connector until October 2020 and therefore could not file it until that time with the IRS.
7. The Appellant did file a federal income tax return for 2019, and did reconcile receipt of advance premium tax credits received in 2019 but not until she received her 1095 in October 2020. The IRS indicated that it would take several weeks for her forms to be processed. Appellant is now enrolled in ConnectorCare plan 2B. (Appellant Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant only made \$20,988.00 in 2019, and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On November 17, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. In 2021, the Appellant is eligible for ConnectorCare, and will receive APTC. However, the Appellant did file an income tax return for 2019 and did reconcile receipt of APTC. The Appellant did not reconcile until October 2020 because she did not receive her form 1095 from the Health Connector until that date. Because the Appellant did reconcile receipt of APTC from a prior year, the Appellant is eligible to receive APTC in 2020. 45 CFR § 155.305(f)(4).

ORDER

The appeal is allowed. The determination by the Connector is overturned. The Connector is ordered to re-determine the amount of premium the Appellant should pay for December 2020 and refund the difference, if any, to the Appellant.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113320

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

Hearing Issue:

Whether the Connector correctly determined the appellant's eligibility to enroll in a Health Connector-Care plan, Type 3B with an advance premium tax credit.

Hearing Date: January 21, 2021

Decision Date: January 22, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 23, 2020, the Connector determined that the appellant was eligible to purchase a Health ConnectorCare plan Type 3B with an advance premium tax credit based upon information supplied by the appellant to the Connector.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health ConnectorCare plan Type 3B with an advance premium tax credit.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 22, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 28, 2020 for January 22, 2021 hearing addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated December 19, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes

Exhibit 4: Hearing Request Form from Appellant received by the Connector on December 11, 2020

Exhibit 5: Connector letter dated November 23, 2020 to Appellant regarding eligibility

Exhibit 6: Summary and results of Appellant's application for Connector health plan dated November 23, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance coverage through the Connector on November 23, 2020 (Exhibits 5 and 6, Testimony of the Appellant).
2. The Connector notified the Appellant in a letter dated November 23, 2020 that he was eligible for ConnectorCare Type 3B coverage based upon self-attestation of his projected income (Exhibits 5 and 6).
3. The appellant had attested that he had a projected income for 2021 of \$32,601 which equaled 250.5% of the Federal Poverty Level. Appellant's only source of income was unemployment compensation of \$627 weekly (Testimony of Appellant, Exhibits 5 and 6).
4. Based upon the projected income, Appellant was eligible for ConnectorCare Type 3B (Exhibits 5, 6).
5. Appellant submitted a request for an appeal of the Connector's determination on December 11, 2020. Appellant appealed the November 23, 2020 Connector determination because he felt his income might decrease (Exhibit 4, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on November 23, 2020 that the appellant was eligible to purchase a ConnectorCare plan Type 3B. See Exhibit 5.

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

If an applicant's projected income is 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. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the appellant applied for health insurance through the Connector, attesting that his projected income for 2021 was \$627 a week or \$32,601 a year. Based upon this projected income of \$32,601 which equaled 250.5% of the Federal Poverty Level, the Connector determined that the appellant was eligible for a ConnectorCare Plan, Type 3B. See the testimony of the appellant which I find to be credible, and Exhibits 5 and 6.

Based upon the self-attestation by the appellant, the Connector correctly determined the appellant's eligibility for a ConnectorCare plan Type 3B. As noted above, if individuals are otherwise eligible to purchase health insurance through the Connector and if the individuals have an income which is between 100% and 400% of the Federal Poverty level, the individuals are eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. If the projected income is between 100% and 300% of the Federal Poverty Level, the individuals may be eligible for a ConnectorCare plan if they meet other eligibility requirements. The plan type is dependent upon the individuals' projected income level. See 956 CMR 12.00 et. seq.

The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to enroll in a Connector-Care plan Type 3B is affirmed.

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

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

Cc: Connector Appeals Unit

Hearing Officer

Addendum: As of the date of this hearing, Appellant had not enrolled in a plan. He was advised at the hearing of the need for him to enroll either on-line or by calling Customer Service. He was also advised to notify the Connector if his income increased or decreased during the year.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11890

Appeal Decision: Appeal denied

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

Hearing Date: September 29, 2020

Decision Date: January 31, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated July 9, 2020, the appellant was advised that he did not qualify for Health Connector plans because he had access to Medicare or was enrolled in Medicare. (Exs. 1,2) The appellant filed an appeal dated August 6, 2020. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Ex. 8)

ISSUE

Was the Connector's decision regarding the appellant's lack of eligibility for Health Connector Plans correct at the time of its determination on July 9, 2020, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

The appellant and his case worker appeared at the hearing which was held by telephone on September 29, 2020, and testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

- Ex. 1— Health Connector's Eligibility Determination Results based on a program determination date of July 9, 2020 (2pages)
- Ex. 2-- Health Connector's Notice of Eligibility Determination dated July 9, 2020 (6 pages)
- Ex. 3--Health Connector's Review of Application (3 pages)
- Ex. 4—Hearing Request Form dated August 6, 2020 (14 pages)
- Ex. 5—Acknowledgement of Appeal dated August 11, 2020 (1 page)
- Ex. 6—Health Connector's Medicare letter dated September 25, 2020 (1 page)

- Ex. 7—Appeals Unit notes (1 page)
- Ex. 8—Notice of Hearing (3 pages)
- Ex. 9—Affidavit of Connector representative (1page)

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 manner and was marked as follows:

Ex. 10—Employer health insurance information for 2020

The record was subsequently reopened and the appellant was asked to obtain a letter from Medicare regarding the termination of his benefits. Nothing was submitted in response to the second request and the record was closed.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 26-years-old and has a tax household size of one. (Testimony, Ex. 3)
2. Until at least two years ago, the appellant received social security disability benefits and had health insurance through Medicare and MassHealth. Those benefits were terminated when a determination was made that the appellant had been working full-time and had been overpaid. He was required to pay back a portion of the benefits and has been on a payment plan for over a year-and-a-half. The appellant was able to enroll in his father's health insurance plan after he lost access to Medicare and remained enrolled until he turned 26 on June 22, 2020. (Testimony)
3. The appellant has been employed for approximately four years at a restaurant. He determined that the monthly premium of approximately \$350.00 for employer health insurance was unaffordable and never enrolled.¹(Testimony)
4. By notice dated July 9, 2020, the Health Connector advised the appellant that he did not qualify for Health Connector plans because he had access to Medicare or was enrolled in Medicare. The Connector's determination was based on information from the federal government indicating that the appellant was enrolled in Medicare. (Exs. 1,2)
5. The appellant appealed the Connector's July 9th decision on August 6, 2020, based on access to other insurance and attached a copy of a MassHealth Adult Disability Supplement he completed on August 5, 2020. (Ex. 4)

ANALYSIS AND CONCLUSIONS OF LAW

In general, an individual may purchase health insurance through the Health Connector if s/he satisfies the eligibility standards at 45 CFR § 155.305(a). However, for individuals who are eligible for Medicare, there is an additional legal standard that must be considered, specifically the "anti-duplication rule" found in the Social Security Act, 42 USC 1395ss(d)(3)(A)(i), and implemented in federal regulations at 45 CFR § 147.106 and 45 CFR § 148.122. The rule prohibits health insurance issuers from selling insurance to Medicare-eligible individuals if that

¹ In response to the Open Record Request, the employer indicated that the appellant was not eligible for employer sponsored health insurance. (Ex. 10)

insurance would duplicate the benefits provided by Medicare, including where the individual only has Medicare Part A. The Health Connector, as a seller of commercial individual market health insurance, only sells insurance that would be duplicative of benefits provided by Medicare. The Connector also must take precautions to ensure that the issuers whose coverage it sells are not put in the position of violating the anti-duplication rule.

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

The appellant offered credible evidence that he was a recipient of social security disability benefits and had health insurance through Medicare until approximately two years ago when a determination was made that he no longer qualified for those benefits. He further testified that subsequent to the termination, he was able to enroll in his father’s health insurance plan until he turned 26-years-old in June, 2020. At the time of the Connector’s determination on July 9, 2020, data from the federal government indicated that the appellant still had access to Medicare or was enrolled in Medicare. The record was reopened following the hearing for the appellant to obtain a letter from Medicare regarding the status of his health insurance. No response was received, and in the absence of any information to the contrary, it appears that he is still enrolled in Medicare.

Based on the foregoing, it is concluded that the Connector’s determination on July 9, 2020 regarding the appellant’s eligibility for Health Connector Plans based on access to Medicare was correct.

ORDER

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is encouraged to contact Medicare to obtain a letter indicating the date of the termination of his health insurance. The appellant is advised that the open enrollment period for health insurance for 2021 runs until March 23, 2021. Once he has the necessary documentation from Medicare, he can investigate his options for health insurance through the Health Connector at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2012298

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

Hearing Issue:

Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector plan without financial assistance.

Hearing Date: November 23, 2020

Decision Date: January 25, 2021

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 22, 2020, the Connector determined Appellant to be eligible to enroll in a Health Connector plan with no advance premium tax credit based upon data from the appellant's application and from other data sources.

ISSUE

Whether the Connector correctly determined that Appellant was eligible to enroll in a Health Connector plan without an advance premium tax credit based upon the information supplied by the appellant on the Connector application and other data sources.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with the appellant, marked as exhibits, and admitted in evidence with no objection. 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 October 28, 2020 addressed to Appellant for November 23, 2020 hearing
- Exhibit 3: Connector Appeals Unit letter dated October 15, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

- Exhibit 3a: Connector Appeals Unit letter to Appellant dated October 15, 2020 regarding tax reconciliation
- Exhibit 3b: Appeals Unit outreach notes, October 15, 2020
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on September 29, 2020
- Exhibit 5: Connector letter dated September 22, 2020 to Appellant regarding eligibility to purchase a Connector Health plan
- Exhibit 5a: Connector letter to Appellant dated January 10, 2020 regarding tax reconciliation for 2019 with Appellant's 1095A form for 2019 attached
- Exhibit 5b: Connector letter to Appellant dated January 8, 2019 regarding tax reconciliation for 2018 with Appellant's 1095A form for 2018 attached
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated September 22, 2020
- Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated October 15, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance through the Connector in 2018, and 2019. The appellant received advance premium tax credits in December, 2018 and from January through April and from June through December in 2019. She also had ConnectorCare coverage all of 2020 until October 1, 2020 when the Connector changed her coverage to a Connector Health Plan without tax credits (Testimony of Appellant, Exhibits 5a and 5b).
2. In a letter dated January 8, 2019, the Connector informed the appellant that if she had received advance premium tax credits in 2018, she needed to file an IRS Form 8962 with her 2018 tax return. The appellant's Form 1095-A which showed the appellant how much she had received in advance premium tax credits during 2018 was included (Exhibit 5b).
3. In a letter dated January 10, 2020, the Connector informed the appellant that if she had received advance premium tax credits in 2019, she needed to file an IRS Form 8962 with her 2019 tax return. The appellant's Form 1095-A which showed the appellant how much she had received in advance premium tax credits during 2019 was included (Exhibit 5a).
4. In September, 2020, the appellant received a notice from the Connector informing her that she was now only eligible for a Health Connector plan without an advance premium tax credit. In this notification, Appellant was informed that she was not eligible for a tax credit because her income was too high or too low; or she had access to health insurance another source that met minimum essential coverage standards; or she did not plan to file a tax return, was married and planned to file taxes separately, or she received advance premium tax credits to lower her premium in a prior year and the Connector was not able to confirm that appellant filed Federal tax returns and reconciled the advance premium tax credits on her tax returns; or Appellant had access to MassHealth (Exhibits 5).
5. Appellant attested on her Connector application of September 22, 2020 that she was a single person who planned to file taxes, that she had a projected income which equated to less than 300% of the Federal Poverty Level, and that she had no access to health insurance through other sources (Exhibit 6).
6. Appellant filed Federal tax returns for tax years 2018 and 2019. Her returns were done by a tax preparer. Appellant does not know if when she filed her taxes, she also filed Federal Form 8962 in order to reconcile her taxes for either year (Testimony of Appellant).

7. Appellant filed a hearing request on September 29, 2020 in order to appeal the Connector's September 22, 2020 determination that she was no longer eligible for coverage with an advance premium tax credit (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined in September, 2020 that the appellant was eligible to enroll in a Health Connector plan without any financial assistance. Before that date, Appellant had been enrolled in a ConnectorCare plan. Appellant appealed this determination on September 29, 2020. See Exhibits 4 and 5; and the testimony of the appellant..

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)(4), and 956 Code of Massachusetts Regulations 12.00 et. seq. If a household's projected income is between 100% and 400% of the Federal Poverty Level, the household members may be entitled to an advance premium tax credit. The recipient of tax credits must file Federal taxes, jointly if married, and must reconcile the advance premium tax credits for the period in which the recipient's credits were received by filing a Form 8962. If additional documentation is requested from an applicant and the documentation is not received, the Connector verifies data from other sources. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

Appellant had health insurance through the Connector in 2018, and 2019. The appellant received advance premium tax credits in December, 2018 and from January through April and from June through December in 2019. She also had ConnectorCare coverage all of 2020 until October 1, 2020 when the Connector changed her coverage to a Connector Health Plan without tax credits. In a letter dated January 8, 2019, the Connector informed the appellant that if she had received advance premium tax credits in 2018, she needed to file an IRS Form 8962 with her 2018 tax return. The appellant's Form 1095-A which showed the appellant how much she had received in advance premium tax credits during 2018 was included. Appellant received the same information for tax year 2019. See Exhibits 5a and b, and the testimony of the appellant which I find to be credible.

In September, 2020, the appellant received a notice from the Connector informing her that she was now only eligible for a Health Connector plan without an advance premium tax credit. In the notification Appellant was informed that she was not eligible for a tax credit because her income was too high or too low; or she had access to health insurance another source that met minimum essential coverage standards; or she did not plan to file a tax return, was married and planned to file taxes separately, or she received advance premium tax credits to lower her premium in a prior year and the Connector was not able to confirm that appellant filed a Federal tax return and reconciled the advance premium tax credits on her tax return. See Exhibit 5.

Appellant attested on her Connector application of September, 2020 that she planned to file taxes, that she had a projected income which was equal to less than 300% of the Federal Poverty Level, and that she had no access to health insurance through other sources. During this hearing, she also testified that these attestations were correct and that she had filed Federal tax returns for tax years 2018 and 2019. See the testimony of the appellant which I find to be credible and Exhibit 6.

Since Appellant had income that was below 300% of the Federal Poverty level, since Appellant had filed tax return for the years in question, and since Appellant had no access to other health insurance through other sources, what is at issue is whether the appellant reconciled her tax returns by filing Form 8962 for

2018 and 2019. Appellant's tax returns were completed by a tax preparer. Appellant testified that she did not know whether the necessary forms were included in her returns. From Exhibit 5, given the list of reasons an applicant may be ineligible for financial assistance, we must conclude that the Connector was unable to confirm that the appellant reconciled her tax return as required by filing Form 8962 for the tax years in question. See the testimony of the appellant which I find to be credible, and Exhibits 5, and 6.

Since it appears that Appellant had not reconciled her taxes as of the date that the Connector determined Appellant was ineligible for financial assistance, the Connector's determination is affirmed. See See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: As of date of this hearing, the appellant was again found to be eligible for ConnectorCare coverage. This was done because the Connector has determined that the Internal Revenue Service may be behind in processing tax returns. This does not mean that the appellant should not find out if her returns were properly completed. If the necessary forms were not filed, Appellant may wish to look into amending her returns.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13009

Appeal Decision: Appeal Denied.

Hearing Issue: Eligibility for ConnectorCare based on the annual renewal process.

Hearing Date: January 21, 2021

Decision Date: January 27, 2021

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, 2020, the Appellant was determined eligible for ConnectorCare. The Appellant's determination was a result of the Health Connector's annual renewal process.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant eligible for ConnectorCare based on the information reported during the annual renewal process.

HEARING RECORD

The Appellant attended the hearing, which was held by telephone, on January 21, 2021. The Appellant appointed their Spouse as their authorized representative for the hearing. The procedures to be followed during the hearing were reviewed with the Spouse who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Spouse. The hearing record consists of the Spouse's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated December 28, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector's Final Renewal Notice dated October 18, 2020.
- Exhibit 5: 2020 Eligibility Results with an Application Summary dated October 17, 2020.
- Exhibit 6: The Appellant's Hearing Request Form dated November 13, 2020, with an attachment.

Exhibit 7: A current Eligibility Printout verifying the Appellant's eligibility for MassHealth effective December 7, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. In conjunction with the annual renewal process, on October 18, 2020 the Health Connector sent the Appellant a Final Eligibility Determination notice for 2021. The Appellant was determined eligible for ConnectorCare Plan Type 1 and their Spouse was determined eligible for MassHealth. According to the information in the Appellant's application, the Appellant was not a US Citizen. The Appellant was a Legal Permanent Resident present in the country for less than five years. The Appellant's Spouse is a US Citizen. The household's income was reported to be equal to 95.76% of the federal poverty level for the household of two. The notice instructed the Appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. This notice was mailed to the Appellant's address of record (Exhibits 3, 4, 5).
2. The Appellant filed an appeal on November 13, 2020 to dispute the eligibility determination. The Appellant submitted documentation verifying that they became a US citizen on June 5, 2020 (Exhibit 6).
3. The Appellant was determined eligible for MassHealth effective December 17, 2020 (Exhibit 7).
4. It is undisputed that the Appellant did not report the change in immigration status to the Health Connector or MassHealth prior to November 13, 2020 when this appeal was filed (Exhibits 3, 5 and Spouse Testimony).

ANALYSIS AND CONCLUSION OF LAW

In tax year 2020 the Appellant was determined eligible for ConnectorCare. The Appellant had reported that they were not a US Citizen. The Appellant was a Legal Permanent Resident present in the country for less than five years. The Appellant's Spouse was a US citizen who was determined eligible for MassHealth. 45 CFR 155.305(a)(1). It is undisputed that income for the household of two was below 300% of the federal poverty level.

The Health Connector is required to redetermine eligibility for its members annually. As part of this process, Health Connector is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

Individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On October 18, 2020, the Appellant was found eligible for ConnectorCare for tax year 2020, based on having a household income equivalent to 95.76% of the Federal Poverty Level. This determination came as part of the Health Connector's annual renewal process. The Health Connector issued a Final Renewal Notice on 10/18/20. The Appellant had not reported any changes in income or immigration status prior to the Final Renewal Notice being issued. This notice advised the Appellant to review the information in the October 17, 2020 application and report any changes.

The Appellant filed an appeal to dispute this determination on November 13, 2020. The Appellant does not dispute the income determination. The Appellant submitted documentation verifying that they became a US citizen on June 5, 2020. It is undisputed that the Appellant did not report the change prior to filing the appeal on November 13, 2020.

Applicants and Enrollees have certain responsibilities. Applicants and Enrollees are routinely reminded to report all changes affecting eligibility to the Health Connector within 60 days. 956 CMR 12.09 (2). This information is needed to administer the program. The Health Connector mailed the 2020 preliminary and final eligibility notices to the Appellant's address of record. The Appellant did not report any changes prior to filing this appeal on November 13, 2020. Health Connector's actions were consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on a household income equivalent to 95.76% of the Federal Poverty level and the Appellant's known immigration status. 26 CFR § 1.36B-2, 45 CFR § 155.305(a)(1), (f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335.

The Appellant verified their citizenship status on November 13, 2020 when they filed the Appeal. The change in status resulted in the Appellant being determined eligible for MassHealth effective December 17, 2020. 45 CFR § 155.305(a)(1).

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13152

Appeal Decision: Appeal Denied

Hearing Issues: Eligibility for ConnectorCare, based on failure to reconcile prior tax credits.
Eligibility for ConnectorCare based on having access to Medicare.

Hearing Date: January 21, 2021

Decision Date: January 27, 2021

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 ACTIONS TAKEN BY THE HEALTH CONNECTOR

On November 17, 2020, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to reconcile past tax credits.

On December 7, 2020, the Appellant was determined ineligible to purchase health insurance through the Health Connector because the Appellant is eligible for Medicare.

ISSUES

The first issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is only eligible for Health Connector plans effective December 1, 2020 and not eligible for ConnectorCare, based on the Appellant's failure to reconcile past tax credits.

The second issue is whether the Health Connector correctly determined that the Appellant is ineligible to purchase health insurance through the Health Connector because the Appellant is eligible for Medicare.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 1, 2020. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated December 28, 2020.
Exhibit 3: Health Connector Appeals Unit Outreach Notes.
Exhibit 4: Health Connector's Eligibility Approval Notice dated November 17, 2020.
Exhibit 5: 2020 Eligibility Results with an Application Summary dated November 17, 2020.
Exhibit 6: The Appellant's Online Appeal Request dated November 24, 2020.
Exhibit 7: 2021 Eligibility Results with an Application Summary dated December 7, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to December 2020 the Appellant and their Spouse and were enrolled in ConnectorCare. The Appellant received Advance Premium Tax Credits in 2019 and 2020 (Exhibits 3, 4 and Appellant Testimony).
2. On November 17, 2020, the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial assistance for the period beginning December 1, 2020. The Appellant Spouse was determined eligible for ConnectorCare and the Appellant's two children were determined eligible for MassHealth. The household income was determined to be 142.08% of the federal poverty level (Exhibits 4, 5).
3. The Appellant filed an Appeal on November 24, 2020 (Exhibit 6).
4. The Appellant updated their Application on December 7, 2020 and attested to having filed their taxes for the year 2019 (Exhibit 7).
5. The Appellant is eligible for Medicare (Exhibit 7 and Appellant Testimony).
6. On December 7, 2020, the Health Connector determined that the Appellant is ineligible for Health Connector plans effective January 1, 2021 because the Appellant is eligible for Medicare. The Appellant Spouse is eligible for ConnectorCare based on reported income equal to 139.64% of the federal poverty level. The Appellant's children remain eligible for MassHealth (Exhibit 7).
7. The Appellant testified that they received a bill for an increased premium amount for the month of December 2020. The Appellant said that they contacted Customer Service to cancel the insurance but are still being billed. The Appellant does not dispute that they have Medicare and are ineligible for tax year 2021 (Appellant Testimony).
8. The Appellant was advised that they must contact Health Connector Customer Service for issues with billing.

ANALYSIS AND CONCLUSIONS OF LAW

On November 7, 2020, the Appellant was found eligible for Health Connector Plans without subsidies effective December 1, 2020. The Appellant asserts that this determination was incorrect because the Appellant had reported income of less than 300% of the Federal Poverty Level and they are 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).

The Appellant was determined eligible for ConnectorCare and received APTC in tax year 2019. As of November 17, 2020, the Health Connector was unable to verify that the Appellant had in fact filed their returns and reconciled receipts of APTC for tax year 2019. The Health Connector notified the Appellant on November 17, 2020 that they would be eligible for Health Connector plans with no financial assistance effective December 1, 2020. 45 CFR § 155.305(f)(4). Based on the evidence and testimony in this administrative record, the Health Connector's November 17, 2020 action was correct.

The Appellant filed an appeal on November 24, 2020. The Appellant updated their Application on December 7, 2020 and attested to having filed their taxes. The Appellant does not dispute the eligibility determination for December 2020. The Appellant testified that they contacted Health Connector customer serviced and asked that their coverage be cancelled for December 2020 because the Appellant did not want to pay the higher premium for a Health Connector Plan without subsidies. As explained at the hearing, billing issues are not valid grounds for appeal under the Health Connector regulations. 956 CMR 12.12.

Although the Appellant attested to having filed their taxes and reconciled all past credits, the Appellant was determined ineligible for health insurance coverage through the Health Connector for the period beginning January 1, 2021 because they receive Medicare.

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

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

Since the Appellant is eligible for Medicare, in accordance with the regulation cited above, the Health Connector correctly determined on December 7, 2020 that the Appellant was not eligible for coverage through the Health Connector for the period beginning January 1, 2021.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant may contact Health Connector Customer Service at 1-877-623-6765 for questions about billing and their Spouse's monthly premium.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13157

Appeal Decision: Denied

Hearing Issue: Eligibility for ConnectorCare and Advance Premium Tax Credits.

Hearing Date: January 21, 2021

Decision Date: January 27, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 17, 2020, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's financial eligibility based on the income documentation provided.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 21, 2021. 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 December 28, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector's Eligibility Approval Notice dated November 17, 2020.
- Exhibit 5: 2020 Eligibility Results with an application summary dated November 17, 2020.
- Exhibit 6: The Appellant's Online Appeal Request dated November 24, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to December 2020, the Appellant received ConnectorCare with Advance Premium Tax Credits (APTC) (Appellant Testimony).
2. On November 17, 2020, the Appellant updated their Application for their household of two. The Appellant reported having bi-weekly income of \$2,000, which is \$52,008 annually (Exhibit 5).
3. I take administrative notice that for tax year 2020, 300% of the federal poverty level for a household of two was \$50,730 and 400% of the federal poverty level was \$67,640.
4. I take administrative notice that for tax year 2021, 300% of the federal poverty level for a household of two is \$51,720 and 400% of the federal poverty level is \$68,960.
5. On November 17, 2020, Health Connector determined that the Appellant's income was equal to approximately 307.56% of the federal poverty level for their household of two (Exhibit 5).
6. On November 17, 2020, the Appellant was notified that the Appellant was eligible for Health Connector Plans with Advance Premium Tax Credits and their child was eligible for MassHealth effective December 2020 and extending to January 2021 (Exhibit 4).
7. The Appellant submitted an Appeal Request on November 24, 2020 (Exhibit 6).
8. The Appellant did not dispute the income amount reported on their November 17, 2020 Application. The Appellant testified that they had more income in tax year 2020 and they were determined eligible for ConnectorCare. The Appellant said that they were paying \$135 per month for their health insurance and the premium jumped to \$325 despite the Appellant having less income projected for tax year 2021 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was receiving ConnectorCare prior to December 2020. On November 17, 2020, the Appellant updated the Application for their household of two. The Appellant reported annual income of \$52,008 which the Health Connector determined was equivalent to 307.56% of the federal poverty level for their household of two. The Appellant was notified on November 17, 2020 that they were eligible for Health Connector Plans with Advance Premium Tax Credit of \$0 for the period beginning December 2020 and extending into tax year 2021. The Appellant's child was determined eligible for MassHealth Family Assistance. The Appellant filed an appeal to dispute the determination on November 24, 2020.

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

the Appellant on November 17, 2020, the Health Connector correctly determined that the Appellant's income of \$52,008 exceeded 300% of the federal poverty level for a household of two, which is \$51,720 for tax year 2021 and was \$50,730 for tax year 2020. The Appellant's income was less than 400% of the federal poverty level, which is \$68,960 for 2021 and was \$67,640 for tax year 2020. The Appellant was determined eligible for APTC of \$0.

Tax credit amounts are determined by various factors, including household income, the number of persons in the tax household and the cost of the second least-expensive Silver Plan available in the market area. 26 IRC § 36B (2). The Appellant is a tax household of two with projected MAGI of \$52,008. The Connector determined that there are good high quality health plans available to the Appellant through the Health Connector at an affordable premium, without any extra help. The Health Connector correctly determined that the appellant is eligible for Health Connector Plans with APTC of \$0.00 for the period beginning December 2020 and extending to tax year 2021.

The Appellant argues that they had less income in tax year 2020 and were determined eligible for ConnectorCare. As explained at the Hearing, the information reported and verified with the November 17, 2020 Application is the subject for this appeal. It is unclear why the Appellant would have been determined eligible for ConnectorCare with income exceeding 300% of the federal poverty level.

Based on the evidence in this administrative record, the Health Connector's October 17, 2020 financial eligibility determinations for the period beginning December 1, 2020 and extending to January 1, 2021 were correct.

ORDER

This appeal is denied.

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Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded that any changes in income or other household circumstances may be reported on their application or by contacting Customer Service at 1-877-623-6765.

Open Enrollment has been extended to March 23, 2021 should the Appellant wish to shop for a different Health Plan.