

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-15495

Appeal Decision: Appeal denied

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

Hearing Date: January 10, 2022

Decision Date: January 27, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 17, 2021, the appellant was advised that she did not qualify for health insurance through the Health Connector because she had access to or was enrolled in Medicare. (Ex. 3) The appellant filed an appeal dated December 5, 2021 based on income. (Ex. 5) The matter was referred to a hearing after receipt of the appeal. (Ex. 9)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector plans correct at the time of its determination on November 17, 2021, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

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

- Ex. 1—Health Connector's Eligibility Determination Results based on a program determination date of November 17, 2021 (2 pages)
- Ex. 2—Health Connector's Review of Application (3 pages)
- Ex. 3—Health Connector's Notice of Eligibility Denial dated November 17, 2021 (6 pages)
- Ex. 4—Medicaid Household Determination document (5 pages)
- Ex. 5—Hearing Request Form dated December 5, 2021 (2 pages)

- Ex. 6—Acknowledgement of Appeal dated December 16, 2021 (1 page)
- Ex. 7—Health Connector email regarding SHINE dated December 16, 2021 (1 page)
- Ex. 8—Appeals Unit notes (1 page)
- Ex. 9—Notice of Hearing (3 pages)
- Ex. 10—Affidavit of Connector representative (1page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 54-years-old, is single and has a tax household size of one. (Testimony, Ex. 2)
2. The appellant has been receiving social security disability benefits for approximately fifteen years. She is currently enrolled in Medicare Part A. (Testimony, Exs. 2, 3)
3. The appellant has been insured under her ex-husband’s employer provided insurance for approximately twenty years. (Testimony)
4. By notice dated November 17, 2021, the Health Connector advised the appellant that she was not eligible for health insurance through the Health Connector because she had access to or was enrolled with Medicare. (Ex. 3)
5. The appellant appealed the Connector’s November 17th decision on December 5, 2021, and stated that she cannot afford the copays and fees under her primary insurance and cannot afford to pay for Medicare Part B. (Ex. 5)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant does not dispute that she has been receiving social security disability benefits for many years and is currently enrolled in Medicare Part A. Based on that information, the Connector determined that she was not eligible for health insurance through the Health Connector.

Accordingly, it is concluded that the Connector's determination on November 17, 2021 regarding the appellant's eligibility for health insurance through the Health Connector based on access to Medicare was correct.

ORDER

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to contact SHINE at 1-800-243-4636 for information on health insurance options for Medicare eligible individuals.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15345

Appeal Decision: Appeal Denied.

Hearing Issues: A household member's eligibility for Health Connector plans based on lawful presence
A household member's eligibility for ConnectorCare based on failure to verify income

Hearing Date: January 11, 2022,

Decision Date: January 14, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTIONS TAKEN BY THE HEALTH CONNECTOR

On October 31, 2021, the Appellant was determined ineligible for Health Connector plans because the Appellant failed to demonstrate that they are lawfully present in Massachusetts.

On October 31, 2021, the Appellant Spouse was determined eligible for Health Connector Plans with no financial assistance. The decision came after the household failed to verify their income.

ISSUES

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

The second issue addressed is whether Health Connector correctly determined the Appellant's Spouse ineligible for ConnectorCare based on their failure to verify their household income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 11, 2022. Interpreter services were provided at the Appellant's request. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Health Connector Appeals Unit Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated December 20, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Denial Notice dated October 31, 2021.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated October 31, 2021.
- Exhibit 6: Medicaid Eligibility Printout for the Appellant's spouse dated October 31, 2021.
- Exhibit 7: Medicaid Eligibility Printout for the Appellant dated October 31, 2021.
- Exhibit 8: The Appellant's Hearing Request Form dated November 18, 2021.
- Exhibit 9: 2020 Eligibility Results with an Application Summary dated November 1, 2020.
- Exhibit 10: Health Connector Request for Information dated July 27, 2020.
- Exhibit 11: Health Connector Appeals Unit Outreach Emails dated December 3, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. On October 31, 2021, the Appellant and their Spouse applied for health insurance and reported having income equal to 129.45% of the federal poverty level for their household of two (Exhibit 5).
2. The Appellant is not a US citizen. The Appellant did not submit proof that they are lawfully present in Massachusetts (Exhibits 4, 5, 7).
3. On October 31, 2021, the Health Connector determined that the Appellant is ineligible for Health Connector plans because the Appellant failed to establish that they are lawfully present in Massachusetts (Exhibits 4, 5, 7).
4. On October 31, 2021, Health Connector determined that the Appellant's spouse is eligible for Health Connector Plans with no financial assistance because the Appellant and their spouse failed to verify their income and Health Connector was unable to determine the household's financial eligibility for healthcare subsidies (Exhibit 5).
5. On July 27, 2020, Health Connector notified the Appellant and their Spouse that they were required to submit proof of household income and proof of the Appellant's immigration status (Exhibit 10).
6. On November 1, 2020, the Appellant's spouse was determined eligible for ConnectorCare 2A based on verified income equal to 133.35% of the federal poverty level. The Appellant was determined ineligible because they did not verify their lawful presence in Massachusetts (Exhibit 9).
7. The Appellant and their spouse were not enrolled in health insurance through the Health Connector in tax year 2021 (Exhibit 3).
8. The Appellant filed an appeal on November 18, 2021, to dispute the October 31, 2021, denial of their application (Exhibit 8).

9. On December 3, 2021, the Health Connector Appeals Unit contacted the Appellant via Email and advised the Appellant to submit proof of income for both household members as well as proof of the Appellant's immigration status (Exhibit 11).
10. The Appellant was asked if they wished to ask questions or make a statement. The Appellant responded that they would wait for a letter with a decision and file an appeal (Appellant Testimony)
11. The Appellant was asked if they had any documentation of their immigration status and the Appellant responded that they are in the process of trying to get a green card (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant and their spouse applied for health insurance through the Health Connector on October 31, 2021. The Appellant was determined ineligible for health insurance through the Health Connector. The Appellant filed an appeal to dispute the determination on November 18, 2021.

The Appellant is not a US citizen. The Appellant did not identify any immigration status on their application. On October 31, 2021, the Appellant was notified that they were not eligible for health insurance through the Health Connector because the Appellant failed to submit the documentation needed to demonstrate that they are lawfully present in Massachusetts.

Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Appellant testified that they are trying to get a green card. The Appellant did not submit any evidence to verify lawful presence in Massachusetts. Health Connector's October 31, 2021, determination that the Appellant is not eligible for coverage through the Health Connector was correct.

On October 31, 2021, the Appellant's spouse was determined eligible for Health Connector Plans with no financial assistance. 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.

Health Connector did not receive updated proof of income from the Appellant and their Spouse. On October 31, 2021, Health Connector resorted to third party data sources for information. No information was available and Health Connector was unable to determine the household's financial eligibility. The Appellant did not offer any evidence or testimony regarding household income at the hearing. Health Connector correctly determined on October 31, 2021, that the Appellant's spouse is eligible for Health Connector Plans with no financial assistance based on income information to the Health Connector. 45 CFR § 155.305(f), and 956 CFR § 12.04.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 22-15603

Appeal Decision: Appeal denied

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

Hearing Date: January 21, 2022

Decision Date: January 28, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated December 20, 2021, the Appellant was advised determined eligible for ConnectorCare Plans with advance premium tax credits. The Appellant's determination was a result of the Health Connector's annual renewal process. (Ex. 5). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.9)

ISSUE

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

HEARING RECORD

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Appellant's Appeal Request Form	(6 pages, received 12/27/2021)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(1 page, dated 12/30/ 2021)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	(1 page, dated 12/31/ 2021)
Exhibit 5:	Health Connector's Application Summary	(3 pages, dated 12/20/ 2021)

Exhibit 6:	Health Connector's Eligibility Results	(3 pages, dated	12/20/2021)
Exhibit 7	Health Connector's Eligibility Approval	(8 pages, dated	12/20/2021)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	(2 pages, dated	11/4/ 2021)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	12/20/ 2021)
Exhibit 10:	Email from the Connector	(1 page, dated	1/11/2022)
Exhibit 11:	Income Verifications	(2 pages, dated	12/30/2021)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is single individual who plans to file a federal income tax return for tax year 2021. (Exhibits 1 and 5).
2. On December 20, 2021, the Health Connector sent the Appellant Notice which stated that the Appellant was eligible for a HealthConnector plan with Advance Premium Tax Credits. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 428.57 % of the Federal Poverty Level. 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. (Exhibits 1,5, and 7).
3. The Appellant attested that his monthly income of \$4,600 and projected yearly income of \$55,200 which included job, retirement or pension, and unemployment income on the application was correct. (Exhibits 1,5,6,7, and Testimony).
4. The Appellant testified that the income he is receiving has changed and reduced. (Appellant Testimony).
5. The Appellant also testified that he was not sure that his daughter's income, who was not part of his household, was included. (Testimony, Exhibit 2).
6. The Appellant's daughter's income was not included in the Connector's determination. (Exhibits 1,5-11).
7. The Appellant was encouraged at the hearing to contact customer service to update his income.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for a HealthConnector plan with Advance Premium Tax Credits for 2022 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 428.57 % of the Federal Poverty Level. The Appellant asserts that this determination was incorrect because the Appellant income since the determination has changed. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if they meet the criteria. Applicants who qualify for APTC and who have projected yearly MAGI according to the above regulations qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On December 20, 2021, the Appellant was found eligible for a HealthConnector plan with Advance Premium Tax Credits. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 428.57 % of the Federal Poverty Level. The Appellant attested that his monthly income of \$4,600 and projected

yearly income of \$55,200 which included job, retirement or pension, and unemployment income on the application was correct. The Appellant testified that the income he is receiving has changed and reduced. The Appellant also testified that he was not sure that his daughter's income, who was not part of his household, was included. (Testimony, Exhibit 2). The Appellant's daughter's income was not included in the Connector's determination. (Exhibits 1,5-11).

The Connector's determination on December 20, 2021, asked the Appellant to review this information and report any changes within 30 days if it was incorrect. The Appellant did not report any changes after receiving the eligibility notice. This is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that his monthly income of \$4,600 and projected yearly income of \$55,200 which included job, retirement or pension, and unemployment income on the application was correct a household income equivalent to 428.57 % of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. Even though the Appellant now asserts that Appellant's income for 2022 will be reduced, the Appellant failed to update the information in their application to reflect this income projection, as required by law, and therefore the determination issued by the Health Connector was correct.

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

ORDER

The appeal is denied.

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

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2021 from the federal government will be reconciled when you file your 2021 federal income tax return (usually in the spring of 2022). This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during 2021 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2021 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2021 will be paid to you when you file your 2021 federal income tax return.

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Unknown income for income determination

Hearing Date: December 28, 2021

Decision Date: January 3, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on October 8, 2021 that she was not determined eligible to receive subsidies in 2022 because the Health Connector did not have an up-to-date known income figure to use for eligibility determination.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not entitled to subsidies because there was not an up-to-date known income figure available for her.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on December 28, 2021. The hearing record consists of Appellant's testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (11/5/21) (2 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Renewal Notice (10/8/21) (11 pages)
- Exhibit 4: Screen Shot of Application Summary (10/8/2021) (3 pages)

- Exhibit 5: Screen Shot of Eligibility Summary (2 pages)
- Exhibit 6: Medicaid Household Determination (5 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Email to Appellant (11/15/21) (2 pages)
- Exhibit 9: Eligibility Summary (8/21) (2 pages)
- Exhibit 10: Application Summary (3 pages)
- Exhibit 11: Hearing Notice (11/29/21) (3 pages)
- Exhibit 12: Acknowledgement of Appeal (1 page)

FINDINGS OF FACT

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

The record shows, and I so find:

1. Appellant is a single individual living in Bristol County.
2. In July 2021, Appellant applied for health insurance through the Health Connector. Based on the information about her current income that she supplied in her application, she was determined eligible for Connector Care Plan Type 2B. See Exhibit 8. That meant she that was determined eligible to receive financial subsidies to offset the cost of insurance, resulting in a nominal premium.
3. On October 8, 2021, the Health Connector sent Appellant a renewal notice. Exhibit 3. This notice stated that Appellant was being determined not to be eligible for financial subsidies for 2022. As a result, the monthly premium would go up to \$413. Id.
4. The notice further stated that this change could be due to several reasons, one of which was that the Health Connector did not have recent verified information about Appellant's current income to use to make an income determination. Exhibit 3. The notice directed Appellant to update the information in her application by either making a change to the on-line application or by calling the Health Connector's customer service department. Id.
5. Appellant did not take an action to update the information after receiving that notice.
6. Appellant filed a timely appeal of this notice on November 5, 2021. Exhibit 1.
7. After receiving the appeal, the Health Connector's appeals unit researched the matter and determined that Appellant needed to update the information in her application in order to resolve the problem. Exhibit 7. Consequently, the Appeals Unit staff sent Appellant an email advising Appellant to update the information in her application and giving her a phone number to call to do so. Exhibit 8.
8. Appellant stated that she didn't think she received that email and, in any event, didn't update her information.
9. Appellant's premium for January health coverage went up to the unsubsidized amount of \$413.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant could not be found eligible for subsidies because there was no up-to-date verified information about her household income.

Massachusetts Health Connector Appeals Unit



The Health Connector determines eligibility of individuals to receive federal subsidies to purchase health insurance under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). The amount of APTCs that an individual is entitled to receive is based on that person's household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b). 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).

Additionally, the Health Connector determines eligibility for Connector Care. That is a program under which state-funded subsidies are added to the APTCs for eligible individuals. To be eligible for Connector Care, an individual must have yearly household income of less than or equal to 300% FPL and must be eligible to receive APTCs. 956 C.M.R. § 12.04. In other words, an individual cannot receive Connector Care unless that individual has first been determined eligible to receive APTCs.

The procedure for determining eligibility for APTCs is governed by federal law. These federal regulations require the Health Connector to conduct an annual re-determination of eligibility for APTCs. See 45 C.F.R. § 155.355(a). The Health Connector is required to do that by requesting updated income information about an individual from federal data sources. Id. § 155.355(b). Then the Health Connector is required to send a notice to the individual telling that person the results of the re-determination based on the federal data sources. Id. § 155.355(c). Federal regulations further provide that, if the request for verification from federal data sources is unsuccessful because there is not matching federal data available for the individual in question, then the Health Connector must request that individual to provide a current attestation of income in order to proceed with the eligibility determination. Id. § 155.320(a)(2).

The Health Connector proceeded in that prescribed manner in this case. It requested verifying information from federal data sources, but it received a response of "unknown," indicating that there was not a federal data match available at the time. See Exhibit 5. As a result, it could not determine Appellant eligible for federal subsidies without a current attestation of income from Appellant. The Health Connector notified Appellant of this result and provided information directing Appellant to update her application with current income information. See Exhibit 3. Appellant did not respond to that notice, and so no further eligibility determination was made.

Appellant was urged at the hearing to update her application with current income information. She was told that she can update her information on-line at www.mahealthconnector.org or she can call the Health Connector at 877-623-6765 to provide the updated information. This will constitute an attestation that will permit a new eligibility determination to be made. (This is the same information that was provided in the communication to Appellant sent by the Health Connector in November. Exhibit 8.)

Because the Health Connector correctly followed federally-required procedures for eligibility re-determination in this case, I am denying this appeal.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Final Appeal Decision ACA 21-15435

Appeal Decision: Appeal Granted. Health Connector's administrative closure based on Appellant's duplicate application is reversed.

Hearing Issue: Was it proper for the Health Connector to administratively close Appellant's application based on Appellant having more than one active application?

Hearing Date: January 18, 2022

Decision Date: January 31, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR

On or around November of 2021, Applicant learned that she was not able to complete her application for health insurance with the Connector based on the Connector administratively closing Appellant's application because its system showed that Appellant had more than one active application. Appellant filed an appeal of this administrative closure, received by the Connector on December 1, 2021,

ISSUE

The issue addressed on appeal is whether the Health Connector properly administratively closed Appellant's application based on Appellant having more than one active application.

HEARING RECORD

Appellant and Interpreter ID No. 254685 appeared at the hearing, which was held by telephone on January 18, 2022. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: 2021 Medicaid Household Determination dated 11.4.2021
- Exhibit 2: Appeal Request Form with letter received 12.1.2021
- Exhibit 3: HC outreach notes dated 12.7.2021 and 12.22.2021
- Exhibit 4: Health Connector Keeper of Records Affidavit

- Exhibit 5: 2022 Eligibility Results dated 12.13.2021
- Exhibit 6: Application Summary dated 12.13.2021
- Exhibit 7: HC Request for Information dated 12.22.2021
- Exhibit 8: HC Acknowledgment of Appeal dated 12.22.2021
- Exhibit 9: HC Hearing Notice dated 12.28.2021

FINDINGS OF FACT

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

1. Appellant is an unmarried individual who plans on filing a federal tax return for Tax Year 2021 as Head of Household, with no dependents. (Exhibit 1).
2. On November 4, 2021, Appellant attempted to apply for health insurance with the Health Connector. (Exhibits 5 and 6).
3. At this time, Appellant learned that because the Health Connector's system showed that Appellant had more than one active application and the Connector administratively closed her application base don this duplicate application. (Exhibit 2).
4. Appellant filed an appeal of the administrative closure, received by the Connector on December 1, 2021. (Exhibit 2).
5. In a letter attached to her appeal request, Appellant stated that she and her husband had filed a joint application before divorcing on October 25, 2021; she subsequently submitted an application in her own name. (Exhibit 2).
6. In response to Appellant's appeal request, on December 7, 2021, the Connector reviewed Appellant's file, noting that only one application was found. (Exhibit 4).
7. On December 13, 2021, the Connector removed the administrative closure. (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

On November 4, 2021 Appellant attempted to apply for health insurance with the Health Connector. Appellant was not able to complete her application; the Connector's online system indicated that Appellant had more than one active application. (Exhibit 2). Appellant tried contacting the Connector's customer service department to resolve the issue and believed she was unsuccessful. Connector outreach notes indicate that at some point in 2021 the Connector administratively closed Appellant's application. (Exhibit 3). Appellant filed an appeal, received by the Connector on December 1, 2021. (Exhibit 2). In a letter attached to her appeal request, Appellant stated that she and her husband had filed a joint application before divorcing on October 25, 2021; she subsequently submitted an application in her own name in November of 2021. (Exhibit 2).

In response to Appellant's appeal request, on December 7, 2021, the Connector reviewed Appellant's file, noting that only one application was found. (Exhibit 4). On December 13, 2021, the Connector removed the administrative closure. (Exhibit 4).

The Health Connector is a health insurance exchange created under state law. M.G.L. 176Q, § 2. In addition to meeting the eligibility requirements for shopping on the exchange, to qualify for subsidized coverage through the Health Connector, individuals must meet income and residency requirements, and intend to file taxes jointly if married. *See* 45 C.F.R. § 155.305 (f)(1)(ii). A health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. *See* 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money, combined with these federal advance premium tax credits ("APTC"). Individuals must be eligible for APTC to qualify for ConnectorCare. *See* 956 C.M.R. 12.08. Individuals are eligible for APTC if their household income is at or below 400% of the Federal Poverty Level ("FPL"). Applicants who qualify for APTC, who have projected yearly Modified Adjusted Gross Income ("MAGI") less than or equal to 300% FPL, qualify for additional state subsidies through the ConnectorCare program. 956 C.M.R. § 12.04. Put another way, individuals whose income is between 100% and 300% of the FPL are eligible for ConnectorCare with APTC; individuals whose income is between 300% and 400% of the FPL are eligible for APTC only. However, the American Rescue Plan ("ARP"), signed into law on March 11, 2021, significantly expands coverage and affordability parameters, including availability of premium subsidies through ACA marketplaces like the Health Connector, the result being that certain individuals with a MAGI greater than 400% of the FPL may be eligible for APTC. Individuals whose income is at or below 133% of the FPL are eligible for MassHealth, a wholly separate program from ConnectorCare.

The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including income, in accordance with 45 C.F.R. §155.320(d). When the Health Connector cannot verify applicants' income electronically, it requests verifying information from them in accordance with 45 C.F.R. §155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources to calculate a household income value and issue an eligibility determination in accordance with 45 C.F.R. §§ 155.315 (f)(5), 155.320 (c)(3)(i)(D).

Appellant explained in the letter she submitted with her appeal request that she and her husband submitted a joint application. (Exhibit 2). After divorcing in October of 2021, the Appellant attempted to apply in her own name. (Exhibit 2). By the time the Connector's Appeals unit received Appellant's appeal request and reviewed her file on or about December 7, 2021, Connector outreach notes indicate only one application for Appellant was in the system. (Exhibit 3). The notes do not indicate which application remained - Appellant's joint application with her (now) ex-husband, or her individual application. On December 13, because it found only one application, the Connector removed the administrative closure. (Exhibit 4).

Appellant testified at hearing that she did not know the administrative closure had been removed prior to the hearing. It was explained to Appellant that, despite the removal of the administrative closure,

based on her income she was likely not eligible for shopping with the Health Connector, and she was advised on next steps. (Appellant Testimony).

It is likely that the Connector resolved the duplicate application problem during one of Appellants phone calls to customer service before filing her appeal; however, the record before me shows that the Connector did not find a duplicate application. This is supported by the Connector's removal of the administrative closure based ostensibly on a duplicate application. I find that Appellant had only one Health Connector application as of November 4, 2021, the date she applied for health insurance through the Connector. As such, I find that the Connector administratively closing Appellant's application was in error.

ORDER

This appeal is **GRANTED**. As the Connector had already removed the closure by the time this appeal was heard, this appeal decision is moot; however, I find that the action taken by the Connector on or about November 4, 2021 in administratively closing Appellant's application was in error and the Connector should have removed the closure had they not already done so. The Connector shall take steps consistent with the Appellant's November 4 application moving forward.

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

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

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for Health Connector plans, based on failure to establish lawful presence and attest to tax filing

Hearing Date: January 21, 2022

Decision Date: January 28, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 29, 2021, Appellant was determined ineligible for Health Connector plans due to failure to establish lawful presence and attest to tax filing to the Health Connector at the time of the application.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 21, 2022. The Appellant was sworn in. The Appellant testified at the hearing.

The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence without objection.

- | | | |
|------------|---|--------------------------------|
| Exhibit 1: | Health Connector’s Hearing Record Affidavit | (1 page, undated) |
| Exhibit 2: | Appellant’s Appeal Request Form | (4 pages, received 12/8/2021) |
| Exhibit 3: | Health Connector’s Acknowledgment of Appeal | (1 page, dated 12/14/ 2021) |
| Exhibit 4: | Health Connector’s Notice of Appeal Hearing | (1 page, dated 12/31/ 2021) |

Massachusetts Health Connector Appeals Unit



Exhibit 5	Health Connector’s Application Summary	(3 pages, dated	11/29/ 2021)
Exhibit 6:	Health Connector’s Eligibility Results	(3 pages, dated	11/29/2021)
Exhibit 7	Health Connector’s Eligibility Denial	(8 pages, dated	11/29/2021)
Exhibit 8:	Health Connector’s Appeals Unit Staff Notes	(2 pages, dated	12/14/ 2021)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	11/8/ 2021)
Exhibit 10:	Email from the Connector	(1 page, dated	12/14/2021)
Exhibit 11:	Email from the Connector	(1 page, dated	12/14/2021)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is a 61-year-old who applied for subsidized health insurance through the Health Connector on November 29, 2021. (Exhibits 1,5-9).
2. The Appellant was determined ineligible for Health Connector plans on November 29, 2021, after answering no to both immigration questions and answering no that that he intended on filing a tax return. (Exhibits 1,5-9,10).
3. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 6).
4. The Appellant did not attest to filing tax returns. (Exhibit 7).
5. The Appellant was sent a request to provide proof of lawful presence (Exhibit 12).
6. The Appellant did not submit documentation regarding immigration status. (Exhibits 1, 9, 10, and 11).
7. The Appellant indicated his passport had expired. (Exhibits 1, 2).
8. The Appellant was encouraged to contact customer service to submit immigration documentation and and tax filing status.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to establish lawful presence and failing to attest to filing a tax return. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector. In addition, applicants must attest that they will file a tax return in order to claim APTC. (26 CFR § 1.36B-2T(b)(2)(i).

On November 29, 2021, the Appellant applied for health insurance through the Health Connector but did not attest to being lawfully present. The Appellant also attested on the application that he does not intend to file a tax return. The Appellant was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present and did not attest to filing income taxes, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1). The Appellant was instructed to contact customer service to submit immigration documentation and tax filing status.

ORDER

Massachusetts Health Connector Appeals Unit



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

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 2021 from the federal government will be reconciled when you file your 2021 federal income tax return (usually in the spring of 2022). This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during 2021 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2021 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2021 will be paid to you when you file your 2021 federal income tax return.

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant’s eligibility for subsidized insurance based on tax filing status

Hearing Date: January 21, 2022

Decision Date: January 28, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on November 8, 2021. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 21, 2022. The Appellant had the assistance of an interpreter, and both the Appellant and Interpreter were sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant

Exhibit 1:	Health Connector’s Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Appellant’s Appeal Request Form	(6 pages, received 12/9/2021)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	(1 page, dated 11/14/ 2021)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	(1 page, dated 12/31/ 2021)

Massachusetts Health Connector Appeals Unit



Exhibit 5	Health Connector’s Application Summary	(3 pages, dated	11/8/ 2021)
Exhibit 6:	Health Connector’s Eligibility Results	(3 pages, dated	11/8/2021)
Exhibit 7	Health Connector’s Eligibility Approval	(8 pages, dated	11/8/2021)
Exhibit 8:	Health Connector’s Appeals Unit Staff Notes	(2 pages, dated	12/14/ 2021)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	11/8/ 2021)
Exhibit 10:	Income Verification Documents	(1 page, dated	9/20/2021)
Exhibit 11:	Virtual Gateway	(1 page, dated	1/11/2022)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is a 50-year-old married male who applied for subsidized health insurance through the Health Connector on January 15, 2015. (Exhibits 1,5, and 9).
2. The appellant is married and lives with his spouse. (Exhibit 1, Exhibit 3, Exhibit 4, Exhibit 5, Appellant Testimony).
3. On his application, the Appellant stated that he was married but that he would not file a joint income tax return with his spouse for tax year 2021. (Exhibits 1,5, and 9).
4. The Health Connector found that the Appellant was eligible for Health Connector plans without subsidies, because the Appellant stated he was married but would not file a joint income tax return with his spouse. (Exhibits 1, 5, and 7).
5. The Appellant’s projected tax household income placed him at 260.82 % of the Federal Poverty Level. (Exhibits 1, 5, and 7).
6. The Appellant testified he was married on December 20, 2021. (Appellant testimony).
7. The Appellant was encouraged to contact customer service and update his application with respect to tax filing status.

ANALYSIS AND CONCLUSIONS OF LAW

The appellant was eligible for Health Connector unsubsidized plans for October 2021 and 2022 but Appellant has not enrolled in Connectorcare since September 30, 2021 and had been in a Connectorcare plan 2 from January 1, 2021 through September 30, 2021. The Appellant stated in his application that he was married and was not going to file a joint tax return.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC if they meet the criteria outlined in federal regulations at 26 C.F.R. § 1.36B and 45 C.F.R. § 155.305(f) and are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC applies to married couples. In general, married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). However, if one of the spouses is the victim of domestic abuse or spousal abandonment, that taxpayer may attest to filing as married filing separately, and still receive APTC. 26 CFR § 1.36B-2T(b)(2)(ii). To claim domestic abuse, the taxpayer must certify that he or he is living

apart from the other spouse at the time of tax filing and is unable to file a joint return because the taxpayer is a victim of “physical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate, and intimidate, or to undermine the victim's ability to reason independently.” 26 C.F.R. § 1.36B-2T(b)(2)(ii), (b)(2)(iii). Spousal abandonment similarly requires that the taxpayer certify that he or she is living apart from the other spouse at the time of tax filing, and that the taxpayer is unable to file a joint tax return because “the taxpayer is unable to locate his or his spouse after reasonable diligence.” 26 C.F.R. § 1.36B-2T(b)(2)(iv), (b)(2)(ii), (iv). Each exception may be claimed if only if it has not been claimed in each of the three preceding taxable years. 26 CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their 2020 taxes in accordance with the required certification, which appears on Form 8962.

In addition to the above exceptions to the requirement to file a joint tax return, taxpayers who qualify to file as head of household may also receive APTC. Even those taxpayers who are technically married may qualify to file as head of household, so long as the test for head of household status is satisfied. This test requires that the taxpayer be “unmarried,” that the taxpayer paid more than half the cost of keeping up a home for the year, and that a qualifying person lived with the taxpayer for more than half the year. 26 CFR § 1.2-2(b). Married taxpayers may be “considered unmarried,” and therefore eligible for head of household status, so long as the taxpayer, among other requirements, has not lived with the taxpayer’s spouse during the last six months of the tax year. 26 CFR § 1.7703-1. Taxpayers who are married but file as head of household are technically filing as unmarried, and so do not need an exception to the rule that they file a joint tax return and may claim APTC so long as they are otherwise eligible. *See* 26 CFR § 1.36B-4T(b)(5) (Example 9). Applicants looking to claim APTC by claiming head of household status must attest that they will file their 2015 taxes as head of household.

The Appellant stated on his application that he is married and does not intend to file a joint tax return. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, despite meeting the income threshold required for that program. The Appellant further does not fall into any of the exceptions for the requirement to file a joint tax return in order to get APTC. Therefore, the Health Connector correctly found that the Appellant was not eligible for APTC or ConnectorCare, but is only eligible for an unsubsidized Health Connector Plan. The Appellant was encouraged to contact customer service and update his application with respect to tax filing status.

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.

Massachusetts Health Connector Appeals Unit



Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

Your appeal request has been denied based on your attestation that you will not file taxes jointly with your spouse. However, if you do end up filing a joint tax return with your spouse, and so long as your household criteria outlined in federal regulations at 26 C.F.R. § 1.36B and 45 C.F.R. § 155.305(f), you may be able to claim a Premium Tax Credit for the months in which you were enrolled in a Health Connector Plan when you file your taxes for 2021. This tax credit is fully refundable. You should speak with a tax professional to see whether filing a joint tax return is in your best interest. If you do decide that you will file a joint tax return, you should report that change to the Health Connector, since this might allow you to access subsidized insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 22-15603

Appeal Decision: Appeal denied

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

Hearing Date: January 21, 2022

Decision Date: January 28, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated December 20, 2021, the Appellant was advised determined eligible for ConnectorCare Plans with advance premium tax credits. The Appellant's determination was a result of the Health Connector's annual renewal process. (Ex. 5). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.9)

ISSUE

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

HEARING RECORD

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 page, undated)
Exhibit 2:	Appellant's Appeal Request Form	(6 pages, received 12/27/2021)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	(1 page, dated 12/30/ 2021)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	(1 page, dated 12/31/ 2021)
Exhibit 5:	Health Connector's Application Summary	(3 pages, dated 12/20/ 2021)

Exhibit 6:	Health Connector's Eligibility Results	(3 pages, dated	12/20/2021)
Exhibit 7	Health Connector's Eligibility Approval	(8 pages, dated	12/20/2021)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	(2 pages, dated	11/4/ 2021)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	12/20/ 2021)
Exhibit 10:	Email from the Connector	(1 page, dated	1/11/2022)
Exhibit 11:	Income Verifications	(2 pages, dated	12/30/2021)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is single individual who plans to file a federal income tax return for tax year 2021. (Exhibits 1 and 5).
2. On December 20, 2021, the Health Connector sent the Appellant Notice which stated that the Appellant was eligible for a HealthConnector plan with Advance Premium Tax Credits. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 428.57 % of the Federal Poverty Level. 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. (Exhibits 1,5, and 7).
3. The Appellant attested that his monthly income of \$4,600 and projected yearly income of \$55,200 which included job, retirement or pension, and unemployment income on the application was correct. (Exhibits 1,5,6,7, and Testimony).
4. The Appellant testified that the income he is receiving has changed and reduced. (Appellant Testimony).
5. The Appellant also testified that he was not sure that his daughter's income, who was not part of his household, was included. (Testimony, Exhibit 2).
6. The Appellant's daughter's income was not included in the Connector's determination. (Exhibits 1,5-11).
7. The Appellant was encouraged at the hearing to contact customer service to update his income.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for a HealthConnector plan with Advance Premium Tax Credits for 2022 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 428.57 % of the Federal Poverty Level. The Appellant asserts that this determination was incorrect because the Appellant income since the determination has changed. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if they meet the criteria. Applicants who qualify for APTC and who have projected yearly MAGI according to the above regulations qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On December 20, 2021, the Appellant was found eligible for a HealthConnector plan with Advance Premium Tax Credits. This notice stated that the Health Connector's 2022 determination was based on an income equivalent to 428.57 % of the Federal Poverty Level. The Appellant attested that his monthly income of \$4,600 and projected

yearly income of \$55,200 which included job, retirement or pension, and unemployment income on the application was correct. The Appellant testified that the income he is receiving has changed and reduced. The Appellant also testified that he was not sure that his daughter's income, who was not part of his household, was included. (Testimony, Exhibit 2). The Appellant's daughter's income was not included in the Connector's determination. (Exhibits 1,5-11).

The Connector's determination on December 20, 2021, asked the Appellant to review this information and report any changes within 30 days if it was incorrect. The Appellant did not report any changes after receiving the eligibility notice. This is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that his monthly income of \$4,600 and projected yearly income of \$55,200 which included job, retirement or pension, and unemployment income on the application was correct a household income equivalent to 428.57 % of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. Even though the Appellant now asserts that Appellant's income for 2022 will be reduced, the Appellant failed to update the information in their application to reflect this income projection, as required by law, and therefore the determination issued by the Health Connector was correct.

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

ORDER

The appeal is denied.

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

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2021 from the federal government will be reconciled when you file your 2021 federal income tax return (usually in the spring of 2022). This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during 2021 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2021 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2021 will be paid to you when you file your 2021 federal income tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2115006

Appeal Decision: Appeal denied. The Connector's determination of Appellant's eligibility to obtain a Health Connector plan during the next open enrollment period or when Appellant had a qualifying life event is affirmed.

Hearing Issue: Whether the Connector correctly determined Appellant's eligibility to enroll in a Health Connector plan during the next open enrollment period or upon Appellant having a qualifying life event based upon the information supplied by the appellant on the application.

Hearing Date: November 29, 2021

Decision Date: January 10, 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 August 20, 2021, the Connector determined Appellant to be eligible to purchase and to enroll in a Connector health insurance plan during the next open enrollment period or when the appellant had a qualifying life event.

ISSUE

Whether the Connector correctly determined Appellant to be eligible to purchase and to enroll in a Connector health insurance plan during the next open enrollment period or when the appellant had a qualifying life event.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 29, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was kept open to give the Connector time to submit additional evidence. Documents were received from the Connector on November 29th; these were marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 2, 2021 addressed to Appellant for November 29, 2021 hearing
- Exhibit 2a: Connector Appeals Unit Notice of Hearing dated October 7, 2021 addressed to Appellant for October 28, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated September 30, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated September 29th, and 30th, 2021, and October 6th, 2021
- Exhibit 4: Hearing Request Form signed by Appellant on September 13, 2021, received by the Connector on September 23, 2021 with letter in support attached
- Exhibit 4a: Letter from employer regarding termination of health insurance coverage as of June 1, 2021
- Exhibit 5: Connector letter dated August 20, 2021 to Appellant regarding eligibility and the special enrollment period
- Exhibit 5a: Connector letter dated August 9, 2021 to Appellant regarding eligibility
- Exhibit 5b: Connector letter dated June 30, 2021 to Appellant requesting proof of income by September 28, 2021
- Exhibit 5c: Connector letter dated, June 30 2021 to Appellant regarding eligibility for a Health Connector Plan
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated August 9, 2021
- Exhibit 7: MassHealth Member Benefits print-out regarding Appellant's household determination, August 9, 2021
- Exhibit 8: Print-out of Appellant's enrollment history with the Connector , 2015-2021
- Exhibit 8a: Print-out of Appellant's application history with the Connector, through 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance through employment. The appellant lost this coverage as of June 1, 2021 (Testimony Appellant, Exhibits 4, attachment, Exhibit 4a).
2. Appellant applied for coverage through the Connector some time near the end of June, 2021. In a letter from the Connector dated June 30, 2021, Appellant was asked to submit proof of income by September 28, 2021. Included in the letter was a list of documents acceptable as proof of income (Testimony of Appellant, Exhibit 5b).
3. In a second letter dated June 30, 2021, the Connector notified the appellant that she was eligible for a Health Connector plan without an advance premium tax credit and that Appellant could enroll in a plan. If she enrolled by July 23rd, and made her first premium payment so that it was received by that date, she could obtain coverage by August 1st (Exhibit 5c).
4. The appellant did not enroll by July 23rd. Nor did she enroll by August 1st, the last date she could have enrolled within 60 days of the loss of her previous coverage. She did not understand that she had to enroll by a certain date. Appellant did submit proof of income on July 22nd. The proof was unacceptable (Testimony of Appellant, Exhibits 4a, 6, 8).
5. In letters from the Connector dated August 9, 2021, the Connector determined and notified the appellant that while she was eligible to purchase health insurance through the Connector, she was not

eligible to enroll in a plan until the next open enrollment period or until Appellant had a qualifying life event which would allow her to enroll outside of an open enrollment period (Exhibits 5 and 5a).

6. Appellant submitted a request for an appeal of the Connector's August 9th determination on September 23, 2021 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on August 9, 2021 that the appellant was eligible for a Health Connector plan, but was not eligible to enroll until the next open enrollment period or until Appellant had a qualifying life event. The appellant has appealed this determination. See Exhibit 4.

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. See also 45 CFR Section 155. 420 which provides for special enrollment periods and for eligibility requirements for enrolling outside of an open enrollment period.

In this matter, Appellant had health insurance coverage through employment until June 1, 2021 when her employer stopped providing coverage. Appellant applied to the Connector towards the end of June. In a letter dated June 30th, the Connector informed the appellant that she was eligible to purchase a plan through the Connector and to enroll in a plan. If she enrolled and paid her monthly premium by July 23rd, coverage was available as of August 1st. In a separate letter of the same date, the Connector also asked the appellant to provide proof of income by September 28th. See the testimony of the appellant which I find credible and Exhibits 4a, 5b and 5c.

Appellant sent in proof of income on July 22nd, which was deemed to be unacceptable. This was certainly correctable by the appellant. What the appellant did not do was enroll in a Health Connector plan in a timely fashion. Appellant testified that she did not enroll because she did not understand that she had to. See the testimony of the appellant which I find to be credible. See also Exhibit 8 which provides Appellant's enrollment history. In a letter dated August 9th, the Connector notified the appellant that she was not eligible to enroll in a plan at that time; Appellant would have to wait until the next open enrollment period or until she had a qualifying life event. See Exhibit 5.

According to 45 Code of Federal Regulations Section 155.420 (c)(1) and 155.420 (d)(1)(i), the loss of health insurance coverage is a qualifying life event. If an individual, otherwise eligible to purchase coverage through the Connector, has a qualifying event, the individual has 60 days from the date of the event to enroll in a plan. The 60 day period is known as a special enrollment period. After 60 days, if the individual has not enrolled in a plan, the individual is no longer eligible for a special enrollment period and must wait to enroll until the next open enrollment period, or until the individual has another qualifying life event.

Based upon Appellant's testimony that she did not enroll in a plan before August 1st (60 days after she lost her health insurance) and the Connector's records showing no enrollment by the appellant, I determine that the Connector's determination that Appellant was not eligible for a special enrollment period should be affirmed.

ORDER: The action taken by the Connector regarding Appellant's ineligibility to enroll in a Health Connector plan until the next open enrollment period or until the appellant had a qualifying life event 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.

Hearing Officer

Cc: Connector Appeals Unit

Addendum: If Appellant has yet done so, she may apply again to the Connector during the present open enrollment period (which ends on January 23rd). She may do this by calling Customer Service at 1-877-623-6765 or on line at **mahealthconnector.org**.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-15022

Appeal Decision: Denied

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

Hearing Date: January 4, 2022

Decision Date: January 10, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 24, 2021, the Appellant was determined eligible for Health Connector Plans. The decision was based on income verification submitted by the Appellant on September 21, 2021.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's financial eligibility based on the income information submitted on September 21, 2021.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 4, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated December 10, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector's Eligibility Approval Notice dated September 24, 2021.
- Exhibit 5: 2021 Eligibility Results with an Application Summary dated September 24, 2021.
- Exhibit 6: Medicaid Household Determination Printout.
- Exhibit 7: The Appellant's Online Appeal Request dated September 28, 2021.

- Exhibit 8: My Workspace Printout of documents submitted by the Appellant on September 21, 2021.
Exhibit 9: Health Connector Appeals Unit Outreach Email dated October 1, 2021.
Exhibit 10: Health Connector Income Detail Printout dated September 21, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to September 21, 2021, the Appellant attested to have weekly income of \$655.50 which represents annual income of \$32,133 (Exhibits 5, 10).
2. On September 21, 2021, the Appellant submitted a copy of their wage stub dated September 17, 2021. The Appellant's weekly income was verified to be \$1,084.67, which represents annual income of \$56,398.50 (Exhibits 5, 10).
3. On September 24, 2021, based on the income information submitted by the Appellant, Health Connector determined the Appellant has income equal to 441.99% of the federal poverty level (Exhibit 5).
4. On September 24, 2021, the Appellant was notified that they are eligible for Health Connector Plans effective November 1, 2021 (Exhibit 4).
5. The Appellant filed an appeal on September 28, 2021 and reported that the wage stub submitted included overtime and is not reflective of their typical weekly income (Exhibit 7).
6. On October 1, 2021, Health Connector Appeals Unit staff contacted the Appellant via Email and advised the Appellant to update their income on their application (Exhibit 9).
7. The Appellant testified that they understand the wage stub they submitted indicated substantially higher income. The Appellant said that they did not recall the Email sent by the Appeals Unit but will send in updated income documentation to the Health Connector that accurately depicts their expected annual income (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

Prior to September 21, 2021, the Appellant had reported weekly income of \$655.50 for their household of one. On September 21, 2021, the Appellant submitted a copy of a wage stub dated September 17, 2021. The wage stub verified a weekly income of \$1,084.67. On September 24, 2021, Health Connector determined the Appellant's income equal to 441.99% of the federal poverty level. The Appellant was notified that they were eligible for Health Connector Plans effective November 1, 2021. On September 28, 2021, the Appellant filed an Appeal to dispute this determination.

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

The Appellant testified that the wage stub submitted on September 21, 2021, included overtime, and does not accurately reflect their expected annual income. As explained at the Hearing, Health Connector reviews eligibility and updates an application based on information received. 956 CMR 12.07. Based on the income documentation submitted by the Appellant on September 21, 2021, Health Connector determined the Appellant's income equal to 441.99% of the federal poverty level. Health Connector therefore correctly determined on September 24, 2021, that the Appellant is eligible for Health Connector Plans.

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 that they should update their application for 2021 and 2022. The Appellant may submit updated income documentation to the Health Connector at any time.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2115025

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

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

Hearing Date: November 17, 2021

Decision Date: January 5, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 10, 2021, the Connector determined that the appellants were eligible to purchase a Connector Health plan with no advance premium tax credit based upon information supplied by the appellant to the Connector and/or other data sources.

ISSUE

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on November 17, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 25, 2021 addressed to Appellant for November 17, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated September 30, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated September 30, 2021 and October 15, 2021
- Exhibit 3b: Appeals Unit email to Appellant dated September 30, 2021
- Exhibit 4: Hearing Request Form signed by Appellant on September 22, 2021 and received by Connector on September 28, 2021

- Exhibit 5: Connector letter dated September 10, 2021 to Appellants regarding eligibility to purchase Connector Health plan with no advance premium tax credit
- Exhibit 6: Summary and results of Appellants' application for Connector health plan dated September 10, 2021
- Exhibit 6a: Summary and results of Appellants' application for Connector health plan dated October 17, 2019
- Exhibit 7: MassHealth member benefits print-out, Appellants' household determination, September 10, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who have two minor children, attested on their Connector application that they had a combined projected annual income for 2021 of \$92,519. One appellant attested to an income of \$42,000 and the other to \$50,519. The application was received by the Connector on September 10, 2021 (Testimony Appellant, Exhibit 6).
2. In 2019, the appellants had submitted an application for health insurance through the Connector. They attested to the exact income that they attested to on their 2021 application (Exhibits 6 and 6a).
3. Appellants' projected income for 2021 equaled 345.86% of the Federal Poverty Level (Exhibit 6).
4. Based upon the information Appellants' attested to on their application, the Connector determined that the appellants were eligible for a Health Connector plan without an advance premium tax credit. The appellants were sent a notice dated September 10, 2021 of this determination. In the notice, the Connector also notified the appellants that the Connector did not have enough recent information about the appellants' income for them to qualify for a lower cost plan. The Connector asked the appellants to update their application with the more current information about their income (Exhibit 5).
5. Appellants submitted a request for an appeal of the Connector's determination on September 28, 2021 (Exhibit 4).
6. Appellants had health insurance through employment for themselves and their children, though they did not indicate that they had coverage on their Connector application. Appellant applied for Connector coverage because they were seeking supplemental insurance for their children. They did not update their application with more current information about projected income (Testimony of Appellant, Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on September 10, 2021 that the appellants were eligible to purchase in a Health Connector plan with no an advance premium tax credit.

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

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on

health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. The Connector verifies information on applications from other data sources and by asking applicants to submit documents to verify data on applications. See 45 CFR §155.320, and 956 CMR 12.05.

Appellants, who have two minor children, attested on their Connector application that they had a combined projected annual income for 2021 of \$92,519. One appellant attested to an income of \$42,000 and the other to \$50,519. The application was received by the Connector on September 10, 2021. In 2019, the appellants had submitted an application for health insurance through the Connector. They attested to the exact income that they attested to on their 2021 application. Appellants' projected income for 2021 equaled 345.86% of the Federal Poverty Level. See the testimony of Appellant which I find credible, and Exhibits 6 and 6a.

Based upon the information Appellants' attested to on their application, the Connector determine that the appellants were eligible for a Health Connector plan without an advance premium tax credit. The appellants were sent a notice dated September 10, 2021 of this determination. In the notice, the Connector also notified the appellants that the Connector did not have enough recent information about the appellants' income for them to qualify for a lower cost plan. The Connector asked the appellants to update their application with more current information about their income. See Exhibit 5 Appellants submitted a request for an appeal of the Connector's determination on September 28, 2021. See Exhibit 4.

Appellants already had health insurance through employment at the time they applied to the Connector. They were interested in obtaining supplemental coverage. They did not supply updated information about income to the Connector. See the testimony of the appellant which I find to be credible. Instead on their application, they attested to the exact projected income that they had attested to in 2019. Without more current information about the appellants' projected income, the Connector correctly determined that the appellants were eligible to purchase coverage, but only without an advance premium tax credit. Appellants were given the opportunity to provide proof of current income and to have their eligibility redetermined. See Exhibit 5. The determination of the Connector is, therefore, affirmed.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2115082

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

Hearing Issue: Whether the Connector correctly determined the appellant's eligibility to purchase and enroll in a ConnectorCare Type 2B plan with advance premium tax credit.

Hearing Date: November 17, 2021

Decision Date: January 4, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 20, 2021, the Connector determined that the appellant was eligible to purchase and enroll in a ConnectorCare Type 2B plan with an advance premium tax credit based upon information supplied by the appellant to the Connector and/or other data sources.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase and enroll in a ConnectorCare Type 2B plan with an advance premium tax credit based upon information supplied by the appellant to the Connector and/or other data sources.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 17, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 25, 2021 addressed to Appellant for November 17, 2021 hearing

Exhibit 3: Connector Appeals Unit letter dated October 15, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit outreach notes dated October 26, 2021 and November 12, 2021

Exhibit 4: Hearing Request Form signed by Appellant on October 11, 2021

Exhibit 5: Connector letter dated September 20, 2021 to Appellant regarding eligibility

Exhibit 5a: Connector letter dated June 11, 2021 to Appellant requesting proof of income by

- September 9, 2021
- Exhibit 5b: Connector letter dated June 22, 2021 to Appellant regarding eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated September 20, 2021
- Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated June 22, 2021
- Exhibit 6b: Summary and results of Appellant's application for Connector health plan dated August 24, 2021
- Exhibit 7: MassHealth Member Benefits print-out regarding Appellant's household determination, September 20, 2021
- Exhibit 8: Proof of income sent by Appellant to Connector and print-out showing date received, August 17, 2021 and verification on August 27, 2021
- Exhibit 9: Letter from Appellant's employer dated September 28, 2021 regarding current earnings
- Exhibit 10: Document submitted by Appellant to Connector regarding non-verbal learning disabilities

FINDINGS OF FACT

The record shows, and I so find:

1. In June, 2021, Appellant, a single person with no dependents, attested on her application to purchase health insurance through the Connector that she had a projected income for 2021 of \$13,886 (a biweekly income of \$534). The Connector requested that the appellant send in proof of income by September 9, 2021. Based upon Appellant's attestation on her application, the Connector determined that the appellant's income was equal to 108.83% of the Federal Poverty Level and that the appellant was eligible to enroll in a ConnectorCare, Type 2A plan (Testimony Appellant, Exhibit, 5a, 5b, 6a).
2. In August, 2021, Appellant submitted paystubs to the Connector. Based upon this proof of income, the Connector determined that the appellant's projected annual income was \$27, 577 equal to 217.32% of the Federal Poverty Level. Appellant was found to be eligible for a ConnectorCare Type 3A plan (Exhibits 6b, 8)
3. On September 9, 2021, the Connector redetermined the appellant's eligibility based upon a finding that her projected annual income had decreased and was actually equal to 199.47% of the Federal Poverty Level. Appellant was found to be eligible to enroll in a ConnectorCare Type 2B (Exhibits 5, 6).
4. Appellant submitted a request for an appeal of the Connector's determination on October 11, 2021 because the cost of her monthly premium had increased (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on September 20, 2021 that the appellant was eligible for a ConnectorCare Type 2B plan with an advance premium tax credit.

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

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the

credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq.

Appellant attested on her June, 2021 application to purchase health insurance through the Connector that she had a projected annual income of \$13,886 (\$534 biweekly). Based upon this attestation, the Connector determined that Appellant was eligible for a ConnectorCare Type 2A plan. The Connector also requested that the appellant submit proof of income. In August, the appellant submitted two current paystubs which showed that Appellant's biweekly earnings were actually \$1,066. Based upon the proof submitted, the Connector determined in August that the appellant was still eligible for a ConnectorCare plan, but Type 3A rather than 2A. This new determination resulted in an increase in the appellant's monthly premium.

In September, the Connector redetermined the appellant's income again and this time found that the Appellant's projected annual income amounted to \$25,452, or 199.4% of the Federal Poverty level. Based upon this determination of the appellant's projected income, the Connector found the appellant eligible to purchase and enroll in a ConnectorCare Type 2B plan with an advance premium tax credit. Appellant appealed. See the testimony of the appellant which I find to be credible and Exhibits 4, 5, 5a, 5b, 6, 6a, and 8.

If an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. In the Commonwealth, if an individual has a projected annual income of between 100% and 300% of the Federal Poverty Level, based upon income, the individual is eligible for a ConnectorCare plan. An individual with an income which equals 199% of the Federal Poverty Level is eligible for a Type 2B plan. See cites above for eligibility requirements for an advance premium tax credit, and 956 CMR 12.04(3)(a) and (b) regarding eligibility for ConnectorCare. The September, 2021 determination of the Connector is correct, and, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a ConnectorCare Type 2B plan with an advance premium tax credit is affirmed.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2115094

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

Hearing Issue: Whether the Connector correctly determined the appellant's ineligibility to purchase health insurance through the Connector.

Hearing Date: November 29, 2021

Decision Date: January 12, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 13, 2021, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector.

ISSUE

Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Connector because the appellant did not reside within the Commonwealth.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 29, 2021. Appellant's case manager was also present with the consent of the appellant. The procedures to be followed during the hearing were reviewed with them. The appellant was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 2, 2021 addressed to Appellant for November 29, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated October 18, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated October 18th and 21st, 2021
- Exhibit 3b: Connector Appeals Unit emails to Appellant dated October 18, 2021 and November 25, 2021 regarding proof of residency
- Exhibit 3c: Connector Appeals Unit letter to Appellant dated October 18, 2021
- Exhibit 4: Hearing Request Form signed by Appellant on October 10, 2021 and received by the

Connector on October 13, 2021

- Exhibit 4a: Letter from Appellant to Connector Appeals Unit dated October 20, 2021 regarding proof of residency
- Exhibit 4b: Document submitted to the Connector by Appellant showing sale of Massachusetts residence on October 1, 2021
- Exhibit 4c: Letter to Appellant from insurance company regarding home owner's insurance dated March 29, 2021
- Exhibit 4d: Letter to Appellant from insurance company regarding cancellation of home owner's policy dated October 4, 2021
- Exhibit 5: Connector letter dated September 13, 2021 to Appellant regarding denial of eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated September 13, 2021
- Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated October 21, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in September, 2021. In a letter dated September 13, 2021 the appellant was informed that she was ineligible for coverage because she was not a resident of Massachusetts (Exhibits 5, 6).
2. Appellant attested on her application that her residence was in Maryland (Exhibit 5).
3. Appellant filed an appeal of the Connector's determination. The appeal request was received by the Connector on October 13, 2021 (Exhibit 4).
4. At the time Appellant applied to the Connector the appellant was covered by MassHealth and resided in Massachusetts. She planned to move to Maryland as soon as she sold her Massachusetts residence in early October. She moved on October 5, 2021. Appellant wanted to have continuing MassHealth coverage until the day she moved (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on September 13, 2021 that the appellant was ineligible to enroll in a Health Connector plan because the appellant did not reside in Massachusetts. Appellant appealed this determination on October 13, 2021. See Exhibits 4 and 5.

Eligibility to purchase health insurance through the Connector is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. One basic requirement for eligibility to purchase health insurance is residency within the Commonwealth. See 45 CFR 155.305(a)(3).

On her application for coverage, Appellant attested to living in another state. She listed her residence as being in Maryland. Based up this attestation, the Connector determined that the appellant was ineligible to obtain health insurance through the Connector. What is at issue here is whether the determination was correct on the date that it was made. It was. The Connector relied on information supplied directly by the appellant on her application. See Exhibit 6 and 45 CFR 155.305(a)(3) cited above. The fact that the

appellant actually moved out of the Commonwealth several weeks after she applied to the Connector is not relevant. See the testimony of the appellant which I find to be credible.

The determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellant's ineligibility to purchase a Connector Health plan 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 testified that she actually had MassHealth at the time she applied to the Connector. She thought by applying to the Connector she would be able to ensure that her coverage would remain in place until the date she moved out of the Commonwealth. Appellant should have been in contact with MassHealth rather than the Connector.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-15267

Appeal Decision: Appeal denied

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

Hearing Date: January 10, 2022

Decision Date: January 29, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 8, 2021, the appellant was advised that she did not qualify for health insurance through the Health Connector because she had access to or was enrolled in Medicare. (Ex. 3) The appellant filed an appeal dated October 29, 2021. (Ex. 9) The matter was referred to a hearing after receipt of the appeal. (Exs. 14, 15)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector plans correct at the time of its determination on October 8, 2021, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

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

- Ex. 1—Health Connector's Eligibility Determination Results based on a program determination date of August 31, 2021 (2 pages)
- Ex. 2—Health Connector's Review of Application (3 pages)
- Ex. 3—Health Connector's Notice of Eligibility Denial dated October 8, 2021 (6 pages)
- Ex. 4—Medicaid Household Determination document (5 pages)
- Ex. 5—Health Connector's Eligibility Determination Results based on a program determination date of August 28, 2020 (2 pages)

- Ex. 6—Health Connector’s Review of Application (3 pages)
- Ex. 7—Health Connector’s Eligibility Determination Results based on a program determination date of June 2, 2021 (2 pages)
- Ex. 8—Health Connector’s Review of Application (3 pages)
- Ex. 9—Hearing Request Form dated October 29, 2021 (10 pages)
- Ex. 10—Acknowledgement of Appeal dated November 12, 2021 (1 page)
- Ex. 11—Appeals Unit notes (2 pages)
- Ex. 12—Health Connector letter regarding Medicare and SHINE dated November 12, 2021 (1 page)
- Ex. 13—Medicare and SHINE flyer (1 page)
- Ex. 14—Notice of Hearing dated November 16, 2021 (3 pages)
- Ex. 15—Notice of Hearing dated December 20, 2021 (3 pages)
- Ex. 16—Affidavit of Connector representative (1page)

(The Hearing Attendance Sheet incorrectly listed as Ex. 12 a Health Connector email dated November 10, 2021.)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 67-years-old, is single and has a tax household size of one. (Testimony, Exs. 2,6,8)
2. The appellant has been enrolled in Medicare Part A since January, 2021. She did not enroll in Part B at that time because she could not afford the premium or a Medicare supplement. In addition, she was hoping to get a job which offered employer health insurance. (Testimony, Ex. 9)
3. The appellant was enrolled in ConnectorCare Plan Type 2B with APTC from January through April, 2021. (Testimony, Exs. 5, 9,11) By notice dated June 2, 2021, she was advised that she was eligible for Health Connector Plans with no financial help effective July 1, 2021. Her premium increased to \$620.00/month. She remained enrolled in that plan until the end of 2021. (Testimony, Exs. 7,9,11)
4. By notice dated October 8, 2021, the Health Connector advised the appellant that she was not eligible for health insurance through the Health Connector because she had access to or was enrolled with Medicare. (Ex. 3)
5. The appellant appealed the Connector’s October 8th decision on October 29, 2021, and stated in part that she works on a part-time basis and is not eligible for Medicare Part B until July, 2022. (Ex. 9)
6. The appellant applied for Medicare Part B in January, 2022, but will not be able to enroll until July 1, 2022. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

In general, an individual may purchase health insurance through the Health Connector if s/he satisfies the eligibility standards at 45 CFR § 155.305(a). However, for individuals who are eligible for Medicare, there is an additional legal standard that must be considered, specifically the “anti-duplication rule” found in the Social Security Act, 42 USC 1395ss(d)(3)(A)(i), and implemented in federal regulations at 45 CFR § 147.106 and 45 CFR § 148.122. The rule prohibits health insurance issuers from selling insurance to Medicare-eligible individuals if that insurance would duplicate the benefits provided by Medicare, including where the individual only has Medicare Part A. The Health Connector, as a seller of commercial individual market health insurance, only sells insurance

that would be duplicative of benefits provided by Medicare. The Connector also must take precautions to ensure that the issuers whose coverage it sells are not put in the position of violating the anti-duplication rule.

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

The appellant does not dispute that she has been enrolled in Medicare Part A since January, 2021. Based on that information, the Connector determined that she was not eligible for health insurance through the Health Connector. The appellant did not enroll in Medicare Part B in 2021 because she could not afford the cost and was hoping to get a job that offered employer health insurance. She applied for Part B in January, 2022, but cannot enroll until July, 2022.

Based on the foregoing, it is concluded that the Connector’s determination on October 8, 2021 regarding the appellant’s eligibility for health insurance through the Health Connector based on access to Medicare was correct.

ORDER

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to contact SHINE at 1-800-243-4636 for information on health insurance options for Medicare eligible individuals. She was also advised to contact Medicare to inquire whether she is eligible for a special enrollment period prior to July, 2022.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2215178

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; Medicare

Hearing Date: November 30, 2021

Decision Date: December 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 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 8, 2021, the Appellant was deemed ineligible for Health Connector Plans. The reason the Appellant was denied eligibility is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 30, 2021. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (11-4-21) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (11-2-21) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (10-28-21) (6 pages);
- Exhibit 6: Eligibility Denial letter (10-8-21) (6 pages);

Exhibit 7: Eligibility detail printout and application summary printout (7 pages); and
Exhibit 8: Medicaid Household Determination (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on or about October 8, 2021. (Exhibits 6, 7).
2. Appellant was determined ineligible for Health Connector plans on October 8, 2021, based on being eligible for Medicare. (Exhibits 6, 7).
3. The Appellant was not found eligible for health insurance through the Health Connector because the Appellant is eligible for Medicare. (Exhibit 6).
4. Appellant indicated that they had not enrolled in Part B and C of Medicare within three months of being eligible and therefore would not be eligible until July 2022. (Appellant Testimony).
5. Appellant indicated that they wanted to enroll in dental coverage. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

Under 42 USC § 1395(d)(3)(A)(i), the Health Connector is not permitted to provide subsidies to applicants who are eligible for Medicare. Further, applicants who have not been enrolled in Health Connector plans are also not eligible for Health Connector plans with no financial assistance if they are eligible for Medicare.

When the Appellant's eligibility for 2021 coverage was determined on October 8, 2021, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at the hearing eligibility for Medicare. Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector Plans. This was the correct determination and the Appellant's appeal is denied. A separate process exists at the Health Connector for applicants who wish to enroll in stand-alone dental coverage.

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.

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: Appellant was advised to contact SHINE or the Health Connector for enrollment in stand-alone dental coverage.

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15267

Appeal Decision: Appeal denied

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

Hearing Date: January 10, 2022

Decision Date: January 29, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 8, 2021, the appellant was advised that she did not qualify for health insurance through the Health Connector because she had access to or was enrolled in Medicare. (Ex. 3) The appellant filed an appeal dated October 29, 2021. (Ex. 9) The matter was referred to a hearing after receipt of the appeal. (Exs. 14, 15)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector plans correct at the time of its determination on October 8, 2021, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

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

- Ex. 1—Health Connector's Eligibility Determination Results based on a program determination date of August 31, 2021 (2 pages)
- Ex. 2—Health Connector's Review of Application (3 pages)
- Ex. 3—Health Connector's Notice of Eligibility Denial dated October 8, 2021 (6 pages)
- Ex. 4—Medicaid Household Determination document (5 pages)
- Ex. 5—Health Connector's Eligibility Determination Results based on a program determination date of August 28, 2020 (2 pages)

- Ex. 6—Health Connector’s Review of Application (3 pages)
- Ex. 7—Health Connector’s Eligibility Determination Results based on a program determination date of June 2, 2021 (2 pages)
- Ex. 8—Health Connector’s Review of Application (3 pages)
- Ex. 9—Hearing Request Form dated October 29, 2021 (10 pages)
- Ex. 10—Acknowledgement of Appeal dated November 12, 2021 (1 page)
- Ex. 11—Appeals Unit notes (2 pages)
- Ex. 12—Health Connector letter regarding Medicare and SHINE dated November 12, 2021 (1 page)
- Ex. 13—Medicare and SHINE flyer (1 page)
- Ex. 14—Notice of Hearing dated November 16, 2021 (3 pages)
- Ex. 15—Notice of Hearing dated December 20, 2021 (3 pages)
- Ex. 16—Affidavit of Connector representative (1page)

(The Hearing Attendance Sheet incorrectly listed as Ex. 12 a Health Connector email dated November 10, 2021.)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 67-years-old, is single and has a tax household size of one. (Testimony, Exs. 2,6,8)
2. The appellant has been enrolled in Medicare Part A since January, 2021. She did not enroll in Part B at that time because she could not afford the premium or a Medicare supplement. In addition, she was hoping to get a job which offered employer health insurance. (Testimony, Ex. 9)
3. The appellant was enrolled in ConnectorCare Plan Type 2B with APTC from January through April, 2021. (Testimony, Exs. 5, 9,11) By notice dated June 2, 2021, she was advised that she was eligible for Health Connector Plans with no financial help effective July 1, 2021. Her premium increased to \$620.00/month. She remained enrolled in that plan until the end of 2021. (Testimony, Exs. 7,9,11)
4. By notice dated October 8, 2021, the Health Connector advised the appellant that she was not eligible for health insurance through the Health Connector because she had access to or was enrolled with Medicare. (Ex. 3)
5. The appellant appealed the Connector’s October 8th decision on October 29, 2021, and stated in part that she works on a part-time basis and is not eligible for Medicare Part B until July, 2022. (Ex. 9)
6. The appellant applied for Medicare Part B in January, 2022, but will not be able to enroll until July 1, 2022. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

In general, an individual may purchase health insurance through the Health Connector if s/he satisfies the eligibility standards at 45 CFR § 155.305(a). However, for individuals who are eligible for Medicare, there is an additional legal standard that must be considered, specifically the “anti-duplication rule” found in the Social Security Act, 42 USC 1395ss(d)(3)(A)(i), and implemented in federal regulations at 45 CFR § 147.106 and 45 CFR § 148.122. The rule prohibits health insurance issuers from selling insurance to Medicare-eligible individuals if that insurance would duplicate the benefits provided by Medicare, including where the individual only has Medicare Part A. The Health Connector, as a seller of commercial individual market health insurance, only sells insurance

that would be duplicative of benefits provided by Medicare. The Connector also must take precautions to ensure that the issuers whose coverage it sells are not put in the position of violating the anti-duplication rule.

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

The appellant does not dispute that she has been enrolled in Medicare Part A since January, 2021. Based on that information, the Connector determined that she was not eligible for health insurance through the Health Connector. The appellant did not enroll in Medicare Part B in 2021 because she could not afford the cost and was hoping to get a job that offered employer health insurance. She applied for Part B in January, 2022, but cannot enroll until July, 2022.

Based on the foregoing, it is concluded that the Connector’s determination on October 8, 2021 regarding the appellant’s eligibility for health insurance through the Health Connector based on access to Medicare was correct.

ORDER

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to contact SHINE at 1-800-243-4636 for information on health insurance options for Medicare eligible individuals. She was also advised to contact Medicare to inquire whether she is eligible for a special enrollment period prior to July, 2022.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15305

Appeal Decision: Appeal denied

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

Hearing Date: December 10, 2021

Decision Date: January 22, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 7, 2021, the appellant was advised that she was eligible for a Health Connector Plan with no financial help beginning on January 1, 2022. (Exs. 1,3) The appellant filed an appeal dated x, 2021 (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 7, 2021 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant and her daughter, her designated representative, appeared at the hearing which was held by telephone on December 10, 2021. The appellant's daughter 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 August 26, 2021 (2 pages)

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

Ex. 3—Health Connector's Final Renewal Notice dated October 7, 2021 (11 pages)

Ex. 4—Medicaid Household Determination document (6 pages)

Ex. 5—Online Appeal Form received on November 9, 2021 (6 pages)

Ex. 6—Acknowledgment of Appeal dated November 15, 2021 (1 page)

- Ex. 7—Appeals Unit case notes (1 page)
Ex. 8—Health Connector email dated November 15, 2021 (1 page)
Ex. 9—Notice of Hearing (3 pages)
Ex. 10—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 64-years-old, is married and has a tax household size of two. (Testimony, Ex. 2)
2. For most of 2021, the appellant was enrolled in ConnectorCare Plan Type 2B for which she paid a monthly premium of \$3.17. Her eligibility was redetermined at some point in the fall of 2021 and she was determined eligible for Health Connector Plans with no financial help. At the time of the hearing, her monthly premium was \$633.00. (Testimony, Ex. 3)
3. Pursuant to a final renewal notice dated October 7, 2021, the appellant was advised that her eligibility for 2022 had changed and she would no longer be able to get help paying for health coverage through a ConnectorCare plan or a monthly tax credit. She was further advised that if she stayed enrolled in the health plan listed for 2022, her monthly premium would be approximately \$688.00. (Ex. 3)
4. On the application on which the October 7, 2021 determination was based, the Federal Poverty Level (FPL) based on the applicant's self-reported projected yearly income of \$13,282.00 was 165.74%, but the FPL used to determine her program eligibility was unknown. The appellant's husband is retired and receives social security income. He projected his yearly income to be \$15, 588.00. On their jointly filed 2020 federal tax return, they reported an adjusted gross income of \$41,204.00. The amount was much higher than their current income due to the husband's receipt of unemployment insurance benefits. (Testimony, Exs. 1,2)
5. The appellant appealed the Connector's October 7, 2021, determination on November 9, 2021 based on "other reasons" and indicated she cannot afford the new monthly premium and that she was applying for Medicare on December 7, 2021. (Testimony, Ex. 5)
6. The appellant applied for insurance through Medicare on November 21, 2021 and will be enrolled effective February 1, 2022. (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 Advanced Premium Tax Credit (APTC) if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

The Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by the applicant, including the applicant's income, in accordance with 45 CFR

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

Pursuant to the Final Renewal Notice for 2022 health insurance dated October 7, 2021, the appellant was advised that she would no longer be able to get help paying for health coverage through a ConnectorCare plan or a monthly APTC. It is not known whether the appellant was sent a request for information by the Connector, and it appears that the Connector was unable to verify the appellant's income electronically and reverted to federal data sources for a household income value.

Based on the evidence in the record, it is concluded that the Connector's determination on October 7, 2021 regarding the appellant's eligibility for Health Connector Plans with no financial help was correct, and is therefore affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to either update her application online with current income information or to contact the Appeals Unit at 617-933-3096 for assistance with reporting changes. The appellant is further advised to terminate her coverage with the Connector prior to the date of her enrollment in Medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15485

Appeal Decision: Appeal Denied.

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

Hearing Date: January 11, 2022

Decision Date: January 14, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 10, 2021, the Appellant was determined eligible for Health Connector Plans with no financial assistance. The Appellant's determination was a result of the Appellant's failure to submit proof of income.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing that was held by telephone on January 11, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated December 20, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector's Eligibility Approval notice dated November 10, 2021.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated November 10, 2021.
- Exhibit 6: Medicaid Household Determination Printout dated November 10, 2021.
- Exhibit 7: The Appellant's Online Appeal request dated December 8, 2021

- Exhibit 8: Copies of MassHealth Denial notices dated November 30, 2021.
Exhibit 9: Health Connector Appeals Unit Outreach Email dated December 14, 2021.
Exhibit 10: 2022 Eligibility Results with an Application Summary dated November 30, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied for ConnectorCare on November 10, 2021, for themselves and one child. The Appellant reported income equal to 157.79% of the federal poverty level for their household of two (Exhibit 4).
2. On November 10, 2021, Health Connector determined the Appellant eligible for Health Connector Plans with no financial assistance because the Appellant's proof of income had expired and the Appellant failed to submit updated proof of income. The Appellant's child was determined eligible for MassHealth (Exhibits 4, 5).
3. The Appellant filed an appeal on December 8, 2021 (Exhibit 7).
4. On November 30, 2021, MassHealth took action to terminate the Appellant's MassHealth because MassHealth determined that the Appellant failed to complete the Annual Review process (Exhibit 8).
5. On December 14, 2021, Health Connector Appeals Unit staff sent the Appellant an outreach email advising the Appellant to update their Application or call Customer Service to update their income information (Exhibit 10).
6. The Appellant testified that they dispute MassHealth's determination but would prefer to have ConnectorCare insurance through the Health Connector. The Appellant said that they do not remember getting the notices or the Email. The Appellant stated that they work part time while attending school and need help paying for health insurance because their employer sponsored health insurance is not affordable (Appellant Testimony).

ANALYSIS AND CONCLUSION OF LAW

On November 10, 2021, the Appellant applied for health insurance for their household of two. The Appellant's child was determined eligible for MassHealth and the Appellant was determined eligible for Health Connector Plans with no financial assistance. The Appellant filed an appeal on December 8, 2021, to dispute the determination that the Appellant is not eligible for subsidies.

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

The Appellant attested on their application to having income equal to 157.79% of the federal poverty level. The Appellant did not send in updated proof of income and the income documentation on file was expired. On

October 31, 2021, Health Connector resorted to third party data sources for information. No information was available and Health Connector was unable to determine the household's financial eligibility.

MassHealth had taken action on November 30, 2021, to terminate the Appellant's assistance. The Appellant was advised at the hearing that actions taken by MassHealth are not reviewable by the Health Connector. 956 CMR 12.02. The Appellant was informed that they could contact MassHealth Board of Hearings.

The Appellant did not dispute the fact that they did not submit updated proof of income. Health Connector correctly determined on October 31, 2021, that the Appellant is eligible for Health Connector Plans with no financial assistance based on income information to the Health Connector. 45 CFR § 155.305(f), and 956 CFR § 12.04.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded to update their application for tax year 2022 and contact Health Connector Customer Service at 1-877-623-6765 for assistance with providing acceptable documentation of the Appellant's income.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2115232

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 with advance premium tax credit.

Hearing Date: December 3, 2021

Decision Date: January 19, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 18, 2021, the Connector determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit based upon information supplied by the appellant to the Connector and/or other data sources.

ISSUE

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 3, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files, and verification of data by the Connector
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated November 8, 2021 addressed to Appellant for December 3, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated November 5, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated November 3, 2021
- Exhibit 3b: Appeals Unit email to Appellant dated November 5, 2021
- Exhibit 3c: Customer Service change income print-out, documents received from Appellant on October 3,

2021, processed October 18, 2021

- Exhibit 4: Hearing Request Form from Appellant dated November 2, 2021
- Exhibit 5: Connector letter dated October 18, 2021 to Appellant regarding eligibility
- Exhibit 5a: Connector letter dated July 10, 2021 to Appellant requesting proof of income
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated October 18, 2021
- Exhibit 7: MassHealth Member Benefits print-out regarding Appellant's household determination, October 18, 2021
- Exhibit 8: Appellant's paystubs, September, 2021, submitted October 10, 2021, processed October 18, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had coverage through the Connector for all of 2021. In July, 2021, the Connector requested that the Appellant send in proof of income (Testimony of Appellant, Exhibit 5a).
2. Appellant attested to having an income of \$36,000 a year his application (Testimony of Appellant, Exhibit 6).
3. Appellant submitted paystubs for the month of September, 2021. The paystubs showed that Appellant earned \$1,000 a week before deductions. Based upon these paystubs the Connector determined that Appellant had a projected annual income of \$51,996 (Exhibits 3c, 6, 8).
4. Based upon the information concerning income submitted by the appellant which showed a verified income of \$51,996, the Connector determined that Appellant's projected annual income amounted to 407.49% of the Federal Poverty level. Based upon this level, the Connector found that the appellant was eligible to purchase and enroll in a Connector Health plan with an advance premium tax credit (Exhibits 5, 6)
5. Appellant submitted a request for an appeal of the Connector's determination on November 22, 2021 because he felt his new premium amount was too high. Appellant worked at a job that was seasonal. He did earn \$1,000 a week, but he only worked nine months a year. He did not collect unemployment benefits when he was out of work (Exhibit 4, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 18, 2021 that the appellant was eligible for a Health Connector plan with an advance premium tax credit.

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

If an applicant is otherwise eligible to purchase health insurance though the Connector, the applicant's projected income is at least 100% of the Federal Poverty Level, and the cost of the second lowest price Silver plan is more than 8.5% of the applicant's Federal adjusted gross income, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is

based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq.

Appellant attested on his application to purchase coverage that he had a projected income for 2021 of \$36,000. He also sent in proof of income showing that he earned \$1,000 weekly. Based upon the proof Appellant sent in, the Connector determined that the appellant's projected annual income was \$51,996, equal to 407.49% of the Federal Poverty Level. The Connector determined that the appellant was eligible for a Connector Health Plan with an advance premium tax credit. See Exhibits 5, 6, and 8.

What is at issue on appeal is whether the Connector made the correct determination when it was made based upon the information available to the Connector at that time. Based upon the information given by the appellant to the Connector and the verification of that information, the Connector correctly determined on October 18, 2021 that the appellant was eligible for a Connector Health plan with an advance premium tax credit. When asked, he sent in paystubs which indicated an income of approximately \$52,000 a year. The Connector used the proof. There is no evidence that the appellant informed the Connector that his employment was seasonal.

As noted above, as a result of the American Rescue Plan for 2021 and 2022, any applicant who purchases coverage through the Connector may receive advance premium tax credits even if the projected income is greater than 400% of the Federal Poverty Level. An applicant may be eligible if the annual premium for the second lowest cost silver plan exceeds 8.5 % of the applicant's annual household income. See Health Connector Policy #NG-2 and the American Rescue Plan for 2021 and 2022.

The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan with an advance premium tax credit is affirmed.

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

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Hearing Officer

Cc: Connector Appeals Unit

