

**FINAL APPEAL DECISION**

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

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

**Hearing Date:** January 23, 2023

**Decision Date:** January 27, 2023

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 5, 2022, the Appellant was determined ineligible for a special enrollment period for Health Connector plans due to failure to have a qualifying life event.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 23, 2023.

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

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Appellant’s Appeal Request Form	( 8 pages, received 9/19/2022)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 page, dated 9/19/ 2022)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	( 1 page, dated 1/4/ 2023)
Exhibit 5:	Health Connector’s Application Summary	( 3 pages, dated 8/5/ 2022)
Exhibit 6:	Health Connector’s Eligibility Results	( 3 pages, dated 8/5/2022)
Exhibit 7	Health Connector’s Special Enrollment Period Denial Notice (6 PP, dated	8/5/2022)

Exhibit 8:	Medicaid Household Determination	(8 PP, dated	8/5/ 2022)
Exhibit 9:	Health Connector’s Appeals Unit Staff Notes	( 1 P, dated	9/20/ 2022)
Exhibit 10:	Health Connector’s Email to Appellant	( 1 P, dated	9/20/2022)
Exhibit 11:	Proof of Residency submitted by the Appellant	( PP, dated	10/11/2022)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was insured through the Connector but lost coverage for nonpayment effective on July 31, 2022. (Exhibits 2-9).
2. The Appellant testified she forgot to make the premium payment in July 2022 and had other circumstances including illness, not being able to afford the premiums, and other family matters which precluded her from making payment. (Appellant’s Testimony).
3. The Appellant, when she attempted to be reinstated after missing the payment deadline, was not granted an SEP, but was subsequently granted an SEP effective November 1, 2022 and is currently enrolled with the Connector for 2023. (Appellant testimony, 2-9).
4. The Appellant’s testified she is requesting retroactive coverage for the time she was uninsured. (Appellant testimony).
5. The Appellant’s two children are enrolled in MassHealth. (Exhibits 1 and 8).
6. As of August 5, 2022, the Appellant had not experienced a qualifying life event and was denied a Special Enrollment Period(“SEP”). (Appellant Testimony, Exhibits 1,5. a.-c., and 6).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant previously was found eligible for Health Connector Plans with financial assistance, lost coverage on July 31, 2022 due to non-payment of premiums, and reapplied but was not granted a special enrollment period, but was subsequently granted an SEP, and enrolled in coverage effective November 1, 2022 and is enrolled with the Connectorcare in 2023. (Appellant’s Testimony). The Appellant is requesting retroactive coverage for the time she was uninsured and asserts that the denial of the SEP was incorrect. In this case, the Appellant forgot to make the payment and testified there were also other reasons she was unable to make the payment including non-affordability and other circumstances, and because of those reasons the Appellant should be permitted to obtain retroactive coverage for the time she was not enrolled in coverage through the Health Connector. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2022 was November 1, 2021, to January 31, 2022. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage. 45 CFR § 155.420. Cancellation of coverage due to failure to pay premium is not a qualifying life event. 45 CFR § 155.420(e)(1).

On August 5, 2022, the Appellant was determined ineligible for Health Connector plans under a special enrollment period decision due to failure to have a qualifying life event. The Appellant’s loss of health insurance because she missed a premium payment and forgot is not a qualifying life event. At hearing, the Appellant did not adduce any testimony whether the Appellant had experienced any other qualifying life events, as listed in the Health Connector’s policy NG-1E. Because the Appellant did not experience a qualifying life event, the Health

## Massachusetts Health Connector Appeals Unit



Connector's determination that the Appellant was not eligible for a special enrolment period was correct. 45 CFR § 155.420. The Appellant was encouraged to review the criteria for an Enrollment Waiver from and contact the Massachusetts Office of Patient Protection.

### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

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

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

**FINAL APPEAL DECISION**

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

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

**Hearing Date:** January 23, 2023

**Decision Date:** January 27, 2023

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 5, 2022, the Appellant was determined ineligible for a special enrollment period for Health Connector plans due to failure to have a qualifying life event.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 23, 2023.

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

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Appellant’s Appeal Request Form	( 8 pages, received 9/19/2022)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 page, dated 9/19/ 2022)
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Exhibit 7	Health Connector’s Special Enrollment Period Denial Notice (6 PP, dated	8/5/2022)

Exhibit 8:	Medicaid Household Determination	(8 PP, dated	8/5/ 2022)
Exhibit 9:	Health Connector’s Appeals Unit Staff Notes	( 1 P, dated	9/20/ 2022)
Exhibit 10:	Health Connector’s Email to Appellant	( 1 P, dated	9/20/2022)
Exhibit 11:	Proof of Residency submitted by the Appellant	( PP, dated	10/11/2022)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was insured through the Connector but lost coverage for nonpayment effective on July 31, 2022. (Exhibits 2-9).
2. The Appellant testified she forgot to make the premium payment in July 2022 and had other circumstances including illness, not being able to afford the premiums, and other family matters which precluded her from making payment. (Appellant’s Testimony).
3. The Appellant, when she attempted to be reinstated after missing the payment deadline, was not granted an SEP, but was subsequently granted an SEP effective November 1, 2022 and is currently enrolled with the Connector for 2023. (Appellant testimony, 2-9).
4. The Appellant’s testified she is requesting retroactive coverage for the time she was uninsured. (Appellant testimony).
5. The Appellant’s two children are enrolled in MassHealth. (Exhibits 1 and 8).
6. As of August 5, 2022, the Appellant had not experienced a qualifying life event and was denied a Special Enrollment Period(“SEP”). (Appellant Testimony, Exhibits 1,5. a.-c., and 6).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant previously was found eligible for Health Connector Plans with financial assistance, lost coverage on July 31, 2022 due to non-payment of premiums, and reapplied but was not granted a special enrollment period, but was subsequently granted a SEP, and enrolled in coverage effective November 1, 2022 and is enrolled with the Connectorcare in 2023. (Appellant’s Testimony). The Appellant is requesting retroactive coverage for the time she was uninsured and asserts that the denial of the SEP was incorrect. In this case, the Appellant forgot to make the payment and testified there were also other reasons she was unable to make the payment including non-affordability and other circumstances, and because of those reasons the Appellant should be permitted to obtain retroactive coverage for the time she was not enrolled in coverage through the Health Connector. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2022 was November 1, 2021, to January 31, 2022. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage. 45 CFR § 155.420. Cancellation of coverage due to failure to pay premium is not a qualifying life event. 45 CFR § 155.420(e)(1).

On August 5, 2022, the Appellant was determined ineligible for Health Connector plans under a special enrollment period decision due to failure to have a qualifying life event. The Appellant’s loss of health insurance because she missed a premium payment and forgot is not a qualifying life event. At hearing, the Appellant did not adduce any testimony whether the Appellant had experienced any other qualifying life events, as listed in the Health Connector’s policy NG-1E. Because the Appellant did not experience a qualifying life event, the Health

## Massachusetts Health Connector Appeals Unit



Connector's determination that the Appellant was not eligible for a special enrolment period was correct. 45 CFR § 155.420. The Appellant was encouraged to review the criteria for an Enrollment Waiver from and contact the Massachusetts Office of Patient Protection.

### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

### **ADDENDUM**

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17170

**Appeal Decision:** Appeal Denied

**Hearing Issue:** SEP

**Hearing Date:** September 6, 2022

**Decision Date:** January 9, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, Section 155.500 *et seq.* 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 June 30, 2022, the Appellant was determined ineligible for a Special Enrollment Period.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for a Special Enrollment Period (SEP).

### **HEARING RECORD**

On September 6, 2022, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 7/8/22 Appeal (1 page)
- Exhibit 2: 6/30/22 Application Summary (3 pages)
- Exhibit 3: 6/30/22 Notice of SEP Denial (2 pages)
- Exhibit 4: 7/21/22 Outreach Notes (1 page)
- Exhibit 5: 7/21/22 Email from Appeals to Appellant re OPP (1 page)
- Exhibit 6: 7/21/22 Appeal Acknowledgment (1 page)
- Exhibit 7: 8/9/22 Hearing Notice (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. By letter dated June 30, 2022, in response to the Appellant's application for health insurance coverage through the Health Connector, the Health Connector notified the Appellant that the Appellant did not qualify to enroll in a new health insurance plan at that time, unless the Appellant could provide proof of an event that would qualify the Appellant for a Special Enrollment Period. (Exhibit 3)
2. The 6/30/22 notice to the Appellant included several examples of such qualifying events, and provided information on how the Appellant should proceed if he felt that he had experienced a qualifying event. (Exhibit 3)
3. The Appellant did not submit to the Health Connector any proof of any qualifying event. (Appellant's testimony)
4. On July 21, 2022, the Appellant appealed the Health Connector's 6/30/22 denial, circling "Failure to process reinstatement" as the basis for his appeal. (Exhibit 6)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 45 CFR § 155.420, individuals may enroll in coverage only during Open Enrollment, which for 2022 was from November 1, 2021, to January 23, 2022. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage.

In this case, the Appellant submitted his application to the Health Connector in April 2022. The Health Connector determined that the Appellant was not eligible for a special enrollment period due to his failure to have a qualifying life event as of the date of his application. While the Health Connector provided the Appellant with a list of qualifying events for a Special Enrollment Period, the failure to enroll in employer-sponsored health insurance coverage during the employer's open enrollment period is not one of them. Therefore, I conclude that the Appellant has not established that he experienced a qualifying event, under 45 CFR § 155.420(e)(1).

Accordingly, the Health Connector correctly determined on June 30, 2022, that the Appellant did not qualify for a special enrollment period. The Appellant's appeal is denied.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer



Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17232

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Unlawfully Present

**Hearing Date:** September 13, 2022

**Decision Date:** January 24, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, Section 155.500 *et seq*. 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 July 14, 2022, the Appellant was determined eligible for Health Connector Plans without any Advance Premium Tax Credit.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined on July 14, 2022, that the Appellant was eligible for an Advance Premium Tax Credit of zero.

### **HEARING RECORD**

On September 13, 2022, the Appellant's counsel appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 7/21/22 Appeal Summary (3 pages)
- Exhibit 2: 7/21/22 Notice of Eligibility Termination (7 pages)
- Exhibit 3: 8/2/22 Outreach Notes (1 page)
- Exhibit 4: 8/29/22 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. On July 21, 2022, the Appellant submitted an application for health insurance coverage to the Health Connector. (Exhibit 1)
2. On July 21, 2022, the Health Connector notified the Appellant through his legal counsel that, as of July 31, 2022, he no longer qualified for health insurance coverage through the Health Connector because the Health Connector did not have the information needed to show that he was lawfully present in the United States. (Exhibit 2)
3. On August 2, 2022, the Health Connector emailed the Appellant's attorney that the Appellant needed to update his immigration status on his application to the Health Connector in order to reinstate his health insurance coverage through the Health Connector. (Exhibit 3)

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

As of July 21, 2022, the Appellant was aware through his counsel that he no longer qualified for health insurance coverage through the Health Connector because he had not provided to the Health Connector proof that he was lawfully present in the United States.

Accordingly, the Health Connector correctly determined on July 21, 2022, that the Appellant no longer qualified for health insurance coverage through the Health Connector. The Appellant's appeal is denied.

### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-17575

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 25, 2023

**Decision Date:** January 31, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 12, 2022, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 25, 2023. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated January 4, 2023)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 4 pages dated September 23, 2022)
- Exhibit 6: Notice of Eligibility Determination (7 pages, dated September 12, 2022)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated September 12, 2022)
- Exhibit 8: Historical Notices & Printouts (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 62 year old single female. (Exhibit 7)
2. The Appellant did not provide proof of her being lawfully present at the time of her application. (Exhibit 4, 6 , & 7)
3. The Appellant has now submitted documents showing that the Appellant is lawfully present to the Health Connector, (work authorization). (Appellant's testimony, exhibit 5)
4. Appellant testified that she has now received a green card and was requested to call the customer service line and report changes to her lawfully being present.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found ineligible for Health Connector plans on failing to establish lawful presence. Under 45 CFR s. 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.

On September 12, 2022, the Appellant applied for health insurance through the Health Connector but did not attest to her lawfully present and she was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of her being lawfully present, the Health Connector correctly found that she was not lawfully eligible for health Connector plans. 45 CFR s. 155.305(a)(1).

The Health Connector correctly found that the Appellant was not eligible for Health Connector plans on August 2, 2021, based on the Appellant's attestation, and that determination is upheld.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

Appellant is requested to call the Health Connector Customer Service line and report the changes to her immigration status and to provide the Health Connector with her Work Authorization card and green card.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2217582

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

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

**Hearing Date:** January 26, 2023

**Decision Date:** January 30, 2023

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 6, 2022, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant had access to or was enrolled in Medicare.

### ISSUE

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 26, 2023. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 13, 2022 addressed to Appellant for a hearing on November 17, 2022
- Exhibit 2a: Connector Appeals Unit Notice of Hearing dated January 4, 2023 addressed to Appellant for a hearing on January 26, 2023
- Exhibit 3: Connector Appeals Unit letter dated October 11, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated October 11, 2022

Exhibit 3b: Appeals Unit email to Appellant dated October 11, 2022  
Exhibit 4: Hearing Request Form signed by Appellant on September 24, 2022 and received by the Connector on September 30, 2022  
Exhibit 5: Connector letter dated September 15, 2022 to Appellant denying eligibility  
Exhibit 5a: Connector letter dated October 6, 2022 to Appellant's spouse regarding eligibility  
Exhibit 5b: Connector letter dated October 6, 2022 to Appellant denying eligibility  
Exhibit 6: Summary and results of Appellant's application dated September 15, 2022  
Exhibit 6a: Summary and results of Appellant's application dated October 6, 2022  
Exhibit 7: MassHealth Member Benefits print-out, Appellant's household determination, September 15, 2022  
Exhibit 7a: MassHealth Member Benefits print-out, Appellant's household determination, October 6, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant and her spouse applied for health insurance through the Connector on September 15, 2022. Appellant's spouse is now deceased (Exhibits 5 and 6, Testimony of Appellant).
2. On September 15, 2022 and again on October 6, 2022, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant either had access to Medicare or was enrolled in Medicare (Exhibits 5 and 6).
3. Appellant filed a request for an appeal of the Connector's determination which was received by the Connector on September 30, 2022 (Exhibit 4).
4. Appellant has been enrolled in Medicare Part A since 2014 because of a disability. Appellant did not enroll in Part B because Appellant had health insurance through her spouse's employer-sponsored coverage. When Appellant's spouse passed away, Appellant lost her coverage and then attempted to enroll in Part B Medicare. She obtained Part B coverage in December, 2022. As of January 1, 2023, Appellant has a Medicare Advantage Plan (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance in September, 2022. The Connector determined that Appellant was ineligible to enroll in coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's determination on September 30, 2022. See Exhibits 4, 5, 6.

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



Appellant was enrolled in Medicare at the time Appellant applied for health insurance through the Connector on September 15, 2022. Appellant has had Part A coverage since 2014. Appellant also had insurance through her spouse's employer-sponsored insurance. Appellant lost this coverage when her spouse passed away in October, 2022. Appellant then enrolled in Part B coverage. See the testimony of the appellant which I find to be credible, and Exhibits 5, and 6.

The Connector correctly determined that because Appellant was enrolled in Medicare, or had access to enroll, Appellant was ineligible to purchase any health insurance plan through the Connector. This determination was based upon information on the appellant's application. The information was accurate. See citations above. This determination is affirmed.

**ORDER:** The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

## FINAL APPEAL DECISION

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

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

**Hearing Date:** January 24, 2023

**Decision Date:** January 30, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On September 7, 2022, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 24, 2023.

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

- Exhibit 1: Affidavit of Records (1 page).
- Exhibit 2: Notice of Hearing (1-4-23) (3 pages).
- Exhibit 3: Acknowledgement of Appeal (9-23-22) (1 page).
- Exhibit 4: Outreach notes and email (2 pages).
- Exhibit 5: Hearing Request (9-20-22) (with documents) (4 pages).
- Exhibit 6: Application Results and summary print outs (8 pages).

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- Exhibit 7: Eligibility Denial letter (9-7-22) (6 pages).  
Exhibit 8: Medicaid Household Determination (6 pages).  
Exhibit 9: Old hearing notice (10-13-22) (3 pages).

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on September 7, 2022, after failing to establish that the Appellant is lawfully present to the Health Connector. (Exhibit 6, Exhibit 7)
2. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 6)
3. Appellant submitted documents with the appeal request (passport), but they were not readable (Testimony, Exhibits 4, 5).
4. Appellant has been in the States for 22 years. (Testimony).

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to establish lawful presence. 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.

On September 7, 2022, the Appellant applied for health insurance through the Health Connector but did not attest to being lawfully present and was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

While the Appellant has taken steps to submit the documents, the documents were not readable and therefore not acceptable, and Appellant needs to update the application and resubmit the documents. The Health Connector correctly found that the Appellant was not eligible for Health Connector plans on September 7, 2022, based on the Appellant's attestation, and that determination is upheld.

### ORDER

The appeal is denied.

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

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

# Massachusetts Health Connector Appeals Unit



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 a tax year from the federal government will be reconciled when you file your federal income tax return for that year (usually in the spring of the following year). 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 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 the tax year (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 a tax year will be paid to you when you file your federal income tax return for that tax year.

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: ACA2217625

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; Medicare

**Hearing Date:** January 24, 2023

**Decision Date:** January 30, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 26, 2022, 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 January 24, 2023. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (1-4-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (10-12-22) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (10-1-22) (4 pages);
- Exhibit 6: Eligibility Denial letter (9-26-22) (6 pages);

Exhibit 7: Eligibility detail printout and application summary printout (4 pages); and  
Exhibit 8: Old hearing notice (10-13-22) (3 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on or about September 26, 2022. (Exhibits 6, 7).
2. Appellant was determined ineligible for Health Connector plans on September 26, 2022, 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).

## **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 2022 coverage was determined on September 26, 2022, 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.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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## **ADDENDUM**

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

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

Note: Appellant was advised to contact SHINE.

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