

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9082

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility for Health Connector plans based on Medicare eligibility.

Hearing Date: July 19, 2019

Decision Date: July 23, 2019

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 April 26, 2019, the Appellant was determined ineligible for Health Connector plans because the Appellant is eligible for Medicare.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is not eligible for Health Connector plans, based on their access to Medicare.

HEARING RECORD

The Appellant's parent appeared as the Appellant's Authorized Representative at the hearing, which was held by telephone on July 19, 2019. The Appellant did not attend the Hearing. The procedures to be followed during the hearing were reviewed with the Appellant's Representative who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant's Representative.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing with attachments dated June 4, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form with attachments dated May 29, 2019.

Exhibit 5: Health Connector's Eligibility Denial Notice with an Application Summary dated April 26, 2019.

FINDINGS OF FACT

The record shows, and I so find:

1. On April 26, 2019 the Appellant applied for health insurance. The Appellant is eligible for Medicare (Exhibit 5).
2. On April 26, 2019 the Health Connector determined that the Appellant is ineligible for Health Connector plans because the Appellant is eligible for Medicare (Exhibit 5).
3. The Appellant filed an appeal on May 29, 2019. The Appellant argues that they are no longer incarcerated or on work release and need insurance (Exhibit 4).
4. The Appellant's Representative testified that the Appellant was receiving SSDI, Medicare and MassHealth until they were incarcerated. The Appellant attempted to have their MassHealth reinstated while participating in a work release program but was denied due to income earned while on work release. The income ended and the Appellant was released from custody on May 15, 2019. The Appellant is in treatment for a substance abuse disorder and needs insurance. The Appellant's Representative said that they did not apply for Health Connector plans. The Representative said that recently they received a notice that the Appellant's MassHealth was reopened and that they have an appeal pending with MassHealth. The Representative said that they are unsure if the Appellant's Medicare was reinstated (Exhibit 4 and Representative Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for health insurance on April 16, 2019. The Health Connector verified that the Appellant is eligible for Medicare. The Appellant was notified on April 16, 2019 at they were not eligible for health insurance coverage through the Health Connector because they are eligible for Medicare. The Appellant filed an appeal to dispute that determination.

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

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

The Appellant's Representative does not dispute that the Appellant is eligible for Medicare. The Representative explained that the Appellant had MassHealth until the Appellant was incarcerated. The Appellant was participating in a work release program and when the Appellant attempted to obtain MassHealth, they were denied due to income. The Appellant no longer has this income. The Representative was unclear why the Health Connector was involved in this process. The Representative was advised that it was likely that because the MassHealth application was denied, the Appellant's application for health insurance was then reviewed by the Health Connector for possible coverage. The Appellant is seeking supplemental coverage for substance abuse treatment. As explained at the Hearing, the Health Connector does not provide this type of insurance coverage. The Representative was advised to contact MassHealth with any questions regarding MassHealth eligibility because the Health Connector regulations do not allow the Health Connector to review MassHealth decisions. 956 CMR 12.02.

Since the Appellant is eligible for Medicare, in accordance with the regulation cited above, the Health Connector correctly determined on April 26, 2019 that the Appellant is not eligible for coverage through the Health Connector.

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 and their Representative are advised to contact MassHealth Customer Service at 1-800-841-2900. The Appellant may also contact the SHINE Program at 1-800-243-4636.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8652

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for SEP

Hearing Date: May 13, 2019

Decision Date: July 2, 2019

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 March 24, 2019, the Health Connector determined that the Appellant did not qualify to enroll in a new health insurance plan at that time.

ISSUE

In this appeal, the Appellant is seeking a special enrollment period to obtain health insurance coverage.

HEARING RECORD

On May 13, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 3/24/19 Notice of SEP Decision (8 pages)
- Exhibit 2: 4/8/19 Appeal (2 pages)
- Exhibit 3: 4/9/19 Appeal Unit Contact Note (1 page)
- Exhibit 4: 2019 Application Summary and Eligibility Results for 3/24/19 Application (4 pages)
- Exhibit 5: Screenshot of "Learn more about Qualifying Events" section of 3/24/19 Application (2 pages)
- Exhibit 6: 4/23/19 Notice of Hearing (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On March 24, 2019, the Appellant applied to the Health Connector for insurance coverage for 2019. The Appellant responded “no” to the question in her application, did anyone in your household lose health insurance coverage? (Appellant’s testimony; Exhibits 2, 3 and 5)
2. By Special Enrollment Period Decision letter dated March 24, 2019, the Health Connector notified the Appellant that she did not qualify to enroll in a new or different health insurance plan at that time “because you did not tell us that you had a qualifying event.” The letter went on to explain what could be considered a qualifying event and what the Appellant could do if she felt that she had experienced a qualifying event. The letter also stated that, if she had experienced a qualifying event, applicants usually had to apply within sixty days of the event. In addition, the letter stated that the Appellant also had the option to apply to the Office of Patient Protection for an open enrollment waiver in certain circumstances. (Exhibit 1)
3. The Appellant had health insurance coverage through her employer until December 2018, when she left her employment and started a new job. Her new employer did not offer health insurance. (Appellant’s testimony)
4. The Appellant did not represent to the Health Connector that she had experienced a qualifying event for purposes of a special enrollment period for 2019 coverage when she applied for coverage on March 24, 2019. (Appellant’s testimony; Exhibits 3 and 5)
5. On April 8, 2019, the Appellant appealed the Health Connector’s 3/24/19 determination, circling “Qualifying Event to Enroll” as the reason for her appeal and stating that she no longer has health insurance through her employer and that she has a new job that does not offer health insurance coverage. (Exhibit 2)
6. On April 9, 2019, in response to receiving her appeal, the Appeals Unit called the Appellant and left a voice-mail message for her to contact Customer Service to update her application to show that she had lost her employer coverage. (Exhibit 3)
7. The Open Enrollment Period for 2019 coverage through the Health Connector was November 1, 2018, through January 23, 2019. (blog.mass.gov/consumer)

ANALYSIS AND CONCLUSIONS OF LAW

The issue before me is whether the Health Connector correctly determined that the Appellant did not qualify for a special enrollment period as of the date that she applied for coverage. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment. The Open Enrollment Period for 2019 coverage ended on January 23, 2019, and the Appellant did not apply for coverage until March 24, 2019. Outside of an open enrollment period, an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experienced a qualifying life event, such as a change in household composition or loss of coverage. Because she applied outside of Open Enrollment, the Appellant had to show that she qualified for a Special Enrollment Period in order to enroll in coverage at that time. The Appellant provided no information in her 3/24/19 application to show that she qualified for an SEP. To the contrary, the Appellant had responded “no” to question whether anyone in her household had lost health insurance coverage.

As the Appellant has not identified any basis for overturning the Health Connector’s 3/24/19 determination that she did not qualify for a Special Enrollment Period at that time, the 3/24/19 determination is upheld and 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: ACA19-8654

Appeal Decision: Appeal Denied

Hearing Issue: Premium Assistance

Hearing Date: May 13, 2019

Decision Date: July 2, 2019

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 April 5, 2019, the Health Connector determined that the Appellant was eligible for ConnectorCare Plan Type 3B with an Advance Premium Tax Credit of \$38.

ISSUE

Whether the Health Connector's determination on April 5, 2019, was correct. In this appeal, the Appellant is seeking a reduction in her monthly premium.

HEARING RECORD

On May 13, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 4/5/19 Eligibility Approval Notice (10 pages)
- Exhibit 2: 4/8/19 Appeal (2 pages)
- Exhibit 3: 4/10/19 and 4/22/19 Appeal Unit Contact Notes (1 page)
- Exhibit 4: 2019 Application Summary and Eligibility Results for 4/5/19 Application (4 pages)
- Exhibit 5: 4/10/19 MWS Print-out w/weekly paystub from employer (2 pages)
- Exhibit 6: 3/13/19 Request for Information, Proof of Income (6 pages)

Exhibit 7: 4/23/19 Notice of Hearing (7 pages)
Exhibit 8: 4/22/19 Report of Latest Eligibility and Latest Enrollment (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By letter dated March 13, 2019, the Health Connector requested the Appellant to provide proof of income. (Exhibit 6)
2. By letter dated April 5, 2019, the Health Connector thanked the Appellant for submitting documents needed as proof of income and notified the Appellant that she qualified for ConnectorCare Plan Type 3B and an Advance Premium Tax Credit of \$38 and for a special enrollment period through June 4, 2019. (Exhibits 1 and 4)
3. On April 8, 2019, the Appellant appealed the Health Connector's 4/5/19 determination, checking off "income" and "premium waiver" as the reason for her appeal and stating that she was struggling to pay the \$88 monthly premium on her income. (Exhibit 2)
4. On April 22, 2019, the Appeals Unit called the Appellant and left a voice-mail message that she needed to review her income and ask for a premium waiver application. (Exhibit 3)
5. Only individuals/families who are eligible for or enrolled in a ConnectorCare plan are eligible for a waiver or reduction in premium. Eligible individuals/families must apply to the Health Connector for a reduction or waiver of premium. (Health Connector Policy # NG-11: Waiver or Reduction of Premium)
6. The Appellant has not submitted a premium waiver/reduction application to the Health Connector. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

In appealing the Health Connector's 4/5/19 determination, the Appellant is seeking a premium reduction. However, the Health Connector's 4/5/19 determination addresses only her application for coverage and qualification for a special enrollment period. While the Health Connector is responsible for processing premium waiver or reduction applications, the Appellant had not applied for a premium waiver or reduction as of the date of hearing. Accordingly, there is no Health Connector decision on waiver or reduction before me.

As the Appellant has raised no issue regarding the Health Connector's 4/5/19 decision, other than premium waiver or reduction, I conclude that the Health Connector's 4/5/19 determination was correct.

ORDER

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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: ACA19-8688

Appeal Decision: Appeal granted

Hearing Issue: Appeal of eligibility for Health Connector plans based on lawful presence

Hearing Date: May 14, 2019

Decision Date: July 9, 2019

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 March 26, 2019, the appellant was advised that she did not qualify for health insurance coverage through the Health Connector because its records indicated that she was not lawfully present in the United States. (Ex. 1) The appellant filed an appeal which was received on April 10, 2019 (Ex. 3) based on lawful presence. The matter was referred to a hearing after receipt of the appeal. (Ex. 8)

ISSUE

Was the Connector's decision regarding the appellant's qualification for health insurance through the Health Connector correct at the time of its determination on March 26, 2019, pursuant to 45 C.F.R. section 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 14, 2019, 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 Notice of Eligibility Denial dated March 26, 2019 (6 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for March 26, 2019 (2 pages)
- Ex. 2A— Computer printout of Health Connector's Review of Application (4pages)
- Ex. 3—Online Appeal Request received on April 10, 2019 (2 pages)

- Ex. 4—Acknowledgement of Appeal dated April 12, 2019 (2 pages)
- Ex. 5—MassHealth member information (1 page)
- Ex. 6—Appeals Unit Case Notes (1 page)
- Ex. 7—Health Connector email dated May 9, 2019 (1page)
- Ex. 8—Notice of Hearing (4 pages)
- Ex. 9—Affidavit of Connector representative (1 page)

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

- Ex.10—Customer service log of communications between the appellant and the Health Connector for the period 1/22/2018-3/26/2019 (11 pages)

The record was held open a second time for documentation requested by the hearing officer from the Connector. The documentation was submitted in a timely fashion and was marked as follows:

- Ex. 11—Health Connector Immigration Status Application User Guide
- Ex. 12—Computer printout of Myworkspace results including a copy of a Department of Homeland Security departure record with an admission number indicating that asylum status was granted indefinitely to the appellant on March 15, 2019.

The appellant testified that when she called the Health Connector on March 26, 2019 to provide notification of a change in her asylum status, she was told by the customer service representative that the change was recorded and she was “all set”.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 40-years-old and has a tax household size of one. (Testimony, Ex. 2A)
2. The appellant was enrolled in health insurance through MassHealth until the end of February, 2019, at which time she got a job and was no longer eligible for benefits. (Testimony)
3. On March 15, 2019, the Department of Homeland Security granted the appellant indefinite asylum status to live in the U.S. Prior to that date, her immigration status was that of an “asylum seeker” and her documentation in that regard was valid until May 2, 2019. (Testimony, Ex. 12)
4. On March 26, 2019, the appellant called the Health Connector to provide notification of the change in her asylum status. She was advised by the customer service representative to whom she spoke that the Connector could not “take her I-94 document for asylum status without either a passport number (which she doesn’t have) or a document expiration date (which she doesn’t have).” The appellant advised the representative that she was upset about the requirement to substantiate her immigration status. During the conversation, the appellant updated her income and shopped for a plan, and was told that she had to submit proof of income by June 29, 2019. (Testimony, Ex. 10)

5. By notice March 26, 2019, the Health Connector advised the appellant that she did not qualify for health insurance because its records indicated that she was not lawfully present in the United States. She was further advised that she qualified for Health Safety Net Partial and had to produce proof of income. (Testimony, Exs. 1,2)

6. The appellant appealed the Connector's March 26, 2019, determination on April 10, 2019, based on lawful presence. In her appeal, she stated in part that "...You...didn't have qualified employees to change my status 3/26 when I called. I have been granted asylum 3/15/2019. I got notice of approval and I called you. Instead of change my status from asylum pending application to granted, you refused me...medical coverage and stated that I'm no legal residing in the country. I will sue you for the horrible week end I spend in moral suffering after I received your note, as well as if I will need medical help during uncovered period you will be totally responsible." (Ex. 3)

7. On April 16, 2019, the Connector received the following from the appellant: a copy of a Department of Homeland Security Departure Record indicating that the appellant was granted Asylum Status Indefinitely on March 15, 2019. (Ex. 12)

8. Pursuant to the instructions on page 24 of the Connector's Immigration Status Application User Guide, if an individual has been issued a Notice of Action (I-797)/Other—With I-94 Number, s/he is required to enter or provide the I-94 number to substantiate his or her immigration status. (Ex. 11)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant maintains that when she called the Connector on March 26, 2019, she reported that she had been granted asylum status and either provided or was in a position to provide the information that was necessary to document her status. According to the Connector's customer service notes, the representative asked the appellant for a document expiration date and/or a passport number in connection with her I-94 document and the appellant was unable to provide either, which resulted in a determination on that date that she did not qualify for health insurance because she was not lawfully present in the U.S.

The immigration reference materials submitted by the Connector subsequent to the hearing indicate that the representative erred in requesting either of the aforesaid numbers, and should have instead asked for the I-94 number to substantiate the reported change. Indeed, the appellant's asylum document which was provided to the Connector on April 16, 2019, contains the admissions number which apparently was all that was necessary to process the change in the appellant's immigration status.

Based on the totality of the evidence, it is concluded that the appellant established that she was lawfully present in the U.S. on March 26, 2019 pursuant to 45 CFR § 155.305(a)(1). Accordingly, the Connector's determination that she was ineligible for health insurance on that basis was incorrect and is overturned.

ORDER

The appeal is granted.

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's file was supplemented immediately prior to the hearing with documentation indicating that on May 13, 2019, she was determined eligible for ConnectorCare Plan Type 2B insurance with APTC, effective June 1, 2019. The document was not marked as part of the record due to timing. The appellant is reminded that she has until July 12, 2019 to enroll and that there is an outstanding request for proof of income.

NOTIFICATION OF YOUR RIGHT TO ELECT RETROACTIVE COVERAGE

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

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8701

Appeal Decision: Appeal Denied

Hearing Issue: Lawful Presence

Hearing Date: June 3, 2019

Decision Date: July 3, 2019

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 March 6, 2019, the Health Connector determined that the Appellant was not eligible for health insurance coverage through the Health Connector.

ISSUE

Whether the Health Connector's determination on March 6, 2019, was correct.

HEARING RECORD

On May 13, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 3/6/19 Eligibility Denial Notice (6 pages)
- Exhibit 2: 4/10/19 Appeal (1 page)
- Exhibit 3: 2019 Eligibility Results and Summary for 3/6/19 Application (4 pages)
- Exhibit 4: AVV – Program Determination – Screenshot (1 page)
- Exhibit 5: 5/7/19 Notice of Hearing (9 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By Eligibility Denial Notice dated March 6, 2019, the Health Connector notified the Appellant of their determination that the Appellant did not qualify for health insurance coverage through the Health Connector because their records indicated that the Appellant was not lawfully present in the United States. The letter also explained how the Health Connector had received information about the Appellant's immigration status and what the Appellant could do if she disputed the information. (Exhibit 1)
2. On March 6, 2019, the Appellant was approved for coverage through MassHealth. (Exhibit 3)
3. On April 10, 2019, the Appellant appealed the Health Connector's 3/6/19 determination, circling "Income" as the reason and explaining, "I do not work and am on medication for high cholesterol and can not do without taking my medication." (Exhibit 2)
4. As of April 11, 2019, Health Connector records indicated that the Appellant was not lawfully present in the United States. (Exhibit 4)
5. By letter dated April 11, 2019, to the Appellant, the Health Connector Appeals Unit acknowledged receiving the Appellant's appeal. Enclosed with the letter was a list of acceptable documents that the Appellant could submit as proof of immigration status. (Exhibit 5)
6. The Appellant has never submitted proof of lawful presence to the Health Connector. (Appellant's testimony)
7. The Appellant is not a tax filer. (Appellant's 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 March 6, 2019, 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).

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: ACA19-8832

Appeal Decision: Appeal Denied

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

Hearing Date: June 27, 2019

Decision Date: July 2, 2019

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 April 23, 2019, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies was first for failing to verify residence and then because the Appellant has access to Medicare or is or is enrolled in Medicare.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for Health Connector plans based on the Appellant's access to Medicare.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 27, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and his representative were sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated May 15, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (6 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (14 pages dated April 29, 2019)
- Exhibit 6: Notice of Eligibility Determination (12 pages, dated April 23, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (4 pages, dated April 23, 2019)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (7 pages, dated May 10, 2019)
- Exhibit 9: Health Connector Historical Notices and Printouts (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on April 23, 2019, based first on failure to verify residence and then on being eligible for Medicare. (Exhibit 9, Appellant's testimony)
2. Appellant is enrolled in Medicare. (Exhibit 9, & Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on his appeal request form that he cannot afford the co-pays and out of pocket expenses and medications, and disputes the finding that he is not eligible for subsidies to help make his insurance more affordable.

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

When the Appellant's eligibility for 2018 coverage was determined on April 23, 2019, he was ineligible for failing to verify residence and subsequently the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that

he has Medicare. Because the Appellant was eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8850

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Subsidy

Hearing Date: July 9, 2019

Decision Date: July 31, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 4, 2019, the Appellant was determined eligible for a Health Connector plan with no subsidy.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans only, based on the Appellant's failure to provide proof of income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 9, 2019. At the end of the hearing, the record was left open for the Appellant to submit additional evidence. The Appellant submitted additional evidence on July 15, 2019, and the record was closed.

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

Exhibit 1: 2/4/19 Eligibility Approval Notice (10 pages)

Exhibit 2: 4/29/19 Appeal (2 pages)

Exhibit 2A: 5/16/19 Appeal Acknowledgment (1 page)

Exhibit 2B: 5/7/19 Invalid Appeal Warning – Untimely (2 pages)

Exhibit 3: 2/4/19 Eligibility Results (5 pages)

Exhibit 4: 5/1/19 MWS Report of 4/17/19 Receipt of 2018 Form 1040 (3 pages)

- Exhibit 5: 2019 Eligibility Results for 4/22/19 Application (4 pages)
- Exhibit 6: 4/21/19 Eligibility Approval Notice (10 pages)
- Exhibit 7: Appeals Unit Contact Notes, 5/1/19 and 5/6/19 (2 pages)
- Exhibit 8: 11/1/18 Request for Information (6 pages)
- Exhibit 9: 5/16/19 MWS, 4/17/19 Income Verified (3 pages)
- Exhibit 10: 5/16/19 Salesforce/Activity History (5 pages)
- Exhibit 11: 5/29/19 Hearing Notice (5 pages)
- Exhibit 12: 7/12/19 Letter from the Appellant to the Health Connector (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. By Request for Information Notice dated November 1, 2018, the Health Connector thanked the Appellant for applying for coverage through the Health Connector, informed him that they could not verify that he qualified to purchase a Health Connector plan, and requested the Appellant to provide proof of income by January 30, 2019, or his eligibility would change. In the Notice, the Health Connector stated that they needed proof of his income from three sources: job income from a certain employer; self-employment income; and rental or royalty income. The letter also listed the documents acceptable as proof, including his most recent Form 1040 with all attachments, including W2s. (Exhibit 8)
2. The Appellant did not respond to the Health Connector's 11/1/18 notice. The Appellant testified that he "probably" received the 11/1/18 Request for Information Notice and just assumed that the Health Connector already had proof of his income from his 2018 tax return. (Appellant's testimony; Exhibit 12)
3. By Eligibility Approval Notice dated February 4, 2019, the Health Connector notified the Appellant that he was eligible for Health Connector Plan with no financial help. The letter stated that the Appellant's eligibility had changed "because we did not get the proof we needed for some of your information." (Exhibit 1)
4. On April 22, 2019, the Appellant submitted a new application to the Health Connector. By eligibility approval notice dated April 22, 2019, the Health Connector thanked the Appellant for submitting the documents needed as proof and approved the Appellant for ConnectorCare Plan Type 2B and an APTC of \$287/monthly. (Exhibit 6)
5. On April 29, 2019, the Appellant appealed the Connector's 2/4/19 determination, checking "Income" as the reason. (Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

As a preliminary matter, while the Appellant is appealing in response to receiving the 4/22/19 Eligibility Approval Notice, I note that he is instead appealing the 2/4/19 Eligibility Approval Notice. Although the Appellant has appealed the 2/4/19 determination well beyond the 30 days allowed, the Health Connector has waived that rule in his case.

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. In order to determine whether an applicant is eligible for subsidized coverage (APTC

or ConnectorCare), the Connector must know an applicant's income so that the applicant's percentage of Federal Poverty Level (FPL) can be determined.

In this case, the Health Connector informed the Appellant by letter dated November 1, 2018, that they needed proof of income from him because they were unable to verify that he qualified to purchase a Health Connector plan; and, that he needed to submit the proof by January 30, 2019. The Appellant appears to have ignored this notice, based on the assumption that the Health Connector already had his 2018 tax return with all the requested information. However, a tax return cannot be filed until after the tax year is completed. Moreover, even assuming that the Appellant meant to refer to his 2017 tax return, there is no evidence in the record that submitted his 2017 tax return to the Health Connector.

Accordingly, I conclude that the Health Connector correctly determined, on February 4, 2019, that the Appellant was eligible for Health Connector plans only, based on the Appellant's failure to provide proof of income.

ORDER

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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: ACA19-8853

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: June 27, 2019

Decision Date: July 3, 2019

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 March 30, 2019, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 27, 2019. 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 (4 pages, dated May 15, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (5 Pages)
- Exhibit 4: Appeals Unit Staff Case notes (1 page)
- Exhibit 5: Appellant's appeal request form 7 pages dated April 29, 2019)
- Exhibit 6: Notice of Eligibility Determination (10 pages, dated March 30, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated March 30, 2019)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (5 pages, dated December 20, 2018)
- Exhibit 9: Historical Notices and Printouts (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied to obtain subsidized health insurance through the Connector. (Exhibit 8 Appellant's testimony)
2. Appellant was notified by a document dated December 20, 2018 that he had to send in proof of income for a self-employed individual by March 20, 2019. (Exhibit 9)
3. Appellant testified that he sent in proof of his income but the proof he sent did not comply with the request for income for a self-employed individual. (Exhibit 5 & 9)
4. Appellant was informed on March 30, 2019 that he only qualified for catastrophic health plans and not ConnectorCare.

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on a projected yearly MAGI. Applicants who qualify

for APTC and who have projected yearly MAGI less than or equal to 300% FPL, qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

Appellant applied for health insurance coverage through the Connector. He was found eligible for ConnectorCare plans and he was notified that he was required to submit documentation of proof of income to confirm his eligibility. Appellant did not submit the documentation requested. On March 30, 2019, Appellant was notified that he was determined eligible for Health Connector plans. The new determination was based on data from other sources because the Appellant did not send in the documents that were requested. On April 29, 2019, Appellant filed for an appeal based on his income.

The Connector made the correct determination based upon the information supplied by the Appellant and obtained from other sources. When Appellant did not supply the required documentation, the Connector changed the determination based on data from other sources

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 contact the Health Connector and update his income and provide proof of his income.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA198854

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

Hearing Issue: Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Connector until the next open enrollment period because Appellant did not have a qualifying life event.

Hearing Date: June 25, 2019

Decision Date: July 25, 2019

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 April 8, 2019, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector until the next open enrollment period.

ISSUE

Whether the Connector correctly determined pursuant to 45 CFR 155.410 and 420 that the appellant was ineligible to purchase health insurance through the Connector until the next open enrollment period because Appellant did not have a qualifying life event.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 25, 2019. 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. At the end of the hearing, the record was left open until July 12, 2019 to give the appellant time to submit additional evidence. As of the date of the writing of this decision, no additional evidence has been submitted by the appellant. 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 Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated May 15, 2019 addressed to Appellant for June 25, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated May 13, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff case notes dated April 30 and May 1, 2019

Exhibit 4: Hearing Request Form submitted by Appellant on April 30, 2019 with application for enrollment waiver attached

Exhibit 5: Connector letter dated April 8, 2019 to Appellant regarding special enrollment period

Exhibit 6: Summary and results of Appellant's application for Connector plan dated April 8, 2019 verified on April 30, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had Medicaid in 2018. He lost the coverage. in November. Appellant did not know why his coverage was ended (Exhibit 4).
2. In April, 2019, the appellant applied to the Connector for health insurance (Exhibit 5 and 6).
3. On April 8, 2019 the Connector determined that the appellant was not eligible to enroll in a health connector plan until the next open enrollment period. This determination was made because the appellant did not claim to have a qualifying life event (Exhibit 5 and 6).
4. Appellant filed a request for an appeal of the Connector's determinations on April 30, 2019 (Exhibit 4).
5. The appellant had no qualifying life event within 60 days of his applying for health insurance in April, 2019. He had not lost health insurance coverage, gained a dependent, had a change in marital or immigration status within the past 60 days. He had not moved. Appellant was not Alaska native or native American. He had no other qualifying event and no exceptional circumstances which would allow the Connector to grant him a special enrollment period (Testimony of Appellant, Exhibits 5 and 6).
6. On April 30, 2019, the appellant filed an application with the Office of Patient Protection for an enrollment period waiver. Appellant received a waiver on May 14, 2019 (Exhibit 4, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on April 8, 2019 that the appellant was ineligible to enroll in a Health Connector plan until the next open enrollment period because he had no qualifying life event.

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

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event. The Connector's open enrollment period for 2019 coverage began in November, 2018 and ended in mid-January, 2019.

Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth or other health insurance coverage, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may

apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period. There is an exceptional circumstances exception. Examples of exceptional circumstances are given in the Centers for Medicare and Medicaid Services and for Consumer Information and Insurance Oversight Affordable Exchanges Guidance dated March 26, 2014. Examples listed are a natural disaster, or medical emergency.

In this matter, Appellant had no qualifying life event within 60 days of his applying for coverage through the Connector. He indicated this on his Connector application. See Exhibits 5 and 6. He had lost health insurance coverage in November, 2018, more than 60 days before he applied for coverage. He had not gained a dependent, had a change in marital or immigration status within the past 60 days. Appellant was not Alaska native or native American. He had not moved. He had no other qualifying event and no exceptional circumstances which would allow the Connector to grant him a special enrollment period. See the testimony of the appellant which I find to be credible and Exhibits 5 and 6.

What is at issue here is whether the original determination that Appellant was ineligible to enroll in a Connector Health Plan until the next open enrollment period was correct at the time it was made. The determination was based upon the attestations made by Appellant on his application concerning qualifying life events. At this hearing, Appellant also testified to a lack of a qualifying event. There is no other evidence in the record that the appellant had a qualifying life event at the time he applied. The Connector's determination was correct at the time it was made. See cites above. Because of this, the determination of the Connector is affirmed.

I note that the appellant was granted an enrollment waiver by the Office of Patient Protection. If he has not done so already, Appellant may wish to apply again, using the waiver to establish eligibility to enroll outside of an open enrollment period.

ORDER: The action taken by the Connector regarding Appellant's ineligibility to purchase a Connector Health plan until the next open enrollment period 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8909

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's ineligibility for ConnectorCare based upon eligibility for MassHealth

Hearing Date: July 15, 2019

Decision Date: July 30, 2019

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 applied for a subsidized Health Connector Plan in February 2019. Appellant was found eligible for a ConnectorCare plan on February 13, 2019, but was not granted a Special Enrollment Period. Appellant appealed the denial of the Special Enrollment Period on May 3, 2019. The Connector administratively granted Appellant a Special Enrollment period on May 7, 2019 and Appellant was also required to send in proof of income. In early May, Appellant sent in the required proof of income to the Health Connector. After sending in the proof of income, Appellant was determined eligible for MassHealth. Appellant was enrolled in MassHealth and Appellant was not permitted to enroll in a ConnectorCare Plan.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for a ConnectorCare plan, due to Appellant's eligibility for MassHealth.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 15, 2019.

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

- Exhibit 1: Affidavit of Record
Exhibit 2: Correspondence from the Health Connector
Exhibit 3: Appellant's appeal request form and supporting documents
Exhibit 4: Notices on Appeal
Exhibit 5: Eligibility Results and Application Summary

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was approved for a ConnectorCare Plan on February 13, 2019 and was also required to send in proof of income (Exhibit 5).
2. When Appellant tried to enroll in the plan on April 25, 2019, Appellant was found ineligible for a Special Enrollment Period to enroll in the ConnectorCare Plan (Exhibit 4).
3. On or about May 3, 2019, Appellant filed an Appeal of the denial of the Special Enrollment Period (Exhibit 3)
4. On May 7, 2019, the Health Connector administratively granted a Special Enrollment Period so that Appellant could enroll in the ConnectorCare Plan (Exhibit 2).
5. In early May 2019, Appellant sent in the requested proof of income documents (Testimony of Appellant).
6. After sending the proof of income documents to the Connector, Appellant was found eligible for MassHealth and Appellant enrolled in MassHealth (Testimony of Appellant).
7. Appellant was covered by MassHealth at the time of the hearing (Testimony of Appellant).
8. Appellant did not want the MassHealth coverage and wanted to be covered by a ConnectorCare Plan (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant's original appeal was based on the denial of a Special Enrollment Period. By the time the Appeal was heard, Appellant had been granted a Special Enrollment period. Appellant also sent the Health Connector the requested proof of income. After the Appellant sent in the proof of income documents, Appellant was determined eligible for MassHealth and Appellant enrolled in MassHealth. At the time of the hearing, Appellant was requesting that the health insurance be changed from MassHealth to a ConnectorCare plan.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. In order to be eligible for the Massachusetts subsidy, the household must be eligible for a premium tax credit. 956 CMR 12.04 1(b)

In order to be eligible for a premium tax credit, a taxpayer cannot be eligible for government-sponsored minimum essential coverage. 26 CFR §136B-2 (a)(2) and (c)(2). MassHealth (which is the Medicaid program) is a government sponsored minimum essential coverage. 26 CFR §5000A(f)(1)(A)(ii).

Since Appellant was not eligible for an advance premium tax credit, Appellant was also therefore not eligible for ConnectorCare.

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

FINAL APPEAL DECISION: ACA19-8927

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare, lawful presence

Hearing Date: June 19, 2019

Decision Date: July 11, 2019

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 April 22, 2019, the Appellant was deemed ineligible for Health Connector plans based on unlawful presence.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was ineligible for Health Connector plans, based on unlawful presence.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 19, 2019. The hearing was recorded. The record was left open to allow Appellant to submit additional documents regarding lawful presence. Appellant did submit additional documents. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (5-14-19) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (5-7-19) (3 pages);
- Exhibit 4: Outreach notes and email (4 pages);
- Exhibit 5: Hearing Request form (4-29-19) (with document) (2 pages);
- Exhibit 6: Eligibility Denial letter (4-22-19) (8 pages);

- Exhibit 7: Eligibility detail printout and application summary printout (7 pages); and
Exhibit 8: Additional documents submitted by Appellant pursuant to open record (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance on or about April 22, 2019.
2. Appellant was deemed ineligible due to failure to provide documentation of lawful presence in the United States.
3. Appellant is appealing the results regarding unlawful presence. Appellant has bipolar disease and is in need of medical care.
4. Appellant had come to the United States in 1985, when he was 17 years old. Until 2011 he had all of his legal documents and was lawfully present. In 2011, due to his bipolar, he had engaged in conduct that resulted in his losing his legal status.
5. Appellant has recently received new legal documentation, but he had not submitted it at the time of his application.
6. After the initial application, Appellant submitted additional documents that verified his lawful presence in the United States, and his application was updated to render him eligible for ConnectorCare.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to be eligible under federal law, an individual must be lawfully present in the United States. PPACA § 1312(f)(3) and 45 CFR § 155.305(a)(1).

In this case, Appellant did not indicate on his application that he was a citizen or had lawful presence in the United States. Based on the information provided, Appellant was deemed ineligible for ConnectorCare plans. Appellant subsequent to the hearing provided documents showing lawful presence and the application was updated.

ORDER

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

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Note: Appellant was deemed eligible for ConnectorCare plans after he submitted the additional documents after the hearing.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8929

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for Health Connector plans based on failure to verify information

Hearing Date: July 2, 2019

Decision Date: July 24, 2019

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 April 6, 2019, the appellant was advised that he did not qualify for health insurance coverage through the Health Connector because it did not receive the information needed to verify his eligibility to purchase a Connector plan. (Ex. 3) The appellant filed an appeal which was received on May 7, 2019. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 9)

ISSUE

Was the Connector's decision regarding the appellant's lack of qualification for Health Connector Plans correct at the time of its determination on April 6, 2019, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 2, 2019, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence:

- Ex. 1—Health Connector's Request for Information dated December 20, 2018 (6 pages) ¹
- Ex. 3—Health Connector's Notice of Eligibility Denial dated April 6, 2019 (6 pages)
- Ex. 4— Computer printout of Health Connector's Eligibility Determination Results (2 pages)
- Ex. 5— Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 6—Hearing Request Form received on May 7, 2019 (3 pages)

¹ There is no Ex. 2 as an error was made in marking the exhibits.

- Ex. 7— Appeals Unit Notes (1 page)
- Ex. 8—Acknowledgement of Appeal dated May 8, 2019 (5 pages)
- Ex. 9—Notice of Hearing (4 pages)
- Ex. 10—Affidavit of Connector representative (1 page)

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer from the appellant. No documentation was submitted by the specified date and the record was closed.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 60-years-old, is single, and has a tax household size of one. (Testimony, Ex. 5)
2. The appellant was born in the U.S. and is an American citizen. (Testimony, Ex. 5)
3. The appellant was enrolled in health insurance with MassHealth for approximately three years until the end of 2018. He has not enrolled in insurance in 2019. (Testimony)
4. By letter dated December 20, 2018, the Health Connector notified the appellant that it could not verify that he qualified to purchase a Health Connector plan, and requested that he submit proof of U.S. citizenship status by March 20, 2019 in order to remain eligible for coverage. He was confused by the request as he is a U.S. citizen and has not previously been asked to verify his citizenship. (Testimony, Ex. 1)
5. The appellant called the Health Connector in early January, 2019 and was advised to submit proof of income. He did not discuss the December 20th request for proof of citizenship. (Testimony)
6. The appellant submitted paystubs to the Connector following the telephone conversation, but did not submit proof of citizenship on or before March 20, 2019. (Testimony)
7. By letter dated April 6, 2019, the Health Connector notified the appellant that he did not qualify for health insurance coverage through the Health Connector because it did not get the information it needed to verify his eligibility to purchase a Health Connector plan. A second notice from the Connector of the same date indicated that the Connector's determination was based on "data from other sources" because it did not receive the documents it had requested. (Exs. 3,4)
8. The appellant appealed the Connector's April 6, 2019, based on income and stated that his income is lower than the previous two years during which he received insurance benefits. (Ex. 6)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR 155.305(f), certain taxpayers are eligible for an APTC if their household income 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 income. Taxpayers who qualify for an APTC and who have projected yearly income 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 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 eligibility electronically, it requests verifying information, in accordance with 45 CFR 155.315(f). If an applicant does not provide verifying information, the Health Connector will revert to electronic

data sources, and issue a new eligibility determination, in accordance with 45 CFR 155.315(f)(5), 155.320(c)(3)(i)(D).

On December 20, 2018, the Health Connector notified the appellant that it could not verify that he qualified to purchase a Health Connector plan, and requested that he submit proof of U.S. citizenship status by March 20, 2019 in order to remain eligible for coverage. The appellant was confused by the request as he is a U.S. citizen and had never previously been asked by the Connector to document his citizenship status. In a follow up conversation with a Connector representative in January, 2019, the appellant was advised to submit proof of income, but he did not discuss the citizenship request. The Connector did not receive the information that it requested by March 20, 2019, and in a notice dated April 6, 2019, advised the appellant that it could not verify his eligibility to purchase a Health Connector plan pursuant to 45 CFR 155.315(f).

The appellant does not dispute that he failed to submit the requested proof by the designated date. It is not known why he was asked to document his citizenship and it is unfortunate that his eligibility to purchase insurance was terminated. However, since the requested verification was not submitted, the Connector relied on data it had available from other sources to issue its determination.

Based upon the totality of the evidence, it is concluded that the Connector's determination on April 6, 2019, regarding the appellant's ineligibility for Health Connector Plans due to failure to provide requested information, was correct and is therefore affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8933

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector Plan

Hearing Date: July 1, 2019

Decision Date: July 31, 2019

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 April 24, 2019, the Health Connector determined that the Appellant no longer qualified for health coverage through the Health Connector.

ISSUE

Whether the Appellant no longer qualified for health insurance coverage through the Health Connector, as of April 24, 2019.

HEARING RECORD

On July 1, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 4/24/19 Eligibility Termination Notice (6 pages)
- Exhibit 2: 5/7/19 Appeal (3 pages)
- Exhibit 2A: Appeal Acknowledgment Letter (6 pages)
- Exhibit 3: 2019 Eligibility Results for 4/24/19 Application (4 pages)
- Exhibit 4: 1/16/19 Request for Information (6 pages)
- Exhibit 5: 5/16/19 Affidavit of Residence (3 pages)

- Exhibit 5A: 4/26/19 EDMC Receipt of Documents – Drivers License (6 pages)
Exhibit 6: 5/8/19 and 5/20/19 Appeal Unit Contact Notes (1 page)
Exhibit 7: 5/28/19 Notice of Hearing (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By letter dated January 16, 2019, the Health Connector notified the Appellant that they could not verify his residency and requested the Appellant to provide proof of residency by April 16, 2019, or his eligibility for health insurance coverage would change. (Exhibit 4)
2. By letter dated April 24, 2019, the Health Connector notified the Appellant that he no longer qualified for coverage through the Health Connector because they had not received the information needed to verify his eligibility to purchase a Health Connector plan. (Exhibit 6)
3. The 1/16/19 letter and the 4/24/19 letter were sent to the same mailing address of record for the Appellant. (Exhibits 4 and 6)
4. On May 7, 2019, the Appellant appealed the Connector's 4/24/19 determination, circling "residency" as the reason for his appeal, stating "I have got a message to send proof of address I have sent my driver license which has my current address," and attaching a copy of his drivers license. (Exhibit 2)
5. By letter dated May 8, 2019, the Health Connector notified the Appellant that his appeal had been received, provided a list of acceptable proof of residency, and enclosed an Affidavit of Massachusetts Residency form. A driver's license is not acceptable proof of residency. (Exhibit 2A)

ANALYSIS AND CONCLUSIONS OF LAW

The issue before me is whether the Health Connector correctly determined, on April 24, 2019, that the Appellant no longer qualified for coverage through the Health Connector. The eligibility requirements for enrolling in coverage through the Health Connector are set forth at 45 CFR § 155.305. Section 155.305(a)(3) requires applicants and enrollees to verify that they meet the applicable residency standard.

In this case, the Appellant takes the position that he never received the 1/16/19 notice, requesting him to verify his residency. While the Appellant may have overlooked the letter when receiving his mail, the 1/16/19 letter was sent to the same address as the 4/24/19 termination notice, and the Appellant offered no explanation for why he would have received one letter from the Health Connector and not the other.

As the Appellant did not provide proof of residency to the Health Connector by April 16, 2019, as requested, the Health Connector's 4/24/19 determination is upheld, and the Appellant's appeal is denied. 45 CFR § 155.305(a)(3).

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: ACA19-8973

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: July 8, 2019

Decision Date: July 16, 2019

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 April 30, 2019, Appellant and Appellant spouse were denied eligibility to obtain health insurance through the Connector because Appellants were found not to be lawfully present in the United States.

ISSUE

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

HEARING RECORD

Appellant and Appellant Spouse appeared at the hearing which was held by telephone on July 8, 2019. Also present was a duly sworn interpreter. The procedures to be followed during the hearing were reviewed with Appellants. Appellants were sworn in. Exhibits were marked and admitted in evidence with no objection. Appellant and Appellant Spouse testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellants' file, undated
- Exhibit 2: Correspondence from Connector Appeals Unit addressed to Appellants
- Exhibit 3: Hearing Request Form dated May 13, 2019

Exhibit 4: Connector letter dated April 30, 2019, denying Appellants' eligibility to obtain health insurance through the Connector

Exhibit 5: Eligibility Results and application summary

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants applied to obtain health insurance through the Connector on or about April 30, 2019 (Exhibit 4).
2. Appellants' eligibility to obtain health insurance through the Connector was denied on April 30, 2019 because Appellants did not establish lawful presence in the United States (Exhibit 4).
3. Appellants appealed the Connector's action on May 13, 2019 (Exhibit3).
4. Appellants do not have documents showing lawful presence (Testimony of Appellants).

ANALYSIS AND CONCLUSIONS OF LAW

Appellants applied for health insurance coverage through the Connector on or about April 30, 2019. The Connector denied Appellants' eligibility for health insurance because Appellants were determined not to be lawfully present in the United States. Appellants appealed the Connector's denial on May 13, 2019. Appellants do not have documents showing lawful presence. See Testimony of Appellants which I find to be credible and Exhibits 4 and 5.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR155.305(a)(1).

Since Appellants cannot establish lawful presence, the Connector's action in denying Appellants eligibility to purchase health insurance through the agency is affirmed based upon the information supplied by Appellants in the application.

ORDER

The action taken by the Connector at the time of Appellant's application denying Appellants' eligibility is affirmed.

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION ACA 19-9084

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant’s eligibility for subsidized insurance based on access to Medicare

Hearing Date: July 16, 2019

Decision Date: July 26, 2019

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 May 13, 2019, the Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 16, 2019.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 Page, Undated)
Exhibit 2: Health Connector's Hearing Notice (4 pages, dated, June 12, 2019)
Exhibit 3: Appellant's Appeal Request Form (1 page, dated May 29, 2019)
Exhibit 4: Health Connector Notice of Denial (6 pages, dated May 13, 2019)
Exhibit 5: Health Connector's Application Summary (4 pages, dated May 29, 2019)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a Massachusetts resident. (Exhibits 2- 5, Testimony).
2. The Appellant does not have access to affordable employer-sponsored insurance, and has income below 150 percent of the federal poverty level. (Exhibit 5, Testimony).
3. On May 13, 2019, a notice was sent to the Appellant stating that Appellant did not qualify for health insurance coverage through the Massachusetts Health Connector because Appellant has access to Medicare or is currently enrolled in Medicare. (Exhibit 5).
4. The Appellant is currently enrolled in Medicare, but states that because Medicare covers only 80 percent of health care costs, it is insufficient coverage to make the cost of health care reasonable or affordable. (Testimony).
5. The Appellant was determined ineligible for Health Connector plans on May 13, 2019, based on being eligible for Medicare. (Exhibit 4).
6. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare and is in fact on Medicare Part A & B (Exhibit 1, Exhibit 4, Exhibit 5, Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant has appealed the finding that of not being eligible for a Health Connector plan for 2019; and stated that because Medicare covers only 80 percent of health care costs, it is insufficient coverage to make the cost of health care reasonable or affordable.

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

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

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to perform (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their "same policy or contract of insurance." See 45 CFR § 147.106 and 45 CFR § 148.122; and discussion generally at 81 FR 94068, December 22, 2016. 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 eligibility criteria at 45 CFR § 155.304(a). Generally, the Health Connector performs the function of renewals for carriers, in accordance with the provisions found at 45 CFR § 155.335. However, in cases where the individual is going to be eligible for Medicare on January 1 of the renewal year, the Health Connector cannot determine whether renewal is appropriate and would comply with the anti-duplication rule. The Health Connector therefore does not perform any renewals for Medicare-eligible individuals, and instead directs individuals to contact their carriers, who can determine whether renewal is permissible. This approach ensures compliance with the anti-duplication rule, and does not interfere with any individual rights, since the individual cannot be eligible for the subsidies exclusively available through the Health Connector. See 26 CFR 1.36B-2(a)(2). To the degree any individual has the right to renew their same policy or contract of insurance, the individual's health insurance issuer remains responsible for performing that renewal.

The Appellant confirmed at the hearing that Appellant is eligible for and enrolled in Medicare. Because the Appellant is enrolled in Medicare, the Health Connector correctly found that the Applicant was not eligible for Health Connector plans in 2019, in order to avoid violating the Medicare anti-duplication rule. Although the fact that Medicare covers 80 percent of health care costs rather than a higher percentage - presents a significant financial challenge for the Appellant, that does not qualify as an exemption from the anti-duplication rule.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Addendum

The Appellant is advised to look into the **Serving the Health Insurance Needs of Everyone (SHINE)** program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.

FINAL APPEAL DECISION NO. 19-9104

Appeal Decision: Appeal Denied, Eligibility Determination Upheld

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

Hearing Date: July 16, 2019

Decision Date: July 26, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On May 2, 2019, Appellant was determined eligible for Health Connector plans without subsidies since she did not verify that she had provided documentation and an attestation that she had filed tax returns to reconcile any previous Advance Tax Credits she had received.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was only eligible for Health Connector plans without subsidies since she did not provide documentation and an attestation to verify that she had filed tax return forms to reconcile any previous Advance Premium Tax Credits she had received.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 16, 2019.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Hearing Notice of Hearing (4 pages, dated June 12, 2019)

Massachusetts Health Connector Appeals Unit



- Exhibit 3: Health Connector's Acknowledgment of Appeal (4 pages, dated May 19, 2019)
- Exhibit 3(a) Health Connector's Appeals Unit Staff Notes (1 page)
- Exhibit 4: Appellant's Appeal Request Form (10 pages, dated May 31, 2019)
- Exhibit 5: Health Connector Notice of Eligibility Approval (9 pages, dated May 2, 2019)
- Exhibit 6: Health Connector's Results Computer Print Out (9 pages dated May 31, 2019,)
- Exhibit 7: Health Connector Letter to the Appellant regarding Using 1095-A for Filing 2017 Taxes (16 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated May 2, 2019, from the Connector and entitled 'Eligibility Approval,' the Appellant was informed that for 2019, she was eligible to enroll in Health Connector Plans with no financial help. (Exhibit 5)
2. In the application submitted by the Appellant, the Appellant's income was 141.47% of the Federal Poverty Level (FPL). (Exhibit 5)
3. The Appellant filed a Hearing Request Form appealing the Connector's decision. (Appellant testimony and Exhibit 4)
4. The Appellant's late Husband had been filing tax returns. (Testimony)
5. The Appellant testified that 2017 taxes were not filed after her Husband died where he had been filing the tax returns. (Testimony)
6. Since the determination, the Appellant has received a new determination regarding her eligibility.

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined that the Appellant could purchase health insurance through the Connector for 2019, but that she was not eligible for the Advance Premium Tax Credit and for subsidized health insurance through ConnectorCare.

In the Appellant's application for subsidized health insurance for 2019, the Appellant did not verify her eligibility for the Advance Premium Tax Credit. In order to be eligible for future Advance Premium Tax Credits, the recipient of the tax credits must reconcile their previous Advance Premium Tax Credits. (45 CFR §155.305(f) (4)). In order to comply with this requirement, the recipient must file her income taxes using Form 1040 and include Form 8962. The Appellant received prior Advance Premium Tax Credits, but she did not provide evidence that she filed the requisite tax forms to reconcile those tax credits at the time the Connector made its eligibility determination.

Based on the Appellant's failure to provide evidence that she had filed taxes reconciling her past Advance Premium Tax Credits, the Connector's decision to determination to deny the Appellant access to those credits 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.

William F. O'Connell
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 2019 from the federal government will be reconciled when you file your 2019 federal income tax return (usually in the spring of 2020). 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 2019 (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 2019 (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 2019 will be paid to you when you file your 2019 federal income tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9125

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; Medicare

Hearing Date: July 17, 2019

Decision Date: July 30, 2019

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 May 15, 2019, the Appellant was deemed ineligible for Health Connector Plans. The reason the Appellant was denied subsidies 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 not eligible 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 July 17, 2019. 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 (6-12-19) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (6-4-19) (4 pages);
- Exhibit 4: Outreach note (1 page);
- Exhibit 5: Hearing Request form (6-4-19) (3 pages);
- Exhibit 6: Eligibility Denial letter (5-15-19) (6 pages);

Exhibit 7: Eligibility detail printout and application summary printout (4 pages); and
Exhibit 8: Notice of Hearing (6-25-19) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on or about May 15, 2019.
2. Appellant was determined ineligible for Health Connector plans on May 15, 2019, based on being eligible for Medicare.
3. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated during the hearing on the appeal that Appellant cannot afford medications and costs of insurance. In addition, Appellant raised issues regarding Health Safety Net and dental insurance.

Under 42 USC § 1395(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare. This applies to subsidized health insurance as well.

When the Appellant's eligibility for 2019 coverage was determined on May 15, 2019, 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 ConnectorCare or 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.

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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 and was given the telephone number. In addition, Appellant was advised that any issues about Health Safety Net should be addressed to Mass Health.