

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11684

Appeal Decision: Appeal denied

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

Hearing Date: July 20, 2020

Decision Date: July 27, 2020

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated April 3, 2020, the appellant was advised that she was eligible for a Health Connector Plan with an Advanced Premium Tax Credit (APTC) of \$228.00/month beginning on May 1, 2020. (Ex. 1) The appellant filed an appeal dated April 23, 2020 (Ex. 6) based on income. The matter was referred to a hearing after receipt of the appeal. (Exs. 9,10)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with APTC on April 3, 2020 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 20, 2020, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for April 3, 2020 (2 pages)

Ex. 2—Health Connector's Review of Application (3 pages)

Ex. 3—Health Connector's Notice of Eligibility dated April 3, 2020 (10 pages)

Ex. 4—Health Connector's Eligibility Determination Results showing a program determination for August 30, 2019 (2 pages)

- Ex. 5—Health Connector's Review of Application (3 pages)
- Ex. 6—Hearing Request Form dated April 23, 2020 (4 pages)
- Ex. 7—Acknowledgment of Appeal dated April 30, 2020 (1 page)
- Ex. 8—Appeals Unit case notes (1 page)
- Ex. 9—Notice of Hearing dated June 17, 2020 (3 pages)
- Ex. 10—Notice of Hearing dated May 19, 2020 (3 pages_
- Ex. 11—Health Connector's letter regarding premium waiver/reduction dated July 16, 2020 (1 page)
- Ex. 12—Application for premium waiver/reduction (5 pages)
- Ex. 13—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 73-years-old and has a tax household size of one. (Testimony, Exs. 2,5)
2. The appellant is not eligible for health insurance through Medicare. (Testimony)
3. By notice dated August 30, 2019, the appellant was determined eligible for ConnectorCare Plan Type 3B with an APTC of \$318.00/month based on having an income and household size equivalent to 278.62% of the Federal Poverty Level (FPL) effective January 1, 2020. On the application on which the August 30, 2019 determination was based, the appellant projected her yearly income to be \$34,800. (Testimony, Exs. 4,5)
3. By notice dated April 3, 2020, the appellant was determined eligible for a Health Connector Plan with an APTC of \$228.00/month based on having an income and household size equivalent to 349.08% of the FPL effective May 1, 2020. On the application on which the April 3, 2020 determination was based, the appellant projected her yearly income to be \$43,599.92. (Testimony, Exs. 1,2)
4. The appellant does not have a regular source of income, and lives on the income generated by her investments. In 2019, she had to withdraw a greater amount of money from her investments than in 2018 in order to cover her expenses. The withdrawal increased her income causing her eligibility for subsidized health insurance to change. (Testimony)
5. The appellant appealed the Connector's April 3, 2020, determination on April 23, 2020 based on income. She also requested a premium waiver/reduction application in her appeal. (Testimony, Ex. 6)
6. The appellant is currently enrolled in a Health Connector plan with APTC for which she pays \$532.00/month. She estimates that her yearly income for 2020 will be approximately \$13,000.00, but anticipates that she may have to take distributions from her investments in order to cover expenses such as health insurance premiums. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant was found eligible for a Health Connector Plan with APTC based on having an income and family size equivalent to 349.08% of the FPL. The appellant does not dispute that she attested to a projected yearly income of \$43,599.00 for 2020, but believes that her anticipated income will be much lower.

Based on the evidence in the record, it is concluded that the Connector's determination on April 3, 2020 regarding the appellant's eligibility for Health Connector Plans with APTC was correct, and is therefore affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised that if she wishes to make changes to her income, she should update her application online or contact the Appeals Unit at 617-933-3096.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11691

Appeal Decision: Appeal Denied

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

Hearing Date: June 11, 2020

Decision Date: July 2, 2020

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 2, 2020, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was enrolled in Medicare.

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing which was held by telephone, on June 11, 2020.

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

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Notice of Appeal
- Exhibit 2: Eligibility Summary and results April 2, 2020
- Exhibit 3: Outreach notes of Appeals Unit
- Exhibit 4: None
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector and information for Medicare recipients

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on April 2, 2020 based on having access to Medicare or being enrolled in Medicare (Exhibit 2)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 4).
3. Appellant filed a Notice of Appeal on May 1, 2020 (Exhibit 1A and Testimony of Appellant).
4. Appellant is enrolled in Medicare (Testimony of Appellant).
5. Appellant has serious medical issues and was looking for financial assistance (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

When the Appellant's eligibility for 2020 coverage was determined on April 2, 2020, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. Appellant was enrolled in Medicare. See Exhibits 1A, 2 and Testimony of Appellant which I find to be credible. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible or enrolled in Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I). Because the Appellant was eligible and in fact enrolled in Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is 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.

ADDENDUM

Appellant was provided with the phone number for SHINE (1-800 841-2900) and MassHealth (1-800 841-2900) to get information about other insurance options available for people who are covered by Medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11723

Appeal Decision: Appeal Denied

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

Hearing Date: June 26, 2020

Decision Date: July 8, 2020

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 22, 2020, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was enrolled in Medicare.

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing which was held by telephone, on June 26, 2020.

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

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Notice of Appeal , dated May 5, 2020
- Exhibit 2: Eligibility Summary and results April 22, 2020
- Exhibit 3: Outreach notes of Appeals Unit
- Exhibit 4: None
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector and information for Medicare recipients

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on April 22, 2020 based on having access to Medicare or being enrolled in Medicare (Exhibit 2)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 2).
3. Appellant filed a Notice of Appeal on May 5, 2020 (Exhibit 1A and Testimony of Appellant).
4. Appellant is enrolled in Medicare (Testimony of Appellant).
5. Appellant has medical issues and was looking for financial assistance (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

When the Appellant's eligibility for 2020 coverage was determined on April 22, 2020, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. Appellant was enrolled in Medicare. See Exhibits 1A, 2 and Testimony of Appellant which I find to be credible. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible or enrolled in Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I). Because the Appellant was eligible and in fact enrolled in Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is 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.

ADDENDUM

Appellant had applied for MassHealth and MassHealth had asked for certain documents. Appellant was provided with the phone number for MassHealth (1-800 841-2900) to follow up on what documents were needed for the application. Appellant was also provided with the phone number for SHINE (1-800 841-2900) to get information about other insurance options available for people who are covered by Medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-11793

Appeal Decision: Appeal denied

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

Hearing Date: July 20, 2020

Decision Date: July 23, 2020

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated May 26, 2020, the appellant was advised that he was eligible for a Health Connector Plan with no financial help beginning on July 1, 2020. (Ex. 1) The appellant filed an appeal dated June 10, 2020 (Ex. 6) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex. 9)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help on May 26, 20120 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 20, 2020, with his designated representative, and both testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for May 26, 2020 (2 pages)
- Ex. 2—Health Connector's Review of Application (3 pages)
- Ex. 3—MassHealth letter dated May 26, 2020 (4 pages)
- Ex. 4—Letter from Office of Medicaid dated May 7, 2020 (5 pages)
- Ex. 5—Health Connector's Request for Information dated February 28, 2020 (6 pages)
- Ex. 6—Hearing Request Form dated June 10, 2020 (5 pages)

- Ex. 7—Acknowledgment of Appeal dated June 12, 2020 (1 page)
Ex. 8—Appeals Unit case notes (1 page)
Ex. 9—Notice of Hearing (3 pages)
Ex. 10—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 56-years-old and has a tax household size of one. (Testimony, Ex. 2) ¹
2. The appellant was employed and had employer health insurance in 2019 until April when a cancer diagnosis prevented him from being able to work. He remained insured until December, 2019, at which point he was advised that he could continue his health insurance through COBRA. He determined that the cost was unaffordable and has been without insurance since that time. (Testimony, Ex. 6)
3. At the time of his diagnosis, the appellant received income through a short-term disability policy. When it was determined that he was unable to return to work, he received income through a long-term disability policy. (Testimony, Ex. 6)
4. The appellant's only source of income since December, 2019 has been approximately \$6000.00/month which he receives through his long-term disability policy. (Testimony)
5. The appellant filed an application for health insurance through the Health Connector and by notice dated May 26, 2020, he was determined eligible for a Health Connector Plan with no financial help based on having an income and household size equivalent to 576.46% of the Federal Poverty Level (FPL). On the application on which the May 26th determination was based, the appellant's manual verified income was determined to be \$6000.00/month. (Testimony, Exs. 1,2,4)
6. The appellant appealed the Connector's May 26, 2020, determination on June 10, 2020 based on income. In his appeal, he stated in part that due to a cancer diagnosis, he receives \$72,000.00/year pre-tax from a long-term disability policy. (Ex. 6)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant was found eligible for a Health Connector Plan with no financial help based on having an income and family size equivalent to 576.46% of the FPL. The appellant does not dispute his projected yearly income of \$72,000.00 for 2020, but believed that his eligibility would be based on a family size of two since he lives with his girlfriend of twenty years.

¹ The appellant testified that he lives with his girlfriend of twenty years and believed that she could be considered part of his tax household when determining his eligibility for insurance. On his application, he attested that he is the tax filer and his tax household consisted of himself.

The Connector's determination of May 26, 2020 was based on a tax household size of one to which the appellant attested in his application. While the appellant's girlfriend lives with him, she is not included on his application as a member of his household nor is she listed as a tax dependent.

Based on the evidence in the record, it is concluded that the Connector's determination on May 26, 2020 regarding the appellant's eligibility for Health Connector Plans with no financial help was correct, and is therefore affirmed.

ORDER

The appeal is denied.

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Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to contact MassHealth at 800-272-4232 to determine whether his disability may qualify him for health insurance benefits under its Commonwealth program.