

## Massachusetts Health Connector Appeals Unit

**Appeal Decision:** Appeal allowed.

Based on the information from and submissions by the Appellant, showing that his daughter was a citizen with a Social Security Number, the Massachusetts Health Connector (Connector) should not have denied the Appellant's daughter eligibility for subsidized health insurance and health insurance subsidies through the Connector.

**Hearing Issue:** Whether the Connector correctly denied the Appellant's daughter eligibility for subsidized insurance through ConnectorCare and her eligibility for the Advance Premium Tax Credit, for insurance beginning in January 2017, based on the failure of the Appellant to provide documentation to verify her eligibility.

**Hearing Date:** April 20, 2017

**Decision Date:** June 14, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Massachusetts Health Connector (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 CONNECTOR**

Based on the information from other sources, not on information provided by the Appellant, the Connector denied the Appellant's daughter eligibility for subsidized health insurance and health insurance subsidies, based on the Appellant's failure to provide documents to verify her eligibility regarding citizenship, Social Security Number and income.

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### ISSUE

Whether the Connector correctly denied the Appellant's daughter eligibility for subsidized insurance through ConnectorCare and her eligibility for the Advance Premium Tax Credit, for insurance beginning in January 2017, based on the failure of the Appellant to provide documentation to verify her eligibility.

### HEARING RECORD

The Appellant appeared at the hearing which was held on by telephone on April 20, 2017. Testimony was recorded electronically. The Hearing Record was left open until May 24, 2017, so the Appellant could submit additional documentation. No additional documentation has been submitted as of the date of this opinion.

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

1. Affidavit of Record Verification
2. Letter from the Connector to the Appellant dated 2/24/2017 with Eligibility Denial
3. Appellant's Hearing Request Form dated 3/6/2017
4. Memorandum to the Appellant from the Connector Appeals Unit dated 3/8/2017, informing him that his Appeal had been received
5. Note to the Appellant that his appeal had been bifurcated
6. Note to the Appellant from the Connector Appeals Unit regarding "Next Steps in the Appeals Process"
7. Informal Dispute Resolution Notes
8. Appeals Unit Data Notes
9. Fax from the Appellant to the Appeals Unit with
  - Eligibility Denial dated 2/24/2017, page 1
  - 'Request for Information' letter dated 1/25/2017, page 1
  - Birth Certificate of Appellant's female child
  - W-2 for Appellant's Male child

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Copy of Social Security Card of Appellant's female child

W-2 for Appellant's female child

Fax transmission report dated March 6, 2017

10. Connector computer printout with 2017 Eligibility Results for application information submitted 2/24/2017
11. Connector computer printout with Appellant's Application Summary
12. Connector computer printout with 2017 Eligibility Results for application submitted 9/15/2016
13. Connector computer printout with Appellant's Application Summary
14. Connector computer printout with 2017 Eligibility Results with information submitted 3/8/2017
15. Connector AVV Computer Printout regarding Appellant's eligibility
16. W-2 from employer 1 for Appellant's male child
17. W-2 from employer 2 for Appellant's male child
18. Fax cover sheet dated 4/5/2017 with note from the Appellant and the following attachments (11 pp):
  - Connector Notice of Hearing dated 3/28/2017
  - Appellant's Hearing Request Form dated 3/6/2017 with supporting documentation
  - Fax receipt dated 1/30/2017
19. Letter to the Appellant from the Health Insurance Processing Center dated 8/27/2016 regarding annual eligibility renewal
20. Massachusetts Renewal Application for health and dental coverage and help paying costs, first 10 pages
21. Notice of Hearing dated 4/6/2017

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### FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated August 27, 2016, the Appellant was informed by MassHealth/Health Connector that he needed to complete an annual eligibility renewal for his household. At that time seven (7) of his eight (8) children were enrolled in MassHealth (CHIP) (Exhibits 12 and 19).
2. The Appellant submitted an application for subsidized health insurance for himself, his wife and eight (8) other members of his household, on September 15, 2016. The Connector determined that household income was 179.74% of the Federal Poverty Level. (Exhibits 12 and 13)
3. In the information from MassHealth, the Social Security Number for Appellant's daughter, listed as "Person 6" was "not available" and the reason given was because she "just applied". All of the Appellant's other children have a Social Security Number listed with MassHealth. (Exhibit 12)
4. Based on Appellant's September application, for health insurance beginning January 1, 2017, the Connector found that the Appellant, his wife and one of their children were eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit. The Connector needed proof of income for this child. He was to provide this information. (Exhibits 12 and 13)
5. Based on the September application, for insurance beginning January 1, 2017, the Connector determined that one son was not eligible for health insurance through the Connector since he was enrolled in Medicare; and that the other six (6) children were eligible for the Children's Health Insurance Program. One child (his 19 year old daughter) needed to provide proof of citizenship, her Social Security Number and proof of income. (Exhibits 12 and 13)
6. In a letter dated January 25, 2017, the Appellant was informed that he needed additional information to prove that his daughter qualified for coverage through the Health Connector. He was asked to provide proof of citizenship, proof of Social Security number and proof of income for this child. He was to provide this information to the Connector by February 20, 2017. (Exhibit 9)
7. On January 30, 2017, the Appellant faxed five (5) pages to the Connector at 857-323-8300. The Appellant sent a copy of his daughter's birth certificate showing that she was born in Worcester Massachusetts. He also provided a copy of her

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Social Security card and her 2016 W-2 showing her income. (Appellant testimony and Exhibit 18)

8. In a letter dated February 24, 2017, the Appellant was informed that two (2) members of his household had been denied eligibility for health insurance coverage through the Connector. One of his sons was the enrolled in Medicare, and one of his daughters was denied because the Connector did not get the documentation to verify her eligibility. (Exhibit 2)
9. In the Connector's Application Summary on which the Eligibility Result from February 24, 2017 is based, the Connector found that the Appellant's daughter did not have a Social Security Number. (Exhibits 10 and 11)
10. On March 6, 2017, the Appellant faxed to the Connector his Hearing Request Form and his daughter's birth certificate, a copy of his daughter's Social Security Card, and a copy of his daughter's 2016 W-2. The Connector received this fax on March 6, 2017.(Exhibits 3 and 9)
11. Based on information submitted in March 2017, the Connector found that the income for the Appellant's household was 266.71% of the Federal Poverty Level. The verification date for this application result was February 24, 2017. (Exhibit 14)
12. Based on the March information the Connector found that the Appellant, his wife, and one of his sons were eligible for ConnectorCare Plan Type 3B with an advance premium Tax Credit of \$0.00. The son needed to provide proof of income. The Connector based its determination on information from other sources; it was not based on information from the Appellant. (Exhibit 14)
13. Based on the March information, the Connector again determined that one son was not eligible for health insurance through the Connector; and that five (5) children were eligible for the Children's Health Insurance Program. The Connector based its decision on information from other sources; it was not based on information from the Appellant. (Exhibit 14)
14. Based on the March information, the Connector determined that one of the Appellant's daughters was not eligible for health insurance through the Connector since the Connector indicated that it could not verify this daughter's citizenship, Social Security Number and income. (Exhibit 14)
15. The Appellant appealed the Connector's determination regarding the eligibility of his daughter.. (Exhibit 3)

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16. On April 5, 2017, the Appellant faxed to the Appeals Unit of the Connector the following documents: Notice of Hearing dated March 28, 2017; Hearing Request form dated March 6, 2017 with supporting documentation including his daughter's birth certificate, Social Security Card and W-2s; fax receipt dated January 30, 2017. (Exhibit 18)

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

The issue in this appeal is whether the Connector correctly determined, for insurance beginning in January 2017, the eligibility of the Appellant's daughter, for health insurance through the Connector, for ConnectorCare, and for the Advance Premium tax credit. His who was denied eligibility because the Connector could not verify her eligibility. The termination of eligibility should be reversed.

The Appellant's household consisted of himself, his wife and his eight children. The Social Security numbers of all but one daughter are listed on the Connector's computer printout of the Appellant's Application Summary. In a letter from the Connector to the Appellant dated January 25, 2017, the Appellant was asked to provide proof of his daughter's citizenship, her Social Security number and her income. The due date for provision of these items was February 20, 2017. In response, the Appellant faxed to the Connector his daughter's birth certificate, Social Security card and her 2016 W-2 on January 30, 2017. He provided a fax receipt showing that he faxed 5 pages to the Connector on that date.

In a letter dated February 24, 2017, the Appellant was informed that his daughter was not eligible for insurance through the Connector. In that letter he was informed that the reason she was disqualified was because he did not provide the documentation necessary to verify her eligibility. He refaxed his daughter's birth certificate, Social Security card and her 2016 W-2 to the Connector along with his Hearing Request Form, on March 6, 2017. He faxed documents to the Connector Appeals Unit on April 6, 2017. including his daughter's birth certificate, Social Security card and her 2016 W-2. It is unclear why this documentation was not sufficient to make his daughter eligible for subsidized insurance. She was born in Worcester, Massachusetts and has a Social Security Card. Her Social Security Number is also listed on her W-2 for 2016. A U.S. publicly issued birth certificate is acceptable as proof of U.S. citizenship.

Pursuant to 45 CFR 155.310 (a) (3) the Connector is required to have an applicant who has a Social Security number provide such number to it. The daughter's number was provided to the Connector in both her Social Security card and her W-2.

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Pursuant to 45 CFR 155.315 the Connector is required to verify the Social Security number given. If the Connector is unable to verify the Social Security number the individual has 90 days to resolve the inconsistency with Social Security. ((45 CFR 155.315 (b) (2)). The Connector attempted to verify the daughter's Social Security number but was unable to do so. The Connector provided no evidence as to why its verification process failed. Therefore the Appellant's daughter should not have been excluded from eligibility based on this verification process. The Appellant provided all the appropriate documents to show that his daughter was a citizen with a Social Security number. The Appellant attempted to contact Social Security, but would not be given any information since his daughter was over the age of 18.

Once the Connector was in possession of copies of the birth certificate, Social Security card, and W-2, the Appellant's daughter should have been eligible to enroll in a health care plan either through the Connector or MassHealth. Since this daughter turned 19 years old at the end of December 2016, she was not eligible for the Children's Social Security Plan for 2017. Therefore, she should have been allowed to enroll in the health plan in which her parents and older sibling were enrolled.

### **ORDER**

The Connector's decision is reversed. The Appellant's daughter should not have been excluded from eligibility for subsidized health insurance and health insurance subsidies based on the Appellant's failure to provide documentation to verify her eligibility.

### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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 decision.

**Cc:** Connector Appeals Unit

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## FINAL APPEAL DECISION

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

**Hearing Issue:** Eligibility for Connector Care based on income.

**Hearing Date:** April 19, 2017

**Decision Date:** May 1, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 17, 2017, 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 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 April 19, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

Exhibit 1: Health Connector Notice of Eligibility Determination (8 pages, dated February 17, 2017)

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- Exhibit 2: Appellant's appeal request form (2 pages undated)
- Exhibit 3: Health Connector's Determination Results Computer Printout (6 pages, undated)
- Exhibit 4: Health Connector's Review Application Computer Print Out (6 pages, undated )
- Exhibit 5: Health Connector's printout from the AVV Tool showing information from the application database for the Appellant
- Exhibit 6: Health Connector's Acknowledgement of Appeal (2 Pages dated March 13, 2017)
- Exhibit 7: Health Connector's Hearing Notice (4 pages, dated March 27, 2017)
- Exhibit 8: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 9: Member Health Care History (11 pages undated)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 46 year old unmarried female, with one child who applied for subsidized health insurance, on November 10, 2016. (Exhibit 1, Exhibit 3, Exhibit 4)
2. The Appellant has a tax household of two. (Exhibit 3, Exhibit 4)
3. On her application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$11,000.00. (Exhibit 3, Exhibit 4, Appellant testimony)
4. The Appellant is not eligible for employer sponsored health insurance. (Appellant testimony)
5. The Appellant is not eligible for government sponsored health insurance. (Exhibit 3)
6. The Appellant was enrolled in ConnectorCare in 2015 and received advance premium tax credits in 2015. (Exhibit 9)
7. Appellant was requested and did provide proof of Residency and non-custodial parent form.
8. The Appellant did not file a federal tax return in 2015, and did not reconcile receipt of advance premium tax credits received in 2015, because the Appellant was not otherwise required to file an income tax return, and she was in Vietnam for part of the year. (Appellant testimony)

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant will only make \$11,000.00 in 2017. 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 and their household income is at or below 400% of the Federal Poverty Level. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also

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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. IRC § 5000A(f)(1)(A)(i). On her application, the Appellant stated that her projected MAGI was \$11,000.00, which for a household of two, which puts the Appellant at approximately 62.42% of the 2016 Federal Poverty Level. This means the Appellant's household income was lesser than the 300% limit for eligibility for subsidies. However, one of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file an income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFRs. 155.305(f)(4).

On February 17, 2017, the Appellant was determined eligible for Health Connector plans without subsidies. In 2015, the Appellant was eligible for ConnectorCare, and received APTC. However, the Appellant did not file an income tax return for 2015, because the Appellant was not otherwise required to file an income tax return. Because the Appellant did not reconcile receipt of APTC from a prior year, the Appellant is not eligible to receive APTC in 2017. 45 CFR s. 155.305(f)(4).

The Appellant should comply with the requirement to reconcile receipt of 2015 premium tax credits by filing a 2015 federal income tax return, including Form 8962. The Appellant will need to use Form 1095A in order to complete Form 8962. If the Appellant does not have their Form 1095A, and because the Appellant received APTC in 2015 through the Health Connector, the Appellant should contact the Health Connector's customer service center to request a duplicate 1095A form. Once the Appellant complies with the requirement to reconcile 2015 APTC, the Appellant can report a change to her 2017 application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2016 federal income tax return with Form 8962, and reconciling any APTC received in 2016.

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

Cc: Connector Appeals Unit

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### ADDENDUM

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### **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

**Hearing Issue:** Eligibility for Government Subsidies

**Hearing Date:** April 25, 2017

**Decision Date:** June 2, 2017

#### **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 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 17, 2017, the Health Connector issued to the Appellant a Notice of Eligibility Approval for Health Connector Plans with Advance Premium Tax Credits of \$0.00.

#### **ISSUE**

Whether the Health Connector correctly determined that the Appellant was not eligible for government subsidies.

#### **HEARING RECORD**

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The Appellant appeared at the hearing, which was held by telephone, on April 25, 2017. At the Appellant's request, a professional interpreter provided interpreter services in Cantonese throughout the hearing. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Connector Appeals Unit
- Exhibit 2: 2/17/17 Eligibility Approval Notice (12 pages)
- Exhibit 3: 3/10/17 Appeal (5 pages)
- Exhibit 4: 3/10/17 Appeal Data Entry
- Exhibit 5: 12/23/16 2017 Elig Results (2 pages)
- Exhibit 6: 12/23/16 Application Summary (3 pages)
- Exhibit 7: 2/9/17 2017 Eligibility Results (2 pages)
- Exhibit 8: 2/9/17 Application Summary (3 pages)
- Exhibit 9: 3/27/17 Outreach Notes
- Exhibit 10: 4/4/17 Hearing Notice (7 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. By Notice of Eligibility Approval, dated February 17, 2017, the Appellant was notified that she qualified for Health Connector Plans with Advanced Premium Tax Credits of \$0.00 in 2017. (Exhibit 2)
2. On March 10, 2017, the Connector received the Appellant's appeal of the Connector's 2/17/17 determination. In the appeal, the Appellant circled "Premium Waiver/Reduction," as the reason for her appeal, and stated, "I have to pay the mortgage for my house and my car every month, they are almost \$3,000, I can't afford this health plan." (Exhibit 3)
3. On March 16, 2017, the Connector Appeals Unit tried to contact the Appellant and left a voice-mail message, requesting her to attest that the stated income in her application was correct. (Exhibit 9)
4. On December 23, 2016, the Appellant submitted to the Connector an application for health insurance for 2017. At the time, the Appellant was working part time for her employer, and her projected yearly income for 2017 was \$23,400, based on her self-attested current monthly income of \$1,950, which is 196.97% of FPL. Based on this information, the Appellant was approved for ConnectorCare Plan Type 2B with APTC of \$115, beginning January 1, 2017. (Exhibit 6; Appellant's testimony)

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5. In January or early February 2017, the Appellant began working full time for her employer, and her projected yearly income for 2017 increased to \$46,600, based on her new bi-weekly income of \$1,792.34, which is 392.26% of FPL. Exhibit 7; Appellant's testimony)

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

The Appellant has the right to a hearing to appeal any adverse eligibility decision based on any eligibility factor in accordance with 956 CMR 12.09.

The Appellant was found eligible for Health Connector Plans without subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

In this case, the Appellant confirmed at hearing that her projected income for 2017 had nearly doubled from what she had projected in December 2016, because her employer had increased her hours from half time to full time early in 2017. As a result, the FPL for her projected income in 2017 went up from 196.97% to 393.26%. As this projected yearly household income placed her at over 300 percent of the FPL for a household of one, the Appellant no longer qualified for health insurance through a ConnectorCare plan in 2017.

Since the Appellant's household income was less than 400 percent of the FPL, she still qualified for Advance Premium Tax Credits. However, the determination of the amount of the APTC is based on how much help is needed to make a quality health insurance plan affordable. In the Appellant's case, based on her household income, the amount the federal government determined that the Appellant could afford to pay for insurance coverage, and the availability of quality insurance coverage through the Health Connector at that price, the Appellant's APTC amount was determined to be \$0.00. As the APTC is a federal subsidy and the federal government determines how much an applicant can afford to pay for health insurance coverage, the amount of the APTC cannot be appealed to the Health Connector.

Therefore, I conclude that the Health Connector correctly determined on February 17, 2017, that the Appellant was not eligible for government-sponsored subsidies, based on the information provided on her application.

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Accordingly, 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 following receipt of this letter.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION<sup>8</sup>

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

**Hearing Issue:** Eligibility for Health Connector plans, based on annual renewal.

**Hearing Date:** May 19, 2017

**Decision Date:** May 22, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 24, 2017, Appellant was determined eligible for Health Connector plans for plan year 2017. The Appellant's determination was a result of the Health Connector's annual renewal process.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant eligible for Health Connector plans, based on the income used in the Health Connector's renewal process.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 19, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified. The record was kept open for the Health Connector to provide documents regarding when the Appellant was requested to provided information regarding 2017 income.

Exhibit 1: Health Connector notice of eligibility Determination (22 pages, dated April 6, 2017 & March 29, 2017)

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- Exhibit 2: Appellant's appeal request form (22 pages dated April 22, 2017)
- Exhibit 3: Health Connector's Eligibility Determination Results and Review Computer Printout (11 pages, dated March 29, 2017)
- Exhibit 4: Health Connector's Eligibility Determination Results and Review Computer Printout (10 pages, dated April 6, 2017)
- Exhibit 5: Health Connector's Acknowledgement of Appeal (2 pages, dated April 24, 2017)
- Exhibit 6: Health Connector's Hearing Notice (4 pages, dated April 26, 2017)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 8: Health Connector's Results Computer printout ( 4 pages dated February 24, 2017)
- Exhibit 9: Health Connector's Notes Regarding Appellant
- Exhibit 10: Open Record Documents from Health Connector regarding when Appellant was requested to provide information regarding income (11 pages dated May 22, 2017)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is an individual, who plans to file a federal income tax return for tax year 2017. (Exhibit 3 & 4)
2. The Appellant expects to have a total annual income for 2017 which is less than her total income for 2016 & 2015 but submitted information regarding her projected income for 2017 by enclosing her income tax return for 2015, which had more income than what Appellant anticipated making in 2017. (Appellant's testimony and Exhibit 2 & 10)
3. The Appellant expects to make less in 2017, than she earned in 2016 & 2015, due to Appellant's lack of work. (Appellant's testimony)
4. In a prior eligibility determination for plan year 2017 on February 24, 2017, the Appellant was found eligible for Health Connector plans, based on having an income and household size equivalent to 381% of the Federal Poverty Level. (Exhibit 8)
5. On February 24, 2017, the Health Connector sent the Appellant an eligibility approval notice for 2017, pursuant to the Health Connector's annual renewal process, which stated that the Appellant's eligibility was going to be for Health Connector plans. This notice stated that the Health Connector's 2017 determination was based on an income equivalent to 381% of the Federal Poverty Level. The notice instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibit 8)
6. The Appellant did not report any changes to her application.

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## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans for 2017 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 381% of the Federal Poverty Level. The Appellant asserts that this determination was incorrect, because the Appellant will not make as much income during 2017 due to lack of work. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On February 24, 2017, the Appellant was found eligible for Health Connector plans for plan year 2017, based on having a household income equivalent to 381% of the Federal Poverty Level. This determination came as part of the Health Connector's annual renewal process. The Appellant sent in her income tax return for 2015, to be used as her projected income for 2017. The income reported on Appellant's tax return for 2015 is more than what Appellant expects to make in 2017 but Appellant did not inform the Health Connector of her anticipated reduction in income for 2017. The Appellant did not report any changes to income and the eligibility was finalized on February 24, 2017, with notice to the Appellant on February 24, 2017. This is consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on a household income equivalent to 381% of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. Even though the Appellant now asserts that Appellant's income for 2017 will be less than what was put down on the application, the Appellant failed to update the information in their application to reflect this income projection, as required by law, and therefore the determination issued by the Health Connector was correct.

The Appellant is advised to report any changes to their income or any other information on their application if they have not already done so.

## ORDER

The appeal is denied. The determination of the Connector is affirmed. If Appellant has not already done so, Appellant should immediately update Appellant's information about Appellant's income.

The Connector made the correct determination based upon the information supplied by Appellant and obtained from other electronic data sources. If Appellant has not already done so, Appellant should immediately provide the required documentation regarding Appellant's income.

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

## **Massachusetts Health Connector Appeals Unit**

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

## Massachusetts Health Connector Appeals Unit

**Appeal Decision:** Appeal denied.

The Massachusetts Health Connector's decision to terminate the Appellant's eligibility for ConnectorCare and the Advance Premium Tax Credit, on February 28, 2017, is upheld, based on the Appellant's failure to provide the necessary documentation to verify her eligibility.

**Hearing Issue:** Whether the Connector correctly terminated the Appellant's eligibility for ConnectorCare and for the Advance Premium Tax Credit, on February 28, 2017, since it did not have the necessary documentation to verify her eligibility at that time.

**Hearing Date:** April 20, 2017

**Decision Date:** June 5, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Massachusetts Health Connector (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 CONNECTOR**

Effective February 28, 2017, the Connector terminated the Appellant's eligibility for ConnectorCare and the Advance Premium Tax Credit, since the Appellant had not provided the necessary documentation to verify her eligibility.

### **ISSUE**

Whether the Connector correctly terminated the Appellant's eligibility for ConnectorCare and for the Advance Premium Tax Credit based on the Appellant's failure to provide the necessary documentation for verification of her eligibility by the date of the termination.

### **HEARING RECORD**

## Massachusetts Health Connector Appeals Unit

The Appellant appeared at the hearing which was held on by telephone on April 20, 2017. Testimony was recorded electronically. The hearing record consists of the Appellant's testimony and the following documents, which were admitted into evidence:

1. Affidavit of Record Verification
2. Letter from the Connector to the Appellant dated 3/1/2017, entitled "Eligibility Termination"
3. Appellant's Hearing Request Form dated 3/19/2017
4. Memorandum to the Appellant from the Connector Appeals Unit dated 3/22/2017, acknowledging her appeal and aid pending resolution
5. Appeals Data Notes 3/27/2017
6. Informal Dispute Resolution Notes
7. Letter from the Connector to the Appellant dated 1/9/2017, entitled "Request for Information"
8. Fax Cover Sheet stamped 3/20/2017, page 1/12
9. Fax Cover Sheet sent 3/20/2017 to Connector Appeals Unit, stamped page 2/12
10. Fax Confirmation Report dated 2/14/2017, stamped 3/20/2017, page 4/12
11. Health Coverage Fax Cover Sheet, stamped 3/20/2017, page 5/12
12. Coverage Mail/Fax Cover Sheet, Applicant/Member Information, stamped 3/20/2017, page 6/12
13. Statement from the Appellant with copy of her driver's license, stamped 3/20/2017, page 7/12
14. Appellant's 2016 Form 1040, stamped 3/20/2017, page 8/12 and 9/12
15. Appellant's 2016 Schedule C, stamped 3/20/2017, page 10/12 and 11/12
16. Appellant's 2016 Self-Employment Tax, stamped 3/20/2017, page 12/12
17. Connector computer printout with 2017 Eligibility Results based on information submitted 2/25/2017
18. Connector computer printout with Appellant's Application Summary
19. Connector computer printout with Appellant's 2017 Eligibility Results for application submitted 1/9/2017
20. Connector computer printout with Appellant's Application Summary
21. Note to the Appellant from the Connector Appeals Unit regarding "Next Steps in the Appeals Process"
22. Notice of hearing dated 3/28/2017

### **FINDINGS OF FACT**

The record shows, and I so find:

## Massachusetts Health Connector Appeals Unit

1. On January 9, 2017, the Appellant applied to the Massachusetts Health Connector for subsidized health insurance. In her application listed her most recent address as her address. (Exhibits 19 and 20)
2. In her application, the Appellant indicated that her projected yearly income for 2017 was \$17,400 and her self-attested monthly income was \$1,450. (Exhibit 20)
3. Based on the information in Appellant's application, the Connector determined that the Appellant was eligible for ConnectorCare Type 2A with an Advance Premium Tax Credit of \$169 a month. (Exhibit 19)
4. In a letter dated January 9, 2017 and entitled "Request for Information", the Connector informed the Appellant that additional proof of residency and income was needed in order to confirm that she qualified for coverage. Proof of residency was due November 13, 2016 and proof of income was due April 9, 2017. She could fax this information to 857-323-8300. Included in the letter were lists accepted documentation for proof of residency and accepted documentation for proof of income. (Exhibit 7)
5. On February 14, 2017 the Appellant faxed eight (8) pages to 857-323-8300. Her fax confirmation sheet did not indicate the documents she faxed. (Exhibit 10)
6. On February 22, 2017, the Connector found that Appellant was ineligible for subsidized insurance and insurance subsidies through the Connector since the Connector did not have the documents it had requested. The verification date for this result was February 22, 2017. (Exhibit 17)
7. In a letter dated March 1, 2017, and entitled "Eligibility Termination", the Appellant was informed that as of February 28, 2017, she was no longer eligible for health insurance from the Connector. The Connector said that the reason the Appellant was no longer eligible was because the Connector did not get the information needed to verify her eligibility. (Exhibit 2)
8. The Appellant faxed information to the Connector on March 20, 2017. To prove residency she sent a copy of her driver's license with a statement attached stating that she was living at her current address. She said that since she was residing with friends, her name was not on any of the bills. (Exhibits 9 and 13)
9. The Appellant's statement of residency was not notarized. (Exhibit 7)
10. For proof of income, the Appellant sent a copy of her most recent 1040 with attachments. This documentation was sent to the Connector on March 20, 2017. (Exhibits 14, 15 and 16)
11. On March 20, 2017, the Appellant faxed a Hearing Request Form to the Connector appealing the Connector's determination. She said she had moved to Lowell and that when she moved she changed her address. Subsequently, she moved from Lowell to her current address and updated the Connector. (Exhibit 3)
12. In her Hearing Request Form the Appellant said that she had faxed proof of her residence to the Connector on February 24, 2017. (Exhibit 3)

## Massachusetts Health Connector Appeals Unit

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

The issue in this appeal is whether the Connector correctly terminated the Appellant's eligibility for ConnectorCare and for the Advance Premium Tax Credit based on the information it had at the time of the termination. Pursuant to 42 CFR 155.320 (a), the Connector must verify information for an applicant who has requested eligibility for subsidies. The Connector was correct when it terminated the Appellant's eligibility on February 28, 2017, since at that time it did not have documentation to verify the Appellant's residency and may not have had documentation to verify income.

In order to be eligible to enroll in health insurance through the Massachusetts Health Connector, the applicant has to reside in Massachusetts [45 CFR 155.305 (a) (3)]. Although the Appellant had a fax confirmation sheet dated February 14, 2017 for eight (8) pages, she did not indicate what documents she faxed. The Connector had no record of receiving these documents although whatever was faxed, was faxed to the correct phone number. The Appellant re-faxed all documents on March 20, 2017. Unfortunately, the documents faxed to the Connector on March 20, 2017, were insufficient to prove residency. Therefore, even if the Appellant had previously faxed the same documents on February 14 that she faxed on March 20, the Connector would not have had verification of her residency. The forms she faxed on March 20, 2017, were sufficient proof of income.

### **ORDER**

The Connector's decision is upheld and the Appellant's appeal is denied.

### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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 decision.

**Cc:** Connector Appeals Unit

**Addendum:** At the time of the hearing, the Appellant's verifications had been processed and the Appellant was again eligible for ConnectorCare.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Approved

**Hearing Issue:** Eligibility for subsidies

**Hearing Date:** May 2, 2017

**Decision Date:** June 6, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On February 27, 2017, the Health Connector determined that the Appellant was eligible for Health Connector Plans only, with a first available start date of April 1, 2017.

### **ISSUE**

Whether the Health Connector correctly determined that the Appellant did not qualify for help paying for health insurance coverage through a tax credit or a ConnectorCare plan.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on May 2, 2017.

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

- Exhibit 1: Affidavit
- Exhibit 2: 2/27/17 Eligibility Notice (10 pages)
- Exhibit 3: 3/24/17 Appeal (2 pages)

## Massachusetts Health Connector Appeals Unit

- Exhibit 4: Appeals Unit's Contact Notes (2 pages)
- Exhibit 5: 3/24/17 2017 Eligibility Results for 3/10/17 Application (4 pages)
- Exhibit 5A: 3/24/17 2017 Eligibility Results for 9/19/16 Application (6 pages)
- Exhibit 6: 5/1/17 AVV – Program Denial
- Exhibit 7: 4/7/17 1040 for 2016 (7 pages)
- Exhibit 8: 4/12/17 Hearing Notice (9 pages)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is not married. The Appellant had been married but got divorced during 2015. The Appellant and her former husband filed a joint tax return for 2015. (Appellant's testimony)
2. On September 19, 2016, the Appellant submitted her application to the Health Connector for 2017 coverage. The Connector determined that the Appellant was eligible for ConnectorCare Plan Type 3B and an Advance Premium Tax Credit (APTC) of \$81, effective January 1, 2017, based on income that was 294.61 percent of FPL for a household of one. The Connector informed the Appellant that this determination was conditioned on her submitting proof of her income. (Exhibit 5A)
3. On January 31, 2017, the Appellant faxed to the Health Connector a copy of her W-2 as proof of her income. (Appellant's testimony)
4. On February 11, 2017, the Appellant filed her 2016 federal tax return. (Appellant's testimony; Exhibit 7)
5. By Notice of Eligibility Approval dated February 27, 2017, the Connector acknowledged receiving from the Appellant the requested documentary proof of income and informed her that, "based on our current information," she was approved for Health Connector Plans with a first available start date of April 1, 2017. The Notice also stated that the Appellant did not qualify for help paying for coverage through a tax credit or a ConnectorCare plan "because of any of the following reasons:" your annual income is too high; you have access to health insurance through another source that meets minimum essential coverage standards; you do not plan to file a tax return or you received APTC payments in a prior year and did not file a tax return for that year. The Appellant's proof of income confirmed that the Appellant's income was 294.61 percent of the FPL. (Exhibit 2)
6. The Appellant did not have subsidized health insurance coverage in 2015 or in any prior year. (Appellant's testimony)
7. On March 24, 2017, the Appellant appealed the Connector's 2/27/17 determination. In her appeal, the Appellant circled "Income" and "Access to other insurance" and stated that her income had decreased from the past two years, that she did not have health insurance through another source, and that she had filed her taxes as an individual in 2016. (Exhibit 3; Appellant's testimony)

### ANALYSIS AND CONCLUSIONS OF LAW

On February 27, 2017, the Appellant was found eligible for Health Connector Plans without subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC), if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC, and who have projected yearly MAGI less than or equal to 300% FPL, qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR §

## Massachusetts Health Connector Appeals Unit

12.04. The issue before me is whether the Connector's 2/27/17 determination was correct, based on the information that the Connector had at the time.

There is no evidence in the record to support the conclusion that the Appellant did not qualify for an APTC tax credit or a ConnectorCare plan as of February 27, 2017. To the contrary, the Appellant's income was not too high to qualify since her projected income for 2017 was 294.61 percent of the FPL for a household of one, less than the 300% standard for ConnectorCare and well below the 400% standard for qualifying for APTC tax credits. Also, the Appellant did not have access to health insurance through another source, the Appellant had not received an APTC in a prior year, and the Appellant had filed an individual tax return for 2016 and intended to do the same in the future.

Accordingly, I conclude that the Health Connector erred in determining on February 27, 2017, that the Appellant did not qualify for APTC or ConnectorCare, under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f) and 956 CMR § 12.04.

### **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 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.

### **OPTION FOR RETROACTIVE COVERAGE**

The Health Connector made an incorrect determination about your eligibility. Normally, you would be eligible for the correct coverage type beginning on the first day of the month following the date of this decision. However, you may also choose to have retroactive coverage. Your eligibility for this coverage would go back to the date you should have had that coverage.

In order to receive retroactive coverage, YOU MUST PAY ANY ADDITIONAL PREMIUM FOR THOSE MONTHS THAT WOULD OTHERWISE HAVE BEEN NECESSARY. In order to select retroactive coverage, you must submit a Request for Retroactive Coverage form to the Health Connector within 30 days of receiving this decision.

If you do not wish to have retroactive coverage, then you do not need to take any additional action at this time. Your coverage will be effective on the first day of the month following the implementation of your decision, as long as you pay the premium for that month by the 23<sup>rd</sup> day of the prior month.

## Massachusetts Health Connector Appeals Unit

Cc: Health Connector Appeals Unit

## Massachusetts Health Connector Appeals Unit

### FINAL APPEAL DECISION

**Appeal Decision:** Appeal Allowed. The Connector's Determination of March 7, 2017 is overturned.

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility for subsidies for 2017 based on income

**Hearing Date:** May 9, 2017

**Decision Date:** May 30 2017

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing 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 March 7, 2017, a determination was made denying Appellant eligibility for subsidized health insurance for Coverage beginning on April 1, 2017. The Health Connector determined Appellant to be eligible for a Health Connector Plan without subsidies.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined on March 7, 2017, that Appellant was eligible for Health Connector Plans without

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 9, 2017.

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

## Massachusetts Health Connector Appeals Unit

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Correspondence from Appeals Unit addressed to Appellant
- Exhibit 3: Hearing Request Form and supporting documents, signed by Appellant on March 24, 2017
- Exhibit 4: Appeals Unit outreach and customer service notes
- Exhibit 5: Notice on Appeal 3/7/17
- Exhibit 6: Notice requesting information dated 12/29/16
- Exhibit 7: Eligibility Results and Application Summary
- Exhibit 8: Historic Eligibility Results and Application Summary

### FINDINGS OF FACT

The record shows, and I so find:

1. In 2016, Appellant had been covered by a ConnectorCare Plan with Advance Premium Tax Credits (Testimony of Appellant and Exhibit 8).
2. On December 6, 2016, Appellant worked with a Certified Application Counselor to renew the subsidized health insurance for 2017 (Testimony of Appellant and Exhibit 4).
3. On December 28, 2016, Appellant was sent a Request for Information, asking Appellant to send in proof of income and proof of residency (Exhibit 6).
4. Appellant provided the information regarding residency and income to the Certified Application counselor, who provided it to the Health Connector (Testimony of Appellant).
5. Appellant's income is seasonal (Testimony of Appellant).
6. Appellant's Counselor told Appellant that the system was calculating the seasonal income incorrectly and the Counselor tried several times to have the Connector correctly process the income calculation (Testimony of Appellant).
7. Appellant was notified of Eligibility for Health Connector Plans without subsidies on March 7, 2017 (Exhibit 5).
8. On March 19, 2017, Appellant was notified that the income had been updated and was also notified by the Health Connector that Appellant was eligible for a ConnectorCare Plan Type 3A with Advance Premium Tax Credit (Exhibit 7).
9. Appellant was enrolled in a ConnectorCare Plan Type 3A with Advance Premium Tax Credits and was covered by the Plan at the time of the hearing (Testimony of Appellant).

## **Massachusetts Health Connector Appeals Unit**

10. On March 24, 2017, Appellant filed for an appeal, based upon income. Appellant was not appealing the newest determination of March 19, 2017. However, Appellant was seeking retroactive coverage for the time that Appellant was found to be ineligible for subsidies (Testimony of Appellant and Exhibit 3).

### **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. At the time of application or renewal, the Exchange must verify eligibility by requesting information from electronic data sources. Applicants are also required to attest to family size and projected annual household income and to provide verifying documentation. 45 CFR 155.320 (c)(1)(i) and (c)(3).

In 2016, Appellant had been covered by a ConnectorCare Plan with Advance Premium Tax Credits. On December 6, 2016, Appellant worked with a Certified Application Counselor to renew the subsidized health insurance for 2017. Appellant's income is seasonal. Appellant was asked to send in proof of income and proof of residency and Appellant provided the information to the Certified Application Counselor, who provided it to the Health Connector. On March 7, 2017, Appellant was notified of eligibility for Health Connector Plans without subsidies. The Certified Application Counselor told Appellant that the system was incorrectly processing the documents showing seasonal income. The Counselor spoke with the Health Connector on several occasions to have the Connector correctly process the income calculation. The Connector did change the income calculation and Appellant was notified of eligibility for a ConnectorCare Plan Type 3A with Advance Premium Tax Credits on March 19, 2017 and Appellant enrolled in a plan. See Exhibits 3, 4, 7 and 8 and Testimony of Appellant, which I find to be credible.

Appellant's appeal is allowed. The determination of March 7, 2017 by the Connector finding Appellant eligible for a Health Connector plan without subsidies is overturned. Appellant did not appeal the determination of March 19, 2017.

### **ORDER**

The appeal is allowed.

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

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

## Massachusetts Health Connector Appeals Unit

### OPTION FOR RETROACTIVE COVERAGE

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

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

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

### ADDENDUM

Appellant was also seeking retroactive coverage for a dental appointment through the Health Safety Net in February 2017. Appellant was advised to contact MassHealth concerning this issue.

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

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

**Hearing Date:** May 3, 2017

**Decision Date:** May 28, 2016

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the 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**

By notice dated February 25, 2017, the appellants (mother and son) were advised that they qualified for Health Connector Plans with coverage beginning on April 1, 2017. They were further advised that they qualified for an Advance Premium Tax Credit (APTC) of \$0.00. (Ex. 1) The appellant filed a Hearing Request Form dated March 15, 2017, (Ex. 2) based on income and family size and stated that the bill was too high. The appellant's son filed a Hearing Request form dated March 15, 2017, based on citizenship/immigration status and stated that his birthday is wrong. (Ex. 2A) The matter was referred to a hearing after receipt of the appeal. (Ex.13)

# **CONNECTOR APPEALS UNIT**

## **ISSUE**

Was the Connector's decision regarding the appellants' qualification for Health Connector Plans correct at the time of its determination on February 25, 2017, 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 3, 2017, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Health Connector Notice of Eligibility Determination dated February 25, 2017 (12 pages)
- Ex. 2—Hearing Request Form dated March 15, 2017 (3 pages)
- Ex. 2A—Hearing Request Form dated March 15, 2017 (4 pages)
- Ex. 3—Acknowledgment of Appeal dated March 30, 2017 (4 pages)
- Ex. 4—Notice of Transfer of Appeal dated March 31, 2017 (2 pages)
- Ex. 5—Letter from the Health Connector to the appellant dated March 31, 2017 (5 pages)
- Ex. 6—Appeals Unit outreach notes (2 pages)
- Ex. 7—Computer printout of Health Connector's Review of Application showing program determination for October 20, 2016 (4 pages)
- Ex. 8—Computer printout of Health Connector's Eligibility Determination Results showing program determination for October 20, 2016 (2 pages)
- Ex. 9—Computer printout of Health Connector's Review of Application showing program determination for February 25, 2017 (4 pages)
- Ex. 10—Computer printout of Health Connector's Eligibility Determination Results showing program determination for February 25, 2017 (4 pages)
- Ex. 11—Computer printout of MassHealth member information (2 pages)
- Ex. 12—Computer printout of Health Connector's "AVV" tool showing information from application database for the appellant's husband
- Ex. 13—Notice of Hearing (4 pages)
- Ex. 14—Affidavit of Connector representative

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

- Ex. 15—Earnings Statement dated April 27, 2017
- Ex. 16—Earnings Statement dated May 4, 2017

# **CONNECTOR APPEALS UNIT**

Ex. 17—Health Connector’s Request for Information dated January 25, 2017

Ex. 18—Customer Service notes detailing information received from appellant on February 15, 2017

Ex. 19—Earnings Statement dated January 12, 2017

Ex. 20—Earnings Statement dated February 2, 2017

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 59-years-old and is married. The appellant son is 15-years-old. They have a tax household size of three consisting of the appellant and her husband who are joint tax filers, and the son who is a tax dependent. (Testimony, Exs. 7, 9)
2. The appellant and her husband have been enrolled in subsidized health insurance through the Health Connector since 2013. In 2016, they were enrolled in a ConnectorCare Plan with an APTC, and paid a monthly premium of \$84.00. (Testimony)
3. The appellant son has had health insurance with MassHealth since approximately September, 2013. The insurance was recently terminated, and after several telephone conversations with MassHealth, the appellant determined that his date of birth had been incorrectly recorded. (Testimony, Ex. 11)
4. Based on a Health Connector program determination on October 20, 2016, the appellant and her husband were notified that they qualified for ConnectorCare Plan Type 2B with an APTC of \$445.00/month with eligibility beginning on January 1, 2017. They were further notified that their annual household income was determined to be within 193.97% of the Federal Poverty Level (FPL). The son was determined eligible for MassHealth Children’s Health Insurance Program (CHIP). The notice indicated that the Connector needed proof of income for the appellant and her husband, and proof of U.S. citizenship status for the appellant’s husband. (Testimony, Ex. 8)
5. The appellant’s husband is not a U.S. citizen or permanent resident, and could not provide acceptable proof of his immigration status to the Connector.<sup>1</sup> At the time of the instant hearing, he had a pending application for a green card. (Testimony)
6. On the application connected with the October 20, 2016 program determination, the appellants entered a projected yearly income of \$39,104.00 derived solely from the

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<sup>1</sup> The appellant’s husband is not applying for health insurance and is not an appellant in this appeal.

## **CONNECTOR APPEALS UNIT**

husband's job. (They reported weekly income of \$775.00 and a monthly amount of \$3258.67.) (Ex. 7)

7. By letter dated January 25, 2017, the Health Connector sent the appellant and her husband a Request for Information in which the following documents were asked to be submitted to the Connector by February 20, 2017, in order to prove eligibility: appellant—proof of income; appellant's husband—proof of income and proof of citizenship. The appellant was further notified that failure to submit the requested proof by the due date could result in loss of eligibility for insurance coverage. (Ex. 17)

8. In response to the Connector's January 25, 2017 request, the appellant submitted the following documentation which was received on February 15, 2017: 1) Earnings Statement for the appellant's husband for the pay period of January 4, 2017-January 10, 2017 showing gross pay of \$775.00 and net pay of \$637.23; and 2) Earnings Statement for the appellant's husband for the pay period of January 25, 2017-January 31, 2017 with the same gross and net pay. (Exs. 18, 19 and 20)

9. In response to the appellant's February 15, 2017, submission, the Connector's customer service notes indicated that "Copy of paystubs only submitted for one member. Proof of income still pending for HOH along with proof of Citizenship on file. No proof submitted." (Ex. 18)

10. Based on a Health Connector program determination on February 25, 2017, the appellant and her son were notified that they qualified for Health Connector Plans with an APTC of \$0/month with eligibility beginning on April 1, 2017. They were further notified that their annual household income was determined to be within 322.77% of the Federal Poverty Level (FPL). They were advised that the determination was based on data from other sources because they did not submit documentation that was requested for use in the decision. The appellant's husband was notified that he did not qualify for health insurance, and that his determination was also based on data from other sources because he did not submit documentation that was requested for use in the decision. (Exs. 1,10, 12)

11. On the application connected with the February 25, 2017 program determination, the appellants entered a projected yearly income of \$65,071.00 derived solely from the husband's job. (They reported weekly income of \$775.00 and a monthly amount of \$3,258.67.) (Ex. 9)

12. The appellant and her son filed appeals of the Connector's February 25, 2017, determination which were received on March 20, 2017. The appellant submitted various documents with her appeal including a copy of her driver's license, social security card and Certificate of Naturalization. The appellant's son submitted various

## **CONNECTOR APPEALS UNIT**

documents with his appeal including a copy of Record of Birth, United States passport and social security card. (Testimony, Exs. 2, 2A)

13. By letter dated March 31, 2017, the Connector notified that appellant that her son's hearing request was being transferred to the Office of Medicaid Board of Hearings based on the MassHealth issue raised in his appeal. (Ex. 4)

14. By letter dated March 31, 2017, the Connector requested that the appellant and her husband submit a copy of proof of income, and that the appellant's husband submit proof of U.S. citizenship. (Ex. 5)

15. In response to the March 31<sup>st</sup> letter, the appellant mailed proof of her husband's income to the Connector. (Testimony)

16. In response to the Open Record Request, the appellant submitted two paystubs documenting her husband's current income as follows: 1) earnings statement for the pay period of April 19, 2017-April 25, 2017 showing gross pay of \$775.00 and net pay of \$637.23; and 2) earnings statement for the pay period of April 28, 2017-May 2, 2017 with the same gross and net pay. (Exs. 15, 16)

17. The appellant's husband's income has not changed since 2016 and she projects that his 2017 income will be \$39,104.00. She believes that the projected yearly income amount of \$65,071.00 that was used for the February 25, 2017 determination is a mistake. There is no other source of household income besides her husband's salary. (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 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 section 12.04.

The appellant and her son were found eligible for Health Connector Plans with APTC based on failing to verify income, and on having an income and family size equivalent to 322.77% of the FPL. The appellant argues that this determination was incorrect because her husband will only make \$39,104.00 in 2017. In 2016, the appellant and her husband were eligible for ConnectorCare plans with an APTC based on the same

## CONNECTOR APPEALS UNIT

income. The appellant maintains that since her husband's projected income for 2017 is identical to that of 2016, she should have remained eligible for subsidies.

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

On October 20, 2016, the appellant and her husband were determined eligible for ConnectorCare Plan Type 2B effective January 1, 2017, based on having a household income equivalent to 193.97% of the FPL. They were both asked to verify their income, and her husband was asked to provide proof of citizenship. The appellant and her husband were reminded to send in income and citizenship verification documents by letter dated January 25, 2017. The appellant submitted two of her husband's earnings statements prior to the February 20, 2017 deadline, but the Connector determined that the submission was inadequate for two reasons: the paystubs were only submitted for one family member and proof of citizenship was still outstanding. The Connector was not aware at that time that the husband did not have acceptable proof of citizenship and was no longer applying for insurance. On February 25, 2017, based on insufficient verification of income, the Health Connector reverted to electronic data sources, and found that the appellant's household income was equivalent to 322.77% of the FPL, pursuant to 45 CFR §§ 155.315(f) and 155.320(d).

Although the same weekly and monthly income information was submitted to the Connector for its October and February determinations, it appears that the appellant made a mistake in calculating projected income for 2017. The Connector's October determination was based on a projected income of \$39,104.00 which consisted of a reported weekly income of \$775.00. The Connector's February determination was based on a projected income of \$65,071.00 even though the reported weekly income of \$775.00 remained the same. The latter projection placed her household income above 300% of the FPL and left her only eligible for Health Connector plans with APTC.

The appellant offered substantial and credible evidence to establish that her projected 2017 household income consists solely of her husband's earnings, which at a salary of \$775.00/week, would result in a total yearly income of approximately \$39,104.00. She was advised to report the income change to the Connector by either updating her application online at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765. She was further advised to notify the Connector that her husband is no longer applying for insurance.

## **CONNECTOR APPEALS UNIT**

Based on the evidence in the record, it is concluded that the Connector's determination regarding the appellant's eligibility for Health Connector Plans was correct at the time of its verification of electronic data sources on February 25, 2017, and is therefore affirmed.

### **ORDER**

The appeal is **denied**. The Connector is further instructed to **transfer** the appellant's son's appeal to the Office of Medicaid Board of Hearings.

### **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: Connector Appeals Unit

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

**Hearing Issue:** Appeal of eligibility for subsidized insurance based on tax filing status

**Hearing Date:** February 15, 2017

**Decision Date:** May 9, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the 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**

By notice dated December 29, 2016, the appellant was advised that she qualified for Health Connector Plans without subsidies with eligibility beginning on February 1, 2017. She was further advised that she did not qualify for help with her coverage for “any” of the following reasons: annual income is too high; access to health insurance through another source that meets the Federal “minimum essential coverage” standards; or not an applicable tax filer. (Ex. 1) She filed a Hearing Request Form dated January 6, 2017 (Ex. 3) in which she stated in part that her husband had been deleted from the “policy”. The matter was referred to a hearing after receipt of the appeal. (Ex. 14)

# **CONNECTOR APPEALS UNIT**

## **ISSUE**

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on December 29, 2016, 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 February 15, 2017, 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 Notice of Eligibility Determination dated December 29, 2016
- Ex. 2—Health Connector Notice of Eligibility Determination for appellant's husband dated December 29, 2016
- Ex. 3—Hearing Request Form dated January 6, 2017
- Ex. 4—Acknowledgment of Appeal dated January 10, 2017
- Ex. 5—Appeals Unit outreach notes dated January 10, 2017
- Ex. 6—Computer printout of Health Connector's Review of Application
- Ex. 7—Computer printout of Health Connector's Eligibility Determination Results
- Ex. 8—Computer printout of Health Connector's "AVV" tool showing information from the application database for the appellant
- Ex. 9—2017 Enrollment History
- Ex. 10—MassHealth member information
- Ex. 11—History of Health Connector prior eligibility determinations
- Ex. 12—Health Connector customer service call notes
- Ex. 13—Letter from Appeals Unit dated January 17, 2017
- Ex. 14—Notice of Hearing
- Ex. 15—Affidavit of Connector representative

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 65-years-old and is married. Her husband is 61-years-old. <sup>1</sup>  
(Testimony)

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<sup>1</sup> The appellant is only appealing the Health Connector's eligibility determination for herself and not her husband.

## **CONNECTOR APPEALS UNIT**

2. The appellant moved to the United States from Morocco in February, 2016, and has permanent resident status. (Testimony, Exs. 6, 11)
3. The appellant and her husband submitted an application for health insurance to the Health Connector in July, 2016. They were determined eligible for ConnectorCare Plan Type 3A with an Advanced Premium Tax Credit (APTC) of \$639.00, effective September 1, 2016. They enrolled in a plan for the remainder of 2016 for which they paid a monthly premium of approximately \$256.00. (Testimony, Ex. 11)
4. The appellant's husband moved to Florida in October, 2016, and has been working there since that time. The appellant lives with her daughter in Massachusetts and is supported entirely by the daughter's family. (Testimony)
5. By notice dated December 29, 2016, the appellant was determined to be eligible for Health Connector Plans beginning on February 1, 2017. She was notified that she did not qualify for help with her coverage for "any" of the following reasons: annual income is too high; access to health insurance through another source that meets the Federal "minimum essential coverage" standards; or not an applicable tax filer.<sup>2</sup> (Testimony, Exs. 1, 7)
6. On her application, the appellant did not include her husband, stated that she is a tax filer, and attested that she had filed and reconciled all past APTCs. (Testimony, Ex. 6)
7. The appellant intends to file a joint tax return for 2016. (Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an APTC if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if a) their household income does not exceed 300 percent of the FPL and b) they are eligible for an APTC. 956 CMR 12.09(1). In addition to the income requirements, married persons seeking an APTC must attest that they will file a joint tax return in order to claim the APTC, even if only one spouse is seeking coverage. 26 CFR section 1.36B-2T(b)(2)(i). Exceptions to the joint filing requirement for married persons are recognized for cases of domestic abuse or spousal abandonment, neither of which is claimed in this case. 26 C.F.R. section 1.36B-2T(b)(ii). A third exception applies to married persons who are not considered

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<sup>2</sup> Unfortunately, the exact basis of the Connector's 2017 eligibility determination is not set out in the December 29, 2016 letter and can only be gleaned by eliminating other possible grounds for disqualification.

## **CONNECTOR APPEALS UNIT**

married for tax purposes because they are living apart and meet the requirements for filing separately as a head of household. 26 U.S.C.section 7703(b); 26 C.F.R.sections 12-2(b), 1.7703-1 and 1.36B-4T(b)(5). Married taxpayers may be considered “unmarried”, and therefore eligible for head of household status, so long as the taxpayer, among other requirements, has not lived with the taxpayer’s spouse during the last six months of the tax year. An applicant seeking an APTC by claiming head of household status must attest that s/he will file 2016 taxes as head of household.

The appellant did not include her husband on her application for 2017 insurance and stated that she is a tax filer. That representation conflicts with her testimony that she is married and intends to file a joint tax return in 2016. Moreover, the appellant’s testimony that her husband moved to Florida in October, 2016, would preclude her from filing as an “unmarried” head of household since the evidence she offered established that she lived with him for the last nine months of 2016.

The Health Connector correctly determined that the appellant was eligible for unsubsidized Health Connector Plans in 2017 because she represented that she is married and intends to file taxes separately. Accordingly, the determination was correct at the time of the application, 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 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.

# **CONNECTOR APPEALS UNIT**

Cc: Connector Appeals Unit

## **ADDENDUM**

The Health Connector cannot provide tax advice. If the appellant is considering a change to her tax filing status, she is encouraged to seek professional tax advice or get assistance from the Internal Revenue Service at a Taxpayer Assistance Center (TAC).

# MASSACHUSETTS HEALTH CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

**Appeal Decision:** Denied

**Hearing Issue:** Whether the Health Connector used the correct income amount to determine appellant's eligibility for subsidized Health Connector plans

**Hearing Date:** May 4, 2017

**Decision Date:** June 6, 2017

### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act (ACA), 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 and 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 Massachusetts Health Connector Authority (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**

The Connector determined that the appellant was eligible for a non-subsidized Health Connector Plan without any subsidies, provided proof of Massachusetts residency was provided.

### **ISSUE**

Did the Connector use the correct income amount in determining that the appellant was ineligible for any subsidies?

# MASSACHUSETTS HEALTH CONNECTOR APPEALS UNIT

## HEARING RECORD

The appellant appeared at the hearing, which was held by telephone, on May 4, 2017. The hearing record was left open at the conclusion of the testimony until May 18, 2017, to permit the appellant to submit additional evidence regarding the income information that was submitted to the Connector with the appellant's application and a recent utility bill. The appellant failed, however, to submit any additional evidence by the deadline. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Connector affidavit regarding the hearing record
- Exhibit 2: Hearing Request Form (paper and online) (rec'd March 31, 2017)
- Exhibit 2A: Appellant's bills (6 pp.)
- Exhibit 2B: Appellant's passport
- Exhibit 3: Memo from Connector acknowledging appeal (April 6, 2017)
- Exhibit 4: Eligibility Approval letter from Connector (March 23, 2017)
- Exhibit 5: Request for Information from Connector (March 23, 2017)
- Exhibit 6: Application Summary printout
- Exhibit 7: 2017 Eligibility Results printout
- Exhibit 8: Notice of Hearing (April 14, 2017)

## FINDINGS OF FACT

The record shows<sup>1</sup>, and I so find:

1. The appellant is divorced with no dependents. The appellant works two jobs, and has previously had health insurance through one of their employers every year.<sup>2</sup> The coverage has automatically renewed each year. The employer switched health insurers this year, however, and sent out notices requesting that employees affirmatively renew their coverage. The appellant failed to do so, thinking it was not necessary, and the appellant's coverage was terminated. When the appellant contacted the HR department, they were told that they had to wait for the next open enrollment period in the fall.

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<sup>1</sup> The findings are all taken from the appellant's testimony, unless an exhibit is specifically cited.

<sup>2</sup> Although it is technically not the correct usage, "they," "them" etc. will be used to refer to the appellant rather than "he," "him" etc. or "she," "her" etc. to help maintain the confidentiality of the appellant's identity.

## **MASSACHUSETTS HEALTH CONNECTOR APPEALS UNIT**

2. The appellant applied for subsidized health insurance through the Connector on March 23, 2017. The appellant applied in person at one of the Connector's walk-in service centers. The appellant provided two pay stubs as proof of income, since the appellant works two jobs. The Connector's summary of the appellant's application indicates that the appellant reported projected modified adjusted gross income (MAGI) of \$50,000 for 2017. Based on this amount, the appellant's income is 420.88 per cent of the Federal Poverty Level (FPL), which makes the appellant ineligible for any subsidized health insurance. (Testimony & Exhibits 6 & 7)
3. By notice dated March 23, 2017, the Connector notified the appellant that they qualified for a Health Connector Plan without any subsidies.<sup>3</sup> (Exhibit 4)
4. The appellant filed a Hearing Request Form (undated) stating "Income" and "Residency" as the reasons for the appeal. The appellant further explained as follows: "I not have enough money to purchase insurance. I can't get it through my employer." (Exhibit 2)
5. The appellant stated at the hearing that the Connector representative who assisted the appellant with their application recorded the incorrect income information. Accordingly, the appellant was afforded the opportunity to submit on or before May 18, 2017, copies of the documents that they provided to the Connector showing their income. The appellant has failed to submit any additional information to date.

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

Under 26 USC § 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 per cent of the FPL. 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 per cent of the FPL also qualify for additional state subsidies through the Connector's ConnectorCare program. 956 CMR § 12.04.

On their application, the appellant's projected income was \$50,000, which put the appellant at 420.88 per cent of the FPL. This income does not qualify the appellant for any health insurance subsidies, from either the federal or state government. Although provided an opportunity to do so, the appellant has failed to submit any additional information showing that this calculation was wrong. As a result, I conclude that the Connector's decision must be approved.

### **ORDER**

This appeal is hereby DENIED.

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<sup>3</sup> The Connector also sent the appellant a separate Request for Information dated March 23, 2017, requesting proof of residency. The appellant provided this documentation as part of this appeal. (Exhibits 2A & 5)

## **MASSACHUSETTS HEALTH CONNECTOR APPEALS UNIT**

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

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

### **ADDENDUM**

If you still believe that the Connector incorrectly recorded your income, you may reapply for subsidized health insurance through the Connector.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied. Health Connector's determination of eligibility upheld

**Hearing Issue:** Eligibility for ConnectorCare.

**Hearing Date:** June 01, 2017

**Decision Date:** June 12, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On March 28, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's eligibility for ConnectorCare.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 1, 2017. Interpreter services were provided at the Appellant's request. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated May 09, 2017.
- Exhibit 3: Health Connector's Eligibility Notice dated March 28, 2017.
- Exhibit 4: Appellant's Hearing Request Form dated April 5, 2017.
- Exhibit 5: Health Connector Appeals Unit Outreach Notes.
- Exhibit 6: Health Connector's 2017 Eligibility Results Computer Printout dated March 28, 2017.

## **Massachusetts Health Connector Appeals Unit**

Exhibit 7: Health Connector's Agent Portal Computer Printout indicating that the Appellant had not enrolled in a Health Care Plan as of May 31, 2017 (Exhibit 7).

The Appellant was informed that their household had been determined eligible for ConnectorCare. The Appellant was advised that after receiving approval, the Appellant was required to choose a Health Plan and their household would be eligible to receive state and federal subsidies to help pay the monthly premiums. The reason that the Appellant does not have Health Insurance is that the Appellant has not enrolled in a Plan. This was explained to the Appellant and they were advised to enroll in a Plan. The Appellant was also advised that they could report any changes in income to the Health Connector.

The Appellant testified that they keep receiving requests for documents. The Appellant said they used to have MassHealth and did not have to pay anything. The Appellant was given the contact information for MassHealth Customer Service as well as Health Connector Customer Service.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. On March 28, 2017, the Appellant's household was determined to have income equal to 188.55% of the Federal Poverty Level based on their household size and income (Exhibit 6).
2. On March 28, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit. The Appellant was advised to enroll in a Health Plan (Exhibit 3).
3. The Appellant filed an appeal on April 5, 2017 (Exhibit 5).
4. As of May 31, 2017, the Appellant's household has not enrolled in a Health Plan. (Exhibit 7, Appellant Testimony).
5. The Appellant testified that they used to have MassHealth and paid no premium. The Appellant also testified that the household continues to receive requests for documentation.

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

On March 28, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit. This determination was based on the Appellant's attested income, which is equal to 188.55% of the Federal Poverty Level based on their household size and income.<sup>26</sup> IRC § 36B, 45 CFR §155.305(f)(1), M.G.L. § 176Q(3)(a)(13) and 956 CMR §§ 12.04, 12.08.

Following a determination of eligibility, eligible individuals are instructed to choose a Health Plan and enroll 956 CMR 12.04. The Appellant was advised that they must chose a Health Plan and enroll in the Plan. After choosing a Plan, the Appellant would be eligible for state and federal subsidies to help pay the monthly premiums. As of the date of the Hearing, the Appellant had not chosen a Health Plan. The Appellant was given contact information for assistance in choosing a Health Plan through the Health Connector.

The Appellant testified that they continue to receive requests for documentation. As stated above, on March 28, 2017 the Health Connector determined that the Appellant is eligible for ConnectorCare. There

## **Massachusetts Health Connector Appeals Unit**

were no requests for documentation generated by the Health Connector found in this administrative record. It is unclear if the Appellant has a pending application at MassHealth. The Appellant was given the contact information for MassHealth Customer Service.

The Health Connector correctly determined the Appellant's eligibility 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 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: Health Connector Appeals Unit

## Massachusetts Health Connector Appeals Unit

### FINAL APPEAL DECISION

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

**Hearing Issue:** Eligibility for subsidized Health Connector plans, based on failure to verify income

**Hearing Date:** June 8, 2017

**Decision Date:** June 16, 2017

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#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

On February 17, 2017, Appellant was determined ineligible for subsidized Health Connector plans, due to failure to verify income

#### **ISSUE**

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

#### **HEARING RECORD**

The Appellant's Representative appeared at the hearing, which was held by telephone, on June 9, 2017

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

## **Massachusetts Health Connector Appeals Unit**

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Correspondence from Connector Appeals Unit
- Exhibit 3: Hearing Request Form and support documents, signed by Appellant on April 10, 2017
- Exhibit 4: Notice on Appeal, dated February 17, 2017
- Exhibit 5: Health Connector Request for Information dated Nov. 10, 2016
- Exhibit 6: Eligibility Results and Application Summary
- Exhibit 7: Income and residency documents sent to Health Connector

### **FINDINGS OF FACT**

The record shows, and I so find:

1. In November 2016, Appellant applied to renew the ConnectorCare plan that had covered Appellant in 2016 (Testimony of Representative).
2. On November 10, 2016, Appellant was sent a Request for Information, asking for proof of income, proof of residency and proof of Immigration status. (Exhibit 5).
3. Appellant had been having difficulty receiving mail at the apartment complex where Appellant lived and did not receive the Request for Information (Testimony of Representative).
4. Appellant learned that information concerning residency and immigration status was required and did provide these to the Health Connector (Testimony of Representative).
5. In an eligibility determination on February 17, 2017, Appellant was found eligible for Health Connector Plans without subsidies (Exhibit 4).
6. After Appellant received the February 2017 notice, Appellant contacted the Health Connector and was informed that subsidies were denied since Appellant had not submitted the requested documents regarding income (Testimony of Representative).
7. Appellant sent documents regarding income to the Health Connector in late February 2017 (Testimony of Representative).
8. On or about April 27, 2017, Appellant was found eligible for a ConnectorCare Plan Type 1 with Advance Premium Tax Credit (Exhibit 6).

### **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 if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR §

## **Massachusetts Health Connector Appeals Unit**

155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

While the Appellant has now sent in documents verifying income, on February 17, 2017, the Health Connector correctly found that the Appellant was eligible for Health Connector plans without subsidies, based on electronic data sources after the Appellant failed to verify income, and that determination is upheld.

### **ORDER**

The appeal is denied.

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

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

### **ADDENDUM**

Appellant was advised to log on or call customer service (1-877-623-6765) to check on enrollment.

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 2017 from the federal government will be reconciled when you file your 2017 federal income tax return (usually in the spring of 2018). 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 2017 (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 2017 (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 2017 will be paid to you when you file your 2017 federal income tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** The Connector's determination of Appellants' eligibility to obtain a Health Connector plan is affirmed.

**Hearing Issue:** Whether the Connector correctly determined Appellants' eligibility to enroll in a Health Connector plan based upon the information supplied by the appellants on their application and other data sources.

**Hearing Date:** May 16, 2017      **Decision Date:** May 31, 2017

**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, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, section 12.15.

**Original Action Taken By the Connector:** On February 24, 2017, the Connector determined Appellants to be eligible to enroll in a Health Connector plan.

**Hearing Record:** One of the appellants appeared at the hearing which was held by telephone on May 16, 2017. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellants' file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated April 27, 2017 sent to Appellants for hearing on May 16, 2017

## Massachusetts Health Connector Appeals Unit

- Exhibit 3: Hearing Request Form submitted by Appellants on April 19, 2017 with letter attached
- Exhibit 4: Letter to Appellant from Connector Appeals Unit dated April 24, 2017 acknowledging receipt of hearing request form
- Exhibit 5: Health Connector's summary and result of Appellants' application dated December 8, 2016
- Exhibit 6: Health Connector's summary and result of Appellants' applications dated February 24, 2017 and March 24, 2017
- Exhibit 6a: Health Connector's summary and result of Appellants' application dated April 3, 2017
- Exhibit 7: Letter to Appellants dated October 9, 2016 from the Health Connector requesting information, proof of income
- Exhibit 8: Letter to Appellants dated October 27, 2016 from the Health Connector regarding renewal of health insurance coverage
- Exhibit 9: Appellants' customer service contacts summary
- Exhibit 10: Sample of request for information letter, undated
- Exhibit 11: Letter to Appellants dated February 24, 2017 from the Health Connector regarding eligibility for coverage
- Exhibit 12: Connector Appeals Unit case outreach notes regarding contacts with Appellants
- Exhibit 13: Connector Customer outreach notes
- Exhibit 14: Appellants' 2016 1099-Misc form with fax coversheet, and two pages from October 9, 2016 letter to Appellants requesting proof of income

### **Findings of Fact:**

The record shows, and I so find:

1. Appellants had ConnectorCare coverage in 2016. Their children had MassHealth coverage. On October 9, 2016, the appellants were sent a letter from the Connector asking them to submit proof of their income to the Connector. The letter from the Connector included a list of acceptable forms of proof. The appellants did not send in proof in response to this letter (Exhibit 7, Testimony of Appellant).
2. In a letter (renewal notice) dated October 27, 2016 sent to the appellants by the Connector the appellants were reminded that the Connector still needed information to prove that the appellants were qualified to keep their coverage (Exhibit 8).

## Massachusetts Health Connector Appeals Unit

3. In December, 2016, the appellants were again informed that they needed to submit proof of income (Exhibit 5).
4. In early January, 2017, the appellants sent to the Connector one Federal Form 1099-MISC as proof of income. This was not an acceptable form of proof of income (Testimony of Appellant, Exhibits 3 attachment, 7, and 14).
5. On February 24, 2017 and on March 24, 2017, the appellants were found eligible to purchase a Health Connector plan with no advance premium tax credit. Though the appellants attested to a projected income, the determination was made based on data from sources other than the appellants' application because the appellants had not sent in acceptable proof of income as they had been asked to do (Exhibits 5, 6, and 7, 8, and 11, and Testimony of Appellant).
6. From January through April, 2017, the appellants had coverage through the Connector, but the coverage changed from a ConnectorCare plan to an unsubsidized health plan. The appellants were notified that their premium had changed (Testimony of Appellant, Exhibit 3 attachment).
7. After March 24, 2017, the appellants sent in acceptable proof of income and in early April were found eligible for a ConnectorCare plan (Exhibit 6a, Testimony of Appellant).
8. Appellants filed an appeal in April, 2017. They appealed because they believed they had sent in adequate proof of income in January and, therefore, should not have to pay the higher premium they were charged for March and April (Exhibit 3 attachment, Testimony of Appellant).

### **Analysis and Conclusions of Law:**

The issue on appeal is whether the Connector correctly determined in February, 2017 that the appellants were eligible to enroll in a Health Connector plan without a subsidy and were no longer eligible for a ConnectorCare plan after the appellants failed to submit acceptable proof on income. Appellants appealed this determination. See Exhibits 3, 6, 7, 11.

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

## Massachusetts Health Connector Appeals Unit

Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. If a household's projected income is between 100% and 300% of the Federal Poverty Level, the household members are entitled to an advance premium tax credit to help cover the cost of a ConnectorCare plan in the Commonwealth. If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

Appellants attested to their household's projected income on their application for health insurance through the Connector. In 2016, based upon the projection, the appellants were determined to be eligible for ConnectorCare coverage. They were asked to submit proof of their income and were given a list of acceptable forms of proof. See Exhibits 7 and 8. They did not submit any proof until January, 2017. The proof they sent in was not considered acceptable. They sent in one Federal Form 1099-MISC which alone is not proof of income. See Exhibits 6, 7, and 14. Once no acceptable proof was sent in, the Connector checked with other data sources as allowed under the Affordable Care Act. See See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

After checking other data sources, the Connector determined that the appellants were no longer eligible for ConnectorCare coverage. Instead, based upon data from other sources, they were determined to be eligible to purchase a Health Connector plan without any advance premium tax credit. See Exhibits 6 and 11. Appellants appealed the determination after receiving a higher premium bill. See the testimony of the appellant which I find to be credible and Exhibit 3.

What is at issue here is whether the original determination made by the Connector was correct. That determination was based upon the information given on the appellants' application by the appellants and upon data from other sources. When the Appellants did not provided the required documentation as they were asked to do, the Connector changed the determination based upon data from other sources. See 945 CMR 12.05. No error was made by the Connector.

**Order:** Appellants' appeal is denied. The determination of the Connector is affirmed.

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

## Massachusetts Health Connector Appeals Unit

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: Connector Appeals Unit

Addendum: Appellant testified that the appellants had cancelled their coverage as of May 1, 2017, even though by this time, they had sent in proof of income and had been reenrolled in a ConnectorCare plan. At the hearing, Appellant was encouraged to check with Customer Services at 1-877-623-6765 to determine if the appellants may reenroll in a ConnectorCare plan.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied. Denial of a Special Enrollment Period upheld.

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

**Hearing Date:** June 01, 2017

**Decision Date:** June 13, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On February 23, 2017, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits. The Appellant was determined ineligible for a special enrollment period.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 1, 2017. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated May 09, 2017.
- Exhibit 3: Health Connector's Eligibility Notice dated February 23, 2017.
- Exhibit 4: Health Connector's 2017 Eligibility Results Computer printout dated February 23, 2017.
- Exhibit 5: Health Connector Appeals Unit Outreach Notes.
- Exhibit 6: Health Connector Customer Service Call Center Notes.

## Massachusetts Health Connector Appeals Unit

### FINDINGS OF FACT

The record shows, and I so find:

1. On February 23, 2017, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits (Exhibit 3).
2. The Appellant spoke with a Health Connector Customer Service Agent on March 2 and March 3 and requested assistance choosing a health care plan. The Appellant chose to enroll in the Tufts Direct Silver Plan. The Appellant maintains that the Customer Service Agent assured the Appellant that their doctor accepts this Plan. The Appellant later learned that their doctor does not accept this Plan but does accept Tufts Direct Premiere Silver Plan (Exhibit 5 and Appellant Testimony).
3. On March 16, 2017, the Appellant contacted Customer Service to request a special enrollment period so that they could change to a health care plan that their provider accepts. Appellant argues that the Health Connector Customer Service agent enrolled her in the wrong plan. The Appellant requested that a Customer Service supervisor listen to the tape recordings of their conversations with the Customer Service agent (Exhibit 6 and Appellant Testimony).
4. On March 20, 2017 Health Connector Customer Service contacted the Appellant and informed the Appellant that a supervisor had listened to the tape recordings of the Appellant's conversations on March 3 and 4, and the supervisor determined that the Customer Service agent did not advise the Appellant that the plan the Appellant chose was accepted by their doctor. The Appellant's request for a special enrollment period was denied for failing to document a qualifying life event (Exhibit 4 and Appellant Testimony).
5. The Appellant filed an appeal on April 23, 2017 (Exhibit 5).
6. The Appellant testified that they are sure that the issue of their primary care doctor was discussed with the Customer Service agent who helped the Appellant chose a Plan. The Appellant argues that they should not be penalized for the mistake made by the agent. The Appellant challenges the veracity of the supervisor's statement that the supervisor listened to the tape recordings of the conversations between the Appellant and the agent and the supervisor's finding that the agent did not advise the Appellant that their doctor accepted the Plan chosen by the Appellant (Exhibit 6 and Appellant Testimony).
7. I find the Health Connector Customer Service Call Center Notes, kept in the ordinary course of business, to be credible and reliable (Exhibit 6).
8. It is undisputed that the Appellant did not experience a qualifying life event such as a change in household composition, moving to the state or losing employer based health insurance as outlined in Health Connector's Policy NG 1E (Exhibit 4 and Appellant Testimony).

### ANALYSIS AND CONCLUSIONS OF LAW

On February 23, 2017, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits. The Appellant enrolled in the Tufts Direct Silver Plan on March 3, 2017. The Appellant later learned that their primary care physician does not accept the Tufts Direct Silver Plan. On March 16, the Appellant contacted Health Connector Customer Service to change their Health Plan. The Appellant argues that due to a mistake by a Health Connector Customer Service agent, the Appellant was

## **Massachusetts Health Connector Appeals Unit**

incorrectly enrolled in a Plan not accepted by their provider. The Appellant maintains that being given incorrect information by a Customer Service agent is sufficient to warrant a special enrollment period.

Following a determination of eligibility, eligible individuals are instructed to choose a Health Plan and enroll 956 CMR 12.04. While the Health Connector Customer Service agents are available to discuss the process of selecting a Plan, the responsibility for choosing a Plan rests with the Enrollee. Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG 1E. It is undisputed that the Appellant did not experience a qualifying life event. Because the Appellant did not experience a qualifying life event, the Health Connector correctly determined that the Appellant is not eligible for a special enrollment period 45 CFR § 155.420.

### **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.

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION<sup>8</sup>

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

**Hearing Issue:** Eligibility for Health Connector plans, based on annual renewal.

**Hearing Date:** May 19, 2017

**Decision Date:** May 22, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 24, 2017, Appellant was determined eligible for Health Connector plans for plan year 2017. The Appellant's determination was a result of the Health Connector's annual renewal process.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant eligible for Health Connector plans, based on the income used in the Health Connector's renewal process.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 19, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified. The record was kept open for the Health Connector to provide documents regarding when the Appellant was requested to provided information regarding 2017 income.

Exhibit 1: Health Connector notice of eligibility Determination (22 pages, dated April 6, 2017 & March 29, 2017)

## Massachusetts Health Connector Appeals Unit

- Exhibit 2: Appellant's appeal request form (22 pages dated April 22, 2017)
- Exhibit 3: Health Connector's Eligibility Determination Results and Review Computer Printout (11 pages, dated March 29, 2017)
- Exhibit 4: Health Connector's Eligibility Determination Results and Review Computer Printout (10 pages, dated April 6, 2017)
- Exhibit 5: Health Connector's Acknowledgement of Appeal (2 pages, dated April 24, 2017)
- Exhibit 6: Health Connector's Hearing Notice (4 pages, dated April 26, 2017)
- Exhibit 7: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 8: Health Connector's Results Computer printout ( 4 pages dated February 24, 2017)
- Exhibit 9: Health Connector's Notes Regarding Appellant
- Exhibit 10: Open Record Documents from Health Connector regarding when Appellant was requested to provide information regarding income (11 pages dated May 22, 2017)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is an individual, who plans to file a federal income tax return for tax year 2017. (Exhibit 3 & 4)
2. The Appellant expects to have a total annual income for 2017 which is less than her total income for 2016 & 2015 but submitted information regarding her projected income for 2017 by enclosing her income tax return for 2015, which had more income than what Appellant anticipated making in 2017. (Appellant's testimony and Exhibit 2 & 10)
3. The Appellant expects to make less in 2017, than she earned in 2016 & 2015, due to Appellant's lack of work. (Appellant's testimony)
4. In a prior eligibility determination for plan year 2017 on February 24, 2017, the Appellant was found eligible for Health Connector plans, based on having an income and household size equivalent to 381% of the Federal Poverty Level. (Exhibit 8)
5. On February 24, 2017, the Health Connector sent the Appellant an eligibility approval notice for 2017, pursuant to the Health Connector's annual renewal process, which stated that the Appellant's eligibility was going to be for Health Connector plans. This notice stated that the Health Connector's 2017 determination was based on an income equivalent to 381% of the Federal Poverty Level. The notice instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibit 8)
6. The Appellant did not report any changes to her application.

# Massachusetts Health Connector Appeals Unit

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans for 2017 based on the Health Connector's annual renewal process, which used an income and family size equivalent to 381% of the Federal Poverty Level. The Appellant asserts that this determination was incorrect, because the Appellant will not make as much income during 2017 due to lack of work. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On February 24, 2017, the Appellant was found eligible for Health Connector plans for plan year 2017, based on having a household income equivalent to 381% of the Federal Poverty Level. This determination came as part of the Health Connector's annual renewal process. The Appellant sent in her income tax return for 2015, to be used as her projected income for 2017. The income reported on Appellant's tax return for 2015 is more than what Appellant expects to make in 2017 but Appellant did not inform the Health Connector of her anticipated reduction in income for 2017. The Appellant did not report any changes to income and the eligibility was finalized on February 24, 2017, with notice to the Appellant on February 24, 2017. This is consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on a household income equivalent to 381% of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. Even though the Appellant now asserts that Appellant's income for 2017 will be less than what was put down on the application, the Appellant failed to update the information in their application to reflect this income projection, as required by law, and therefore the determination issued by the Health Connector was correct.

The Appellant is advised to report any changes to their income or any other information on their application if they have not already done so.

## ORDER

The appeal is denied. The determination of the Connector is affirmed. If Appellant has not already done so, Appellant should immediately update Appellant's information about Appellant's income.

The Connector made the correct determination based upon the information supplied by Appellant and obtained from other electronic data sources. If Appellant has not already done so, Appellant should immediately provide the required documentation regarding Appellant's income.

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

## **Massachusetts Health Connector Appeals Unit**

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** June 05, 2017

**Decision Date:** June 13, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

The Appellant submitted an application for subsidized health insurance on November 28, 2016. The Health Connector determined the Appellant to be eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 5, 2017. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated May 11, 2017.
- Exhibit 3: Health Connector's Eligibility Approval Notice dated March 28, 2017.

## Massachusetts Health Connector Appeals Unit

- Exhibit 4: Hearing Request Form submitted by Appellant on April 24, 2017 with the Appellant's 1016 Federal Income Tax Return attached.
- Exhibit 5: Health Connector Appeals Unit Outreach Notes.
- Exhibit 6: Health Connector's 2017 Eligibility Results computer printout for Appellant's November 28, 2017 application.

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied for subsidized health insurance through the Health Connector on November 28, 2017 (Exhibit 6).
2. The Appellant has a tax household size of two (Exhibit 7).
3. On their application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$31,038 for 2017 (Exhibit 6)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place Appellant at approximately 141% of the 2017 Federal Poverty Level (FPL) (Exhibit 6).
5. The Appellant's dependent is eligible for the Mass Health Children's Insurance Health Program (Exhibit 6).
6. The Health Connector correctly found that the Appellant was eligible for state subsidized health insurance with Advance Premium Tax Credits because the Appellant's self-attested projected income placed their household at less than 300% of the Federal Poverty Level. (Exhibits 3, 6).
7. The Appellant is self-employed. The Appellant does not dispute attesting to projected income of \$31,038 when they completed their application for subsidized health insurance. After completing their 2016 Federal Income Tax Return the Appellant discovered that their income will be substantially less after allowing for deductible business expenses. The Appellant did not enter the change in income on their Application as of the date of the Hearing (Exhibit 4; Appellant Testimony).

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on November 28, 2017. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant stated on their application that their projected MAGI was \$31,038 for their tax household of two. This income is equivalent to approximately 141% of the Federal Poverty Level and renders the

## **Massachusetts Health Connector Appeals Unit**

Appellant financially eligible for Advance Premium Tax Credits and state subsidies. The Appellant's dependent was determined eligible for MassHealth.

The Appellant learned after filing their 2016 Federal Income Tax Return that their projected self-employment income is likely to be significantly less than what the Appellant attested to on March 28, 2017. The Appellant was unclear of how to report this change, and opted to file an Appeal. The Appellant was advised that they could report changes in income at any time by opening their application and attesting to the income change. 956 CMR 12.09(2).

Based on the information provided by the Appellant on their March 28, 2017 application, the Health Connector Correctly determined the Appellant's eligibility for ConnectorCare with Advance Premium Tax Credits.

### **ORDER**

The appeal is denied. The Health Connector should allow the Appellant to reapply with changed income information.

### **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.

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** June 1, 2017

**Decision Date:** June 6, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On April 14, 2017, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because 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**

Appellant appeared at the hearing which was held by telephone, on June 1, 2017.

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 (undated)
- Exhibit 2: Correspondence from Appeals Unit (8 pages)
- Exhibit 3: Notice of Appeal and support documents, including MassHealth Request for Fair Hearing (35 pages)
- Exhibit 4: Health Connector Notice on Appeal (6 pages, dated April 14, 2017)
- Exhibit 5: Eligibility Results and Application Summary (6 pages).

# Massachusetts Health Connector Appeals Unit

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on April 14, 2017, based on having access to Medicare or being enrolled in Medicare (Exhibits 4 and 5)
2. At the time of Appellants' application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 5).
3. Appellant filed a Notice of Appeal on April 27, 2017, claiming that the denial was incorrect, because the application for MassHealth Common Health had not been ruled on. Appellant also claimed that the denial of a Health Connector Plan with subsidies was age discrimination (Exhibit 3 and Testimony of Appellant).
4. Appellant did not enroll in Medicare Part A and did not want to be enrolled in Medicare Part A (Testimony of Appellant).
5. In addition to filing an appeal with the Health Connector, Appellant also filed a request for a Fair Hearing with MassHealth regarding the denial for the MassHealth CommonHealth program (Testimony of Appellant and Exhibit 3).
6. At the time of hearing at the Health Connector, Appellant had not yet had a Fair Hearing with MassHealth (Testimony of Appellant).

## ANALYSIS AND CONCLUSIONS OF LAW

When the Appellant's eligibility for 2017 coverage was determined on April 14, 2017, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. The Appellant received a notice dated April 14, 2017 that Appellant did not qualify for health insurance coverage through the Health Connector due to access to or enrollment in Medicare. Appellant had not requested to be enrolled in Medicare. Appellant also filed for a MassHealth disability program but been denied. Appellant had filed a Request for a Fair Hearing from MassHealth, but the Request had not been scheduled for a hearing. See Exhibits 3, 4, 5 and Testimony of Appellant, which I find to be credible.

When the Appellant's eligibility for 2017 coverage was determined on April 14, 2017, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare Part A. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I) Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

## ORDER

The appeal is denied.

## **Massachusetts Health Connector Appeals Unit**

### **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.

### **ADDENDUM**

At the request of Appellant, the Health Connector sent Appellant's Request for a Fair Hearing to MassHealth. Appellant may want to contact MassHealth (1 800 841-2900) about the Request and to inquire about other options for health insurance. Appellant had also been working with SHINE (1-800 243-4636) and may want to contact them again.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Allowed; Eligibility Determination Modified.

**Hearing Issue:** Eligibility for Special Enrollment Period based on Administrative Error

**Hearing Date:** June 16, 2017

**Decision Date:** June 26, 2017

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### **AUTHORITY**

This hearing was conducted pursuant to Section 1411 of the Patient Protection and Affordable Care Act (the “ACA”), 42 U.S.C. § 18081, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 45 C.F.R. § 155.500 *et seq.*, the 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.*, 45 C.F.R. § 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02., 801 Mass. Code Regs. 1.02., and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15, 956 Mass. Code Regs. 12.15.

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

The Health Connector notified Appellant by an “Eligibility Approval” letter dated April 25, 2017 that Appellant is qualified for a ConnectorCare Plan Type B with Advance Premium Tax Credits but that Appellant could only enroll at that time if Appellant had experienced a “qualifying event.”

### **ISSUE**

The issue presented by Appellant’s request for hearing is whether the Health Connector erred in determining that Appellant was not eligible to enroll at the time of the April 25, 2017 eligibility determination unless Appellant had experienced a qualifying event.

### **HEARING RECORD**

A hearing was conducted by telephone on June 16, 2017 at which time Appellant appeared and testified. The hearing record consists of the testimony heard from Appellant and the following documents which were admitted into evidence without objection at the hearing:

Exhibit 1: Health Connector’s Eligibility Approval letter dated November 17, 2016;

## Massachusetts Health Connector Appeals Unit

Exhibit 2: Health Connector's Eligibility Approval letter dated January 15, 2017;

Exhibit 3: Print-out of the Summary and Results pages generated by the application for subsidized health insurance coverage filed by Appellant April 24, 2017;

Exhibit 4: Health Connector's Eligibility Approval letter dated April 24, 2017;

Exhibit 5: Appellant's Hearing Request dated May 3, 2017;

Exhibit 6: Health Connector letter dated May 15, 2017 acknowledging Appellant's hearing request;

Exhibit 7: Notice of Hearing dated May 19, 2017; and

Exhibit 8: Affidavit from Health Connector Keeper of Records.

### FINDINGS OF FACT

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

1. Appellant is a resident of Massachusetts. Testimony; Exhibits 1 - 4.
2. During 2016, Appellant was enrolled in the Neighborhood Health Plan ("NHP") through MassHealth. Testimony.
3. In or around November of 2016, Appellant submitted documentation to MassHealth in response to an eligibility review request from MassHealth. Testimony; Exhibit 1 at 3.
4. On November 17, 2016, the Health Connector issued an "Eligibility Approval" letter in which it acknowledged that Appellant had submitted requested documentation and stated that Appellant qualifies for coverage in a ConnectorCare Plan Type 2B with Advance Premium Tax Credits. Exhibit 1. This letter stated that the first available start date was December 1, 2016, but it further stated that Appellant could only enroll at this time "unless you've had a qualifying life event" such as losing minimum essential coverage or a change in family status such as marriage or birth of a child. *Id.* at 1-2. The Health Connector's letter also stated that MassHealth had asked Appellant to complete an annual eligibility renewal review, that Appellant did not complete the MassHealth review within the allotted 45-day period, and that the Health Connector had made its eligibility determination based on information available from federal and state data sources. *Id.* at 3.
5. For reasons that are unclear from the record, the Health Connector sent Appellant another "Eligibility Approval" letter on January 15, 2017, again stating that Appellant qualifies for coverage in a ConnectorCare Plan Type 2B with Advance Premium Tax Credits. Exhibit 2. This letter stated that the first available start date was February 1, 2017, but it further stated that Appellant could only enroll at this time "unless you've had a qualifying life event" such as losing minimum essential coverage or a change in family status such as marriage or birth of a child. *Id.*

## Massachusetts Health Connector Appeals Unit

6. In or around April of 2017, Appellant was informed by a primary care physician that Appellant's MassHealth / NHP coverage was no longer in effect. Testimony.
7. Having learned that her NHP coverage was no longer in effect, Appellant initiated a new application for health insurance coverage through the Health Connector on April 24, 2017. Testimony; Exhibit 3. The income information that Appellant provided with this application placed Appellant's household income at 200 percent of the Federal Poverty Level. *Id.* at 1.
8. On April 25, 2017, the Health Connector issued an "Eligibility Approval" letter which stated that Appellant qualifies for coverage in a ConnectorCare Plan Type 2B with Advance Premium Tax Credits. Exhibit 4. This letter stated that the first available start date was June 1, 2017 but that Appellant could only enroll if Appellant had experienced a qualifying event. *Id.*
9. Appellant filed a hearing request, challenging the Health Connector's April 25, 2017 eligibility determination and requesting a special enrollment period. Exhibit 5.

In addition to these findings of fact, I also take administrative notice of the fact that the open enrollment period for applying for health insurance coverage in 2017 through the Health Connector ran from November 1, 2016 to January 31, 2017.

### ANALYSIS AND CONCLUSIONS OF LAW

Congress enacted the ACA in 2010 "to increase the number of Americans covered by health insurance and decrease the cost of health care." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 132 S.Ct. 2566, 2580 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans ("QHPs"). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans.

To further the ACA's goal of making health insurance affordable, the Internal Revenue Code was amended to make Advance Premium Tax Credits ("APTCs") available as a form of subsidy to individuals who purchase health insurance through the Exchanges. 26 U.S.C. § 36B(c)(2)(A)(i). Under the federal ACA regulations, an individual is eligible for an APTC if he or she is expected to have a household income (as defined in section 36B(d)(2) of the Internal Revenue Code) between 100 percent and 400 percent of the FPL for the benefit year for which coverage is requested. 45 C.F.R. § 155.305(f)(1). In addition to the APTC, eligible Massachusetts residents whose incomes do not exceed 300 percent of the FPL may receive additional state premium assistance by enrolling in a subsidized ConnectorCare health insurance plan. 956 Mass. Code Regs. 12.04, 12.08. Financial eligibility for coverage through MassHealth is generally limited to individuals whose household income is calculated at below 100 percent of the FPL. *See* 130 Mass. Code Regs. 506.007.

It appears from the record in this case that MassHealth did not receive certain eligibility documentation from Appellant during the 45-day eligibility review period in 2016. Consequently, Appellant was reviewed for ConnectorCare eligibility by the Health Connector in the November 2016 timeframe. Based on information available to the Health Connector, a determination was made on November 17, 2016 that Appellant is eligible for

## Massachusetts Health Connector Appeals Unit

ConnectorCare Coverage in 2017. In view of the income attestation that Appellant subsequently made in the application filed on April 24, 2017 which placed Appellant's household income at 200 percent of the FPL, I find that the Health Connector's November 17, 2016 eligibility determination was correct. I further find that the eligibility determination notices issued on January 15, 2017 and April 25, 2017 were also correct as far as determining Appellant's financial qualification for ConnectorCare. However, the November 17, 2016 and January 15, 2017 notices, which were both issued during the 2016-2017 open enrollment period that ran from November 1, 2016 to January 31, 2017, stated that Appellant could not enroll in ConnectorCare coverage absent a qualifying life event. As there is no evidence in the record to support a finding that Appellant was ineligible to enroll during the 2016-2017 open enrollment period, I find that the November 17, 2016 and January 15, 2017 notices were legally incorrect and misleading.<sup>1</sup>

When an otherwise qualified individual is not enrolled in a QHP "unintentionally, inadvertently, or as the result of the error, misrepresentation, misconduct, or inaction of an officer, employee or agent, of the Health Connector, the U.S. Department of Health and Human Services (HHS), or non-Exchange entities providing enrollment activities," it is Health Connector policy that the individual and any dependents should be allowed a 60-day special enrollment period to enroll in coverage outside of the annual open enrollment period. See Policy #: NG-1E (rev. Jan. 27, 2016), available at [https://www.mahealthconnector.org/wp-content/uploads/policies/Policy\\_NG\\_1E.pdf](https://www.mahealthconnector.org/wp-content/uploads/policies/Policy_NG_1E.pdf). Pursuant to this policy, I find that when Appellant applied for health insurance coverage on April 24, 2017, the Health Connector should have allowed a 60-day special enrollment period because Appellant was not enrolled during the 2016-2017 open enrollment period as the result of the Health Connector's erroneous notices issued on November 17, 2016 and January 15, 2017 which incorrectly stated that Appellant could not enroll at those times in the absence of a qualifying life event. To remedy this error, Appellant will be allowed a 60-day special enrollment period and the option of electing retroactive coverage.

### ORDER

Based on the foregoing findings and conclusions, the appeal is **ALLOWED**, and the Health Connector's April 25 2017 eligibility determination is **MODIFIED** to allow Appellant a 60-day open enrollment period to commence on the date of this decision.

### NOTIFICATION OF OPTION TO ELECT RETROACTIVE COVERAGE

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

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

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<sup>1</sup> A ConnectorCare enrollee who is terminated for non-payment of is ineligible for reinstatement until the past-due premiums are paid. 956 Mass. Code Regs. 12.11(4). Appellant was not enrolled in ConnectorCare in 2016, and there is no evidence in the record of any past termination for non-payment.

## **Massachusetts Health Connector Appeals Unit**

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

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

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

Cc: Connector Appeals Unit

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# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Eligibility to purchase Health Insurance Coverage through the Health Connector.

**Hearing Date:** June 16, 2017

**Decision Date:** June 28, 2017

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### **AUTHORITY**

This hearing was conducted pursuant to Section 1411 of the Patient Protection and Affordable Care Act (the “ACA”), 42 U.S.C. § 18081, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 45 C.F.R. § 155.500 *et seq.*, the 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.*, 45 C.F.R. § 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02., 801 Mass. Code Regs. 1.02., and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15, 956 Mass. Code Regs. 12.15.

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

The Health Connector notified Appellant in an “Eligibility Denial” letter dated May 25, 2017 that Appellant does not qualify for health insurance coverage through the Health Connector because Appellant has access to Medicare or is enrolled in Medicare.

### **ISSUE**

The issue presented by Appellants’ request for hearing on the Health Connector’s May 25, 2017 eligibility determination is whether the Health Connector correctly determined that Appellant is not eligible for health insurance coverage through the Health Connector in 2017 because of Appellant’s entitlement to Medicare.

### **HEARING RECORD**

A hearing was conducted by telephone on June 16, 2017 at which time Appellant appeared and testified. The hearing record consists of the testimony heard from Appellant and the following documents which were admitted into evidence without objection at the hearing:

## Massachusetts Health Connector Appeals Unit

Exhibit 1: Print-out of the Summary and Results pages from Appellant's May 25, 2017 application for subsidized 2017 health insurance coverage with print-out dated June 7, 2017 from the Health Connector's "AVV" tool showing public insurance information from the application database for Appellant;

Exhibit 2: Print-out of the Summary and Results pages from Appellant's June 12, 2017 amended application for subsidized 2017 health insurance coverage

Exhibit 3: Health Connector's Eligibility Denial letter dated May 25, 2017;

Exhibit 4: Appellant's Hearing Request dated June 3, 2017;

Exhibit 5: Health Connector Appeals Data form dated June 9, 2017 documenting Appellant's request for expedited hearing;

Exhibit 6: Health Connector letter dated June 8, 2017 acknowledging Appellant's hearing request;

Exhibit 7: Health Connector letter information letter dated June 8, 2017;

Exhibit 8: Notice of Hearing dated June 9, 2017;

Exhibit 9: Affidavit from Health Connector Keeper of Records;

Exhibit 10: Health Connector Eligibility Approval letter dated June 9, 2017; and

Exhibit 11: Health Connector Special Enrollment Period Decision letter dated June 12, 2017.

### FINDINGS OF FACT

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

1. Appellant is an adult resident of Massachusetts. Testimony; Exhibits 1-2.
2. Appellant is currently receiving Social Security disability benefits due to illness. Testimony; Exhibit 1.
3. Appellant has been informed by Social Security that eligibility for Medicare will not begin until February 2019. Testimony
4. Appellant filed an application for health insurance coverage with the Health Connector on May 25, 2017. Exhibit 1. In this application, Appellant mistakenly responded affirmatively to a question which asks applicants whether they are enrolled in Medicare or are qualified for a Medicare Part A plan. *Id.* at 4.
5. In processing Appellant's application, the Health Connector was provided with information by the Federal Government indicating that Appellant is not eligible for Medicare. Exhibit 1 at 5.

## Massachusetts Health Connector Appeals Unit

6. The Health Connector issued an “Eligibility Denial” letter dated May 25, 2017 stating that Appellant does not qualify for health insurance coverage through the Health Connector because Appellant has access to Medicare or is enrolled in Medicare. Exhibit 3.
7. Appellant requested an expedited hearing to appeal the Health Connector’s eligibility denial determination for 2017. Exhibits 4 and 5; Testimony.
8. The Health Connector’s Appeals Unit provided outreach assistance to Appellant in an effort to resolve the eligibility denial issue. Testimony; Exhibit 5.
9. Appellant thereafter filed an amended application on June 12, 2017. Exhibit 2. In this application, Appellant correctly indicated no access to or enrollment in Medicare. *Id.* at 6.
10. Based on the amended application, the Health Connector issued an Eligibility Approval letter dated June 11, 2017, stating that Appellant is qualified for Health Connector plans with a first available start date of July 1, 2017.<sup>1</sup> Exhibit 10.
11. The Health Connector also issued a Special Enrollment Period Decision letter dated June 12, 2017 which states that Appellant is granted a special enrollment period until July 31, 2017 to choose a new or different health insurance plan. Exhibit 11.

### ANALYSIS AND CONCLUSIONS OF LAW

Congress enacted the ACA in 2010 “to increase the number of Americans covered by health insurance and decrease the cost of health care.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 132 S.Ct. 2566, 2580 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans (“QHPs”). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans.

The Health Connector’s authority to sell or issue QHP coverage is governed by Federal law including section 1882(d)(3)(A)(i) of the Social Security Act which prohibits the sale of duplicative coverage to individuals who are entitled to Medicare Part A benefits or enrolled in Part B. 42 U.S.C. § 1395ss(d)(3)(A)(i).<sup>2</sup> When Appellant initially applied for health insurance coverage on May 25, 2017, the application indicated that Appellant was enrolled in or entitled to Part A benefits. Exhibit 1 at 4. While Federal data sources did not indicate Medicare eligibility for Appellant, the positive response to the Medicare question in the application triggered a denial determination that Appellant is not eligible for Health Connector plans. Based on the information in the application, this was a

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<sup>1</sup> The discrepancy between the date of the application (June 12, 2017) and the date of the approval letter (June 11, 2017) is not explained in the record.

<sup>2</sup> Section 1882(d)(3)(A)(i) in pertinent part states that it is “unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title (including an individual electing a Medicare+Choice plan under section 1851) — (I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,” 42 U.S.C. § 1395ss(d)(3)(A)(i).

## Massachusetts Health Connector Appeals Unit

correct determination. Once the application was corrected to reflect no Medicare enrollment or eligibility, the Health Connector determined that Appellant is qualified to purchase a Health Connector plan, and it granted Appellant a special enrollment period to July 31, 2017 to choose a new or different plan. Exhibits 10 and 11. Accordingly, the appeal is denied as the record shows no error in the Health Connector's determinations.

### ORDER

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector's May 25, 2017 eligibility denial is **AFFIRMED** as correct under the ACA.

### 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 decision.

Cc: Connector Appeals Unit

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# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Denied

**Hearing Issue:** Eligibility for subsidized insurance

**Hearing Date:** December 6, 2016

**Decision Date:** May 31, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

The Appellant submitted an application for subsidized health insurance on October 1, 2016. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies.

### **ISSUE**

Whether the Health Connector correctly determined that the Appellant was not eligible for subsidized insurance coverage.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 6, 2016. The record was left open on May 5, 2017, for the Health Connector to submit the Appellant's full enrollment record. The Connector submitted the Appellant's full enrollment record on May 11, 2017, 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: Affidavit

## Massachusetts Health Connector Appeals Unit

Exhibit 2:	10/17/16 Eligibility Approval Notice (12 pages)
Exhibit 3:	11/8/16 Appeal (3 pages)
Exhibit 4:	11/8/16 Acknowledgment of Appeal (4 pages)
Exhibit 5:	11/8/16 2017 Eligibility Results (2 pages)
Exhibit 6:	11/8/16 2017 Application Summary (4 pages)
Exhibit 7:	2016 Eligibility Results (3 pages)
Exhibit 8:	2016 Application Summary (4 pages)
Exhibit 9:	11/16/16 Hearing Notice (4 pages)
Exhibit 10:	Application and Eligibility History (2 pages)
Exhibit 11:	1/28/16 Letter from Connector w/Form 1095-A for filing 2015 taxes (4 pages)

### FINDINGS OF FACT

The record shows, and I so find:

1. On October 1, 2016, the Appellant submitted an application to the Health Connector for 2017 coverage for himself, his wife, and their very young child. The application showed the verified FPL of the Appellant's household to be 0.0%. (Exhibit 5)
2. On October 17, 2016, the Health Connector issued to the Appellant a Notice of Eligibility Approval for 2017 health insurance coverage, stating that he was eligible for Health Connector Plans, starting January 1, 2017, and that he did not qualify for help paying for his coverage through a tax credit or ConnectorCare plan because of any of three listed reasons: annual income too high; access to health insurance through another source; and, not filing a tax return. The notice further stated that the Appellant's wife and child were eligible for MassHealth Standard. (Exhibit 2)
3. On November 8, 2016, the Appellant appealed the Connector's 10/17/16 determination, circling "Premium Waiver/Reduction" as the reason for his appeal, and stating, "I do not make enough to pay any premium," as further explanation. (Exhibit 3; Appellant's testimony)
4. The Appellant had health insurance coverage through the Health Connector in all of 2015. The total monthly premium for his coverage was \$255.93 of which \$225 was paid with his Advance Premium Tax Credit (APTC) and the remainder through the Appellant's state subsidy. (Exhibit 10)
5. By letter dated January 28, 2016, the Health Connector provided the Appellant with his Form 1095-A, Health Insurance Marketplace Statement, for 2015. The letter informed the Appellant that he must file a federal income tax return for 2015, if he had received an APTC in 2015, and that he would not get help paying for health insurance in the future if he failed to file a tax return for 2015. (Exhibit 11)
6. In April 2016, the Appellant got a part-time job at a retail chain, after being unemployed. The Appellant's gross wages from this job through 10/23/16 were \$6,799.15. The Appellant's wife started a part-time job recently, after being unemployed. (Appellant's testimony; Exhibit 3)
7. On August 4, 2016, the Appellant submitted an application to the Health Connector for coverage in 2016 for his family. Preliminarily, based on his household's FPL of 0.0%, the Health Connector approved the Appellant for ConnectorCare Plan Type 1 with an APTC of \$256, beginning September 1, 2016. After the Appellant provided additional information, however, the Connector determined that he did not qualify for a Special Enrollment Period at that time and would have to wait until Open Enrollment for 2017 coverage. (Exhibit 7)

## Massachusetts Health Connector Appeals Unit

8. The Appellant does not recall whether or not he filed a tax return for 2015. The Appellant intends to file a tax return for 2016. (Appellant testimony)

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant makes less than \$1,000/monthly at his part-time job, and because he had been eligible for subsidies in 2016 and his income had not changed significantly. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On October 17, 2016, the Appellant was determined eligible for Health Connector plans without subsidies. In 2015, the Appellant was eligible for ConnectorCare, and received an APTC and a state subsidy that covered his premium for coverage. However, while the Appellant could not recall whether or not he had filed a tax return for 2015, the Appellant offered no evidence that he had filed a 2015 return and it appears that the Appellant may not have been otherwise required to file an income tax return in 2015 due to his limited income that year. Therefore, I conclude that the Appellant did not file a 2015 federal tax return. Because the Appellant did not file a 2015 return or reconcile receipt of his APTC for 2015, the Appellant was not eligible to receive an APTC in 2017. 45 CFR § 155.305(f)(4). As a result, the Appellant also did not qualify for any state subsidy through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant should comply with the requirement to reconcile receipt of 2015 premium tax credits by filing a 2015 federal income tax return, including Form 8962. The Appellant will need to use Form 1095A in order to complete Form 8962. If the Appellant does not have their Form 1095A, and because the Appellant received APTC in 2015 through the Health Connector, the Appellant should contact the Health Connector's customer service center to request a duplicate 1095A form. Once the Appellant complies with the requirement to reconcile 2015 APTC, the Appellant can report a change to their 2017 application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2016 federal income tax return with Form 8962, and reconciling any APTC received in 2016.

Therefore, the Health Connector correctly determined on October 17, 2016, that the Appellant was not eligible for APTC or ConnectorCare in 2017, but was only eligible for an unsubsidized Health Connector Plan, under 26 IRC § 36B and 45 CFR § 155.305(f), and 956 CMR § 12.04.

### ORDER

The appeal is denied.

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

## Massachusetts Health Connector Appeals Unit

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** ACA17-6537

**Hearing Issue:** Appellant's eligibility for subsidized insurance based on eligibility and enrollment in Medicare.

**Hearing Date:** January 27, 2017

**Decision Date:** June 19, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On November 16, 2016, the Appellant was determined not to qualify for health insurance coverage through the Massachusetts Health Connector. The reason the Appellant was deemed not to qualify is because the Appellant stated that Appellant was enrolled in Medicare.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant did not qualify for health insurance coverage through the Massachusetts Health Connector, based on the Appellant's enrollment in Medicare.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 27, 2017.

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

Exhibit 1: Health Connector Notice of Eligibility Denial dated November 16, 2016

Exhibit 2: Computer Printout of Application 2017

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Exhibit 3: Computer Printout of Eligibility Results 2016

Exhibit 4: Computer Printout of Application Summary 2016

Exhibit 5: Computer Printout of Eligibility Results 2017

Exhibit 6: Computer Printout of Application Summary 2017

Exhibit 7: Computer Printout of AVV Notes

Exhibit 8: Hearing Request Form dated December 3, 2016 and attached documents

Exhibit 9: Hearing Notice dated January 7, 2017

Exhibit 10: Affidavit of Record

(The record was left open until February 10, 2017 for the Appellant to submit additional documentation which was received and marked as Exhibit 11.)

Exhibit 11: MA 1099-HC for 2016 and additional identification documents of Appellant

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined to be not qualified for health insurance through the Health Connector on November 16, 2016. (Exhibit 1)
2. The Appellant was found to not qualify for health insurance through the Health Connector because Appellant stated on the application that Appellant was enrolled in Medicare. (Exhibit 1, Exhibit 2)
3. The Appellant testified that he is not enrolled in Medicare and that he made a mistake when he completed his Application online. (Testimony of Appellant)
4. The Appellant testified that his employer offers employer sponsored health insurance. (Testimony of Appellant)
5. The Appellant testified that he is currently working but that he plans to leave his job in July to attend school. (Testimony of Appellant)
6. The Appellant was enrolled in employer sponsored health insurance for 12 months in 2016. (Exhibit 11)

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on the appeal request that the appeal was based on income; however, the Appellant was found to not qualify for health insurance through the Health Connector due to his stated enrollment in Medicare.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC is that the applicant must not have access to other qualifying health insurance, including health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2016 if the

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employee's required contribution for self-only coverage is 9.66 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60%.

The Appellant attested on his application that he was enrolled in Medicare. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination. The Appellant's appeal is therefore denied.

The Appellant testified at hearing to making a mistake about enrollment in Medicare when he filed his application with the Health Connector. The Appellant therefore should update his application with the Health Connector so that his application is correct. Additionally, the Appellant testified at the hearing that he has access to employer sponsored insurance, but that he was going to leave work in July to attend school. The Appellant should update his information and make any changes to his income and access to employer sponsored health insurance.

### **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

# **CONNECTOR APPEALS UNIT**

## **FINAL APPEAL DECISION**

**Appeal Decision:** Denied

**Hearing Issue:** Appeal of eligibility for subsidized insurance based on tax filing status

**Hearing Date:** February 15, 2017

**Decision Date:** May 9, 2017

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the 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**

By notice dated December 29, 2016, the appellant was advised that she qualified for Health Connector Plans without subsidies with eligibility beginning on February 1, 2017. She was further advised that she did not qualify for help with her coverage for “any” of the following reasons: annual income is too high; access to health insurance through another source that meets the Federal “minimum essential coverage” standards; or not an applicable tax filer. (Ex. 1) She filed a Hearing Request Form dated January 6, 2017 (Ex. 3) in which she stated in part that her husband had been deleted from the “policy”. The matter was referred to a hearing after receipt of the appeal. (Ex. 14)

# **CONNECTOR APPEALS UNIT**

## **ISSUE**

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on December 29, 2016, 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 February 15, 2017, 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 Notice of Eligibility Determination dated December 29, 2016
- Ex. 2—Health Connector Notice of Eligibility Determination for appellant's husband dated December 29, 2016
- Ex. 3—Hearing Request Form dated January 6, 2017
- Ex. 4—Acknowledgment of Appeal dated January 10, 2017
- Ex. 5—Appeals Unit outreach notes dated January 10, 2017
- Ex. 6—Computer printout of Health Connector's Review of Application
- Ex. 7—Computer printout of Health Connector's Eligibility Determination Results
- Ex. 8—Computer printout of Health Connector's "AVV" tool showing information from the application database for the appellant
- Ex. 9—2017 Enrollment History
- Ex. 10—MassHealth member information
- Ex. 11—History of Health Connector prior eligibility determinations
- Ex. 12—Health Connector customer service call notes
- Ex. 13—Letter from Appeals Unit dated January 17, 2017
- Ex. 14—Notice of Hearing
- Ex. 15—Affidavit of Connector representative

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 65-years-old and is married. Her husband is 61-years-old. <sup>1</sup>  
(Testimony)

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<sup>1</sup> The appellant is only appealing the Health Connector's eligibility determination for herself and not her husband.

## **CONNECTOR APPEALS UNIT**

2. The appellant moved to the United States from Morocco in February, 2016, and has permanent resident status. (Testimony, Exs. 6, 11)
3. The appellant and her husband submitted an application for health insurance to the Health Connector in July, 2016. They were determined eligible for ConnectorCare Plan Type 3A with an Advanced Premium Tax Credit (APTC) of \$639.00, effective September 1, 2016. They enrolled in a plan for the remainder of 2016 for which they paid a monthly premium of approximately \$256.00. (Testimony, Ex. 11)
4. The appellant's husband moved to Florida in October, 2016, and has been working there since that time. The appellant lives with her daughter in Massachusetts and is supported entirely by the daughter's family. (Testimony)
5. By notice dated December 29, 2016, the appellant was determined to be eligible for Health Connector Plans beginning on February 1, 2017. She was notified that she did not qualify for help with her coverage for "any" of the following reasons: annual income is too high; access to health insurance through another source that meets the Federal "minimum essential coverage" standards; or not an applicable tax filer.<sup>2</sup> (Testimony, Exs. 1, 7)
6. On her application, the appellant did not include her husband, stated that she is a tax filer, and attested that she had filed and reconciled all past APTCs. (Testimony, Ex. 6)
7. The appellant intends to file a joint tax return for 2016. (Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an APTC if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if a) their household income does not exceed 300 percent of the FPL and b) they are eligible for an APTC. 956 CMR 12.09(1). In addition to the income requirements, married persons seeking an APTC must attest that they will file a joint tax return in order to claim the APTC, even if only one spouse is seeking coverage. 26 CFR section 1.36B-2T(b)(2)(i). Exceptions to the joint filing requirement for married persons are recognized for cases of domestic abuse or spousal abandonment, neither of which is claimed in this case. 26 C.F.R. section 1.36B-2T(b)(ii). A third exception applies to married persons who are not considered

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<sup>2</sup> Unfortunately, the exact basis of the Connector's 2017 eligibility determination is not set out in the December 29, 2016 letter and can only be gleaned by eliminating other possible grounds for disqualification.

## **CONNECTOR APPEALS UNIT**

married for tax purposes because they are living apart and meet the requirements for filing separately as a head of household. 26 U.S.C.section 7703(b); 26 C.F.R.sections 12-2(b), 1.7703-1 and 1.36B-4T(b)(5). Married taxpayers may be considered “unmarried”, and therefore eligible for head of household status, so long as the taxpayer, among other requirements, has not lived with the taxpayer’s spouse during the last six months of the tax year. An applicant seeking an APTC by claiming head of household status must attest that s/he will file 2016 taxes as head of household.

The appellant did not include her husband on her application for 2017 insurance and stated that she is a tax filer. That representation conflicts with her testimony that she is married and intends to file a joint tax return in 2016. Moreover, the appellant’s testimony that her husband moved to Florida in October, 2016, would preclude her from filing as an “unmarried” head of household since the evidence she offered established that she lived with him for the last nine months of 2016.

The Health Connector correctly determined that the appellant was eligible for unsubsidized Health Connector Plans in 2017 because she represented that she is married and intends to file taxes separately. Accordingly, the determination was correct at the time of the application, 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 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.

# **CONNECTOR APPEALS UNIT**

Cc: Connector Appeals Unit

## **ADDENDUM**

The Health Connector cannot provide tax advice. If the appellant is considering a change to her tax filing status, she is encouraged to seek professional tax advice or get assistance from the Internal Revenue Service at a Taxpayer Assistance Center (TAC).