

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-3550

Appeal Decision Appeal Allowed. Appellant was not given sufficient notice of Appellant's new eligibility for ConnectorCare Plan to begin on November 1, 2017. Therefore, the Connector is ordered to enroll the Appellant in ConnectorCare Plan 2B for November, 2017.

Hearing Issue: Whether the Connector gave Appellant sufficient notice of Appellant's new eligibility for ConnectorCare, for implementation to occur beginning on November 1, 2017

Hearing Date: April 30, 2019

Decision Date: May 31, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 19, 2017, Appellant was sent an Eligibility Approval letter for coverage for a ConnectorCare Plan for 2018.

ISSUE

Whether the Connector gave Appellant sufficient notice of Appellant's new eligibility for ConnectorCare, for implementation to occur beginning on November 1, 2017

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 30, 2018. Exhibits were entered into evidence and Appellant testified. At the end of the hearing, the record was left open so that the Health Connector could provide additional documents. The Health Connector did provide the additional documents, which have been entered into evidence.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Correspondence from Appeals Unit of Health Connector
- Exhibit 3: Hearing Request Form and support documents dated January 9, 2018
- Exhibit 4: Notices on Appeal
- Exhibit 5: Updated Eligibility Results
- Exhibit 6: Eligibility letter of September 19, 2017

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had been covered by MassHealth for several years (Testimony of Appellant).
2. In September 2017, Appellant was notified by MassHealth that Appellant was no longer eligible for MassHealth due to income (Testimony of Appellant).
3. On September 19, 2017, the Health Connector sent Appellant a Notice entitled Eligibility Approval, notifying Appellant of eligibility for a ConnectorCare Plan Type 2A with Advance Premium Tax Credit for 2018 (Exhibit 6).
4. The Eligibility Approval letter of September 19, 2017, did not instruct Appellant to enroll in a plan. The letter told Appellant that Appellant would stay enrolled in the current coverage through the end of 2017, even though Appellant was not enrolled in a Health Connector Plan at the time. The letter also told Appellant that Appellant needed a qualifying event to enroll since it was not currently Open Enrollment time for the Health Connector (Exhibit 6)
5. Also on September 19, 2017, Appellant was sent a Request for Information from the Health Connector, requesting proof of income and proof of residency with a due date of December 18, 2017 (Exhibit 4).
6. In early October, 2017, Appellant sent in a copy of Appellant's 2016 income tax return for proof of income and a copy of Appellant's electric bill for proof of residency. Appellant sent the documents in the same envelope (Testimony of Appellant).
7. On November 9, 2017, Appellant received a letter dated October 30, 2017, notifying Appellant that Appellant was eligible for a ConnectorCare Plan Type 2B with eligibility to begin on January 1, 2018. The letter instructed Appellant to enroll in a plan and Appellant enrolled in a plan. (Testimony of Appellant and Exhibit 4).
8. In November, 2017 and December 2017, Appellant again mailed and faxed the electric bill for proof of residency (Testimony of Appellant).
9. Appellant had many conversations with representatives at the Health Connector and was eventually enrolled in a ConnectorCare Plan 2B from December 2017 through the time of the hearing. Appellant made all payments required (Testimony of Appellant).
10. Appellant was not permitted to enroll for coverage for November 2017 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant had been covered by MassHealth for several years. In September 2017, Appellant was notified that Appellant was no longer eligible for MassHealth. On September 19, 2017, Appellant was sent a notice from the Health Connector entitled Eligibility Approval and a separate letter entitled Request for Information, which required information be submitted on or before December 18, 2017. Since Appellant's MassHealth coverage was ending on November 1, 2017, the September 19, 2017 Eligibility Determination was the first time that Appellant was determined newly eligible for a ConnectorCare plan. However, the letter did not contain instructions as to how to enroll in a plan for November 1, 2017. The letter also told Appellant that Appellant would stay enrolled in the current coverage through the end of 2017, even though Appellant was not enrolled in a Health Connector plan. Appellant was only provided information concerning 2018 coverage, and was not provided with information concerning eligibility beginning on November 2017. Following the September 19, 2017 letter, Appellant made many phone calls and attempted to provide the documents that were requested. Although the Health Connector has now enrolled Appellant in coverage beginning on December 1, 2017, Appellant was denied coverage for November 2017. See Exhibits 3, 4, 5 and 6 and Testimony of Appellant, which I find to be credible.

The Eligibility approval dated September 19, 2017 did not meet the general standards for Exchange notices as it did not provide an explanation of the action reflected in the notice, including the correct effective date of the action. Appellant should have been initially eligible for Health Connector plans beginning on November 1, 2017, subsequent to the termination of MassHealth on October 31, 2017. Appellant was not sent correct notice of the initial eligibility determination made by the Health Connector for coverage beginning on November 1, 2017. See 45 CFR 155.230 (a) and 45 CFR 155.310(g).

ORDER

The appeal is allowed. Appellant was not given sufficient notice regarding eligibility and procedures to enroll for November 2017. The Connector's decision to deny Appellant coverage for November 2017 is reversed. The Connector should enroll Appellant in ConnectorCare Plan2B for the month of November 2017.

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-43897

Appeal Decision: Appeal Allowed

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: April 30, 2018

Decision Date: June 4, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on January 4, 2018. The Health Connector determined the Appellant to be eligible for Health Connector plans.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans without a subsidy.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 30, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (5 pages, dated April 3, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (4 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (2 pages)
- Exhibit 5: Appellant's appeal request form (13 pages dated February 10, 2018)
- Exhibit 6: Notice of Eligibility Determination (4 pages, dated January 4, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated January 3, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (4 pages, dated January 3, 2018)
- Exhibit 8: Health Connector Historical Notices and Printouts (16 pages)
- Exhibit 9: Prior Appeal Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 56 year old unmarried female, who applied for subsidized health insurance on March 24, 2018. (Exhibit 6)
2. The Appellant has a household of one. (Exhibit 7, Exhibit 8)
3. On her application, the Appellant entered a projected annual modified adjusted gross income of (MAGI) of \$34,095.34. (Exhibit 5)
4. The Health Connector incorrectly processed Appellant's income as \$36,399.31. (Exhibit 7)
5. The Health Connector found, based on this incorrect projected income and household size, that the Appellant projected MAGI would place her at 301.82% of the 2018 Federal Poverty Level (FPL). An individual at that income level would not be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL. (Exhibit 7)
6. Appellants correct income and her projected income (MAGI) would place her at 262.84%. However, the Health Connector did not process these changes to her income until February 8, 2018, which resulted in Appellant being eligible for ConnectorCare Plan type 3B. Appellant was charged the premium for Health Connector plans during the month of February 2018.

ANALYSIS AND CONCLUSIONS OF LAW

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

On her application, the Appellants stated that her projected MAGI was \$34,095.34, which for a household of one, puts the Appellant at approximately 262.84% of the 2018 Federal Poverty Level. However, the Health Connector incorrectly processed the Appellant's income at \$36,399.31. This means that the Appellant's household was less than the 300% limit for eligibility for subsidies, and therefore the Health Connector incorrectly found the Appellant eligible for Health Connector plans and not for ConnectorCare.

The Health Connector correctly processed the Appellant's income on February 8, 2018 and their projected income (MAGI) would place her at 262.84% of the Federal Poverty Level. However, the Health Connector did not process these changes to their income until February 8, 2018, which resulted in Appellant being eligible for ConnectorCare Plan type 3B. Appellant was charged the premium for Health Connector plans during the months of February 2018.

ORDER

Based on the foregoing findings and conclusions, the appeal is **ALLOWED**, and the Health Connector is ordered to re-determine the Appellants income based on the documents provided to the Health Connector on January 3, 2018. Please report any changes in your income to the Health Connector.

NOTIFICATION OF YOUR RIGHT 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 the 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.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4493

Appeal Decision: Appeal allowed because The Health Connector erred in terminating Appellant's health insurance coverage for failure to timely respond to a defective request for proof of eligibility which did not provide Appellant with correct information as to when such proof was due.

Hearing Issue: Whether the Health Connector correctly terminated Appellant's health insurance coverage in 2018 for failure to timely submit acceptable proof of eligibility.

Hearing Date: May 8, 2018

Decision Date: June 7, 2018

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act (the "ACA" or "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 3, 2018, the Health Connector notified Appellant that Appellant's 2018 health insurance coverage would end on February 28, 2018 because the Health Connector had not received information that it requested from Appellant to verify eligibility.

ISSUES

Whether the Health Connector correctly terminated Appellant's health insurance coverage for failure to timely submit acceptable proof of eligibility.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 8, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Request for Information letter dated October 13, 2017;

Exhibit 2: Print-out of the Summary and Results pages from Appellant's October 13, 2017 application for health insurance coverage;

Exhibit 3: Health Connector Enrollment Data for Appellant dated December 9, 2017;

Exhibit 4: Health Connector Eligibility Termination letter dated February 3, 2018;

Exhibit 5: Health Connector Eligibility Approval letter dated February 13, 2018;

Exhibit 6: Appellant's proof of citizenship and residency faxed to Health Connector on February 12, 2018;

Exhibit 7: Health Connector Enrollment Data for Appellant dated March 30, 2018;

Exhibit 8: Appellant's March 20, 2018 request for hearing on the Health Connector's February 3, 2018 eligibility termination notice;

Exhibit 9: Health Connector hearing request acknowledgment letter dated April 6, 2018;

Exhibit 10: Notice of Hearing dated April 18, 2018;

Exhibit 11: Appeals Data form and outreach emails; and

Exhibit 12: 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 an adult resident of Massachusetts and a U.S. citizen. Testimony; Exhibit 6.
2. Appellant applied for 2018 health insurance coverage on October 13, 2013 at which time Appellant was determined to be qualified to enroll in a Health Connector Plan effective January 1, 2018. Exhibit 2.
3. On October 13, 2017, the Health Connector sent Appellant a letter requesting proof of U.S. citizenship and Massachusetts residency by "August 28, 2017." Exhibit 1. The letter warned that failure to submit the requested proof by the due date could result in a loss of health insurance coverage. *Id.*
4. Appellant was confused by the October 13, 2017 request for information and did not respond because Appellant had not then enrolled. Testimony.
5. On December 9, 2017, Appellant enrolled in a Health Connector Plan with a health and dental coverage effective date of January 1, 2018. Exhibit 3.

6. On February 3, 2018, the Health Connector notified Appellant that because it had not received the requested eligibility verification information, Appellant's eligibility for coverage would end on February 28, 2018. Exhibit 4.
7. On February 12, 2018 Appellant faxed proof of citizenship (U.S. Passport) and residence (Massachusetts lease) to the Health Connector. Exhibit 6.
8. The Health Connector verified Appellant's proof of citizenship and residency, and issued an Eligibility Approval letter on February 13, 2018. Exhibits 5 and 7.
9. Appellant's health and dental coverage was canceled by the Health Connector effective February 28, 2018. Exhibit 7 at 2.
10. On March 30, 2018, Appellant reenrolled in a Health Connector plan with an effective date of May 1, 2018. Testimony; Exhibit 7 at 1.
11. Appellant had no health insurance coverage during March and April of 2018. Testimony.

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*, 567 U.S. 519, 538 (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 Health Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans. 45 C.F.R. § 155.305(a).

When an individual submits an application for health insurance coverage, the Health Connector attempts to verify the applicant's eligibility pursuant to the federal regulations at 45 C.F.R. § 155.315(d) by checking electronic data sources to confirm the information provided by applicants, including the applicant's lawful presence and residency status. In cases where the Health Connector cannot verify an applicant's residency electronically, it requests verifying information from the applicant in accordance with 45 C.F.R. § 155.315(f). If the applicant does not provide the requested verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination which in this case was to notify Appellant that Appellant's coverage would terminate effective February 28, 2018 for failure to submit the requested proof of U.S. citizenship and Massachusetts residency needed to verify eligibility. Although Appellant submitted the requested proof on February 12, 2018, and although the Health Connector verified this information on February 13, 2018, Appellant's coverage was canceled effective February 28, 2018. Although Appellant was permitted to reenroll with a coverage effective date of May 1, 2018, Appellant had no health insurance coverage for the months of March and April.

Enrollees in Health Connector plans are responsible for timely responding to requests that they submit required proof of eligibility, and failure to timely submit requested eligibility information generally results in a loss of coverage. In this case, however, I find that the Health Connector's October 13, 2017 request for information

letter (Exhibit 1) was defective in that it contained a due date of August 28, 2017 which had already passed by the time the letter was mailed. Consequently, I find that the Health Connector failed to provide Appellant with adequate notice of when the requested information was due which vitiates the subsequent February 28, 2018 termination action under basic principles of due process and fundamental fairness. Because the Connector erred in terminating Appellant's coverage, Appellant will be granted an option to elect coverage retroactive to the date of termination in accordance with the NOTIFICATION OF YOUR RIGHT TO ELECT RETROACTIVE COVERAGE set forth below.

ORDER

Based on the foregoing findings and conclusions, the appeal is **ALLOWED**, and the Health Connector's action in terminating Appellant's health insurance coverage on February 28, 2018 is **VACATED**.

NOTIFICATION OF YOUR RIGHT 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.

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 18-4593

Appeal Decision: Appeal Denied
Hearing Issue: Eligibility for Connector Coverage
Hearing Date: 5/9/2018
Decision Date: 6/18/2018

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 Health Connector determined that the Appellant was eligible for health coverage through the Connector, and determined the level of the Appellant's financial contribution based on his attested income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the amount of money that the Appellant should pay for his health insurance coverage.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 5/9/2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of the Keeper of the Records
- Exhibit 2: Notice of Hearing
- Exhibit 3: Acknowledgment of Appeal
- Exhibit 4: Computer Printout (4/18/2018)
- Exhibit 5: Request for Hearing
- Exhibit 6: Eligibility Approval
- Exhibit 7: Eligibility Results

Exhibit 8. My Workspace/Integrated Worker Screen

FINDINGS OF FACT

The record shows, and I so find:

1. The Health Connector sent a notice dated February 8, 2018 to the Appellant, advising him that he must provide proof of his income by March 16, 2018, or his health insurance costs would increase. (Exhibits 6, 7).
2. The Appellant attested to receiving a monthly income of \$2,866.67, which the Connector projected to a \$34,400 annual income. (Exhibit 7)
3. On March 16, 2018, the Appellant was approved for a continuation of his health insurance, but the costs increased. (Testimony, Exhibits 6, 7).
4. The Appellant did not contact the Connector to re-attest to his income, and filed this appeal. (Testimony, Exhibit 5)
5. The Appellant testified that he is a seasonal employee and his reported weekly income should not have been applied to the entire year. Doing so inflated his apparent yearly income, resulting in health care coverage that was more costly to the Appellant than it should have been. (Testimony)
6. At the time of the hearing, the Appellant was out of work and obtaining health care coverage through MassHealth. (Testimony)
7. The Appellant seeks an adjustment for the cost of the Connector health insurance for the time prior to his enrollment in MassHealth. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The Connector correctly determined the cost of the Appellant's health care based on the Appellant's attestation of his monthly income at the time of his application. See, 45 CFR § 155.315(f).

ORDER

The Appellant's Appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: The Appellant was advised at hearing to immediately contact the Connector Customer Service to attest to his actual income during the time period from March 2018 up to the time he began to receive coverage through MassHealth. The telephone number is 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4611

Appeal Decision: Other

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

Hearing Date: May 9, 2018

Decision Date: June 19, 2018

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 22, 2018 the Appellant's Spouse was determined eligible for Health Connector Plans without subsidies effective March 1, 2018.

ISSUE

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

HEARING RECORD

The Appellant (representing their spouse) appeared at the hearing, which was held by telephone on May 9, 2018. After the Hearing concluded, the record was left open to allow the Health Connector to submit information regarding the basis for the February 22, 2018 determination as well as information regarding current eligibility for both household members. The Health Connector submitted the information, which was forwarded to the Appellant. The Appellant was given until June 13, 2018 to file a written response. The Appellant did not submit any additional information during the record open period. The hearing record consists of the testimony of the Appellant, the Witness, 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 with attachments dated April 18, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Internet Appeal Request submitted on March 28, 2018.
- Exhibit 5: Health Connector's Eligibility Approval notice with an application summary dated April 2, 2018.

- Exhibit 6: My Workspace printout of the income information submitted by the Appellants on March 30, 2018.
- Exhibit 7: Health Connector's Eligibility Approval notice with an application summary dated February 22, 2018.
- Exhibit 8: Health Connector's Eligibility Approval notice with an application summary dated March 28, 2018.
- Exhibit 9: Notes from Customer Service Interactions-SalesForce detailing telephone contact with the Appellants.
- Exhibit 10: Health Connector Appeals Unit Open Record form dated May 9, 2018.
- Exhibit 11: Additional information submitted by the Health Connector including the basis for the February 22, 2018 eligibility determination as well as current eligibility for both household members.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's family of two received federal and state health care subsidies in tax year 2017 (Exhibit 4 and Appellant Testimony).
2. The Appellant is age 64 and their Spouse is age 66. The Appellant Spouse is not eligible for Medicare (Exhibit 7 and Appellant Testimony).
3. On February 22, 2018. Based on a system generated redetermination the Appellant was determined eligible for Mass Health Care Plus and Appellant Spouse was found eligible for an unsubsidized Health Connector plan. The eligibility results indicated the Appellant Spouse had zero income and the Appellant had a negative income. Because the Appellant Spouse is over age 65, they were not eligible for the under 65 coverage offered by Mass Health and their income was too low to be eligible for subsidies through the Health Connector (Exhibits 7, 11).
4. On March 28, 2018 the Appellant appealed this determination (Exhibit 4).
5. On March 28, 2018 changes were made to the Appellants' application. Both household members were determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits. This determination was based on the Appellants reporting projected yearly income equal to 159.2% of the federal poverty level (Exhibit 8).
6. On March 30, 2018 the Appellants submitted tax year 2017 Form 1040 as proof of household income. The Appellants' adjusted gross income was reported to be \$61,086. The Appellant testified that this is the correct household income projected for tax year 2018 (Exhibit 6 and Appellant Testimony).
7. On April 2, 2018, based on the income information submitted on March 30, 2018, the Appellant remained eligible for MassHealth Care Plus and the Appellant Spouse was determined eligible for Health Connector Plans with Advance Premium Tax Credits. This determination was based on the Appellants' verifying income equivalent to 376.15% of the federal poverty level (Exhibit 5).
8. The Appellant's MassHealth eligibility ended effective April 30, 2018 (Exhibit 11).
9. On May 14, 2018, Appellant contacted Customer Service to review and update household income. The Appellants were determined eligible for Health Connector plans with Advance Premium Tax Credit of \$529.00. The Appellants have until July 8, 2018 to select a health plan (Exhibit 11).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant and their spouse received federal and state health care subsidies in tax year 2017. On February 22, 2018, based on a system generated redetermination, the Appellant remained eligible for MassHealth Care Plus, but their spouse was determined eligible for Health Connector plans without

subsidies. The systems generated application dated February 22, 2018 indicated that the Appellant Spouse, age 66, is not eligible for Medicare or Social Security. The income of the Appellant spouse was noted to be zero on this application.

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. ConnectorCare is a Massachusetts based program that provides subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, to be eligible for ConnectorCare an individual must be a resident of Massachusetts with a modified adjusted gross income of less than 300% of the federal poverty level. In addition, the individual must be eligible for the federal Advance Premium Tax Credit pursuant to 45 CFR § 155.305(f).

In order to be eligible for the Advance Premium Tax Credit, a tax filer must have expected household income greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. 45 CFR § 155.305(f)(1)(i). On February 22, 2018, the income of the Appellant Spouse was noted to be zero. Since the Spouse's projected income for 2018 was less than 100% of the federal poverty level, the Spouse was not eligible for Advance Premium Tax Credit.

The February 22, 2018 determination was incorrect. The Appellant spouse has income. Changes were made to the Appellants' application on March 28, 2018 indicating that the household of two had income equivalent to 152.29% of the federal poverty level. This determination was also incorrect.

On March 30, 2018 the Appellants submitted proof of their household income. The Appellants' tax year 2017 Form 1040 verified adjusted gross income of \$61,086. The Appellant testified at the hearing that this is the income expected to be received in tax year 2018. The Health Connector determined that this income is equivalent to 376.15% of the federal poverty level. Since the income is more than 300% but less than 400% of the federal poverty level, the household is eligible for Advance Premium Tax Credit only. The Appellant's Mass Health eligibility ended on April 30, 2018. The Appellant's Mass Health eligibility is not at issue for this appeal. 956 CMR 12.02.

On May 14, 2018, based on the projected income of \$61,086, the Appellant and their Spouse were correctly determined eligible for Health Connector Plans with Advance Premium Tax Credit of \$529.00 per month. Tax credit amounts are determined by various factors, including household income, the number of persons in the tax household and the cost of the second least-expensive Silver Plan available in the market area. 26 IRC § 36B (2).

ORDER

The Health Connector's May 14, 2018 eligibility determination is correct.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the

reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

ADDENDUM

The Appellants are reminded that they have until July 8, 2018 to select a health plan and enroll if they have not already done so.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4612

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for a Special Enrollment Period based on failure to verify a qualifying life event.

Hearing Date: May 9, 2018

Decision Date: June 11, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On March 23, 2018 the Appellant was determined eligible for ConnectorCare 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 May 9, 2018. A witness identified as an Application Counselor attended the Hearing with the Appellant. After the Hearing concluded, the record was left open to obtain a copy of the Appellant's Final Renewal Letter for 2018 eligibility. The Health Connector submitted the information, which was forwarded to the Appellant. The Appellant was given until June 6, 2018 to file a written response. The Appellant did not submit any additional information during the record open period. The hearing record consists of the testimony of the Appellant, the Witness, 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 April 18, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Internet Appeal Request submitted on March 28, 2018.
- Exhibit 5: Health Connector's 2018 Eligibility Results with an application summary dated March 23, 2018.

- Exhibit 6: Health Connector's Notice of Termination for Non-Payment dated February 9, 2018.
- Exhibit 7: Health Connector's Termination Warning Notice dated January 2, 2018.
- Exhibit 8: Health Connector's Past Due Warning Notice dated December 31, 2017.
- Exhibit 9: Health Connector Appeals Unit Open Record form dated May 9, 2018.
- Exhibit 10: Additional information submitted by the Health Connector including a copy of the Appellant's Final Renewal Notice dated November 1, 2017, an Eligibility Approval Notice dated October 26, 2017 and an Application Summary dated October 26, 2017.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's family of five received federal and state health care subsidies in tax year 2017 (Exhibit 10 and Appellant Testimony).
2. On October 26, 2017 the Appellant was determined eligible for Health Connector plans, without subsidies, after failing to verify their income. The Health Connector was unable to obtain this information from third party sources. The eligibility notice and application summary were mailed to the Appellant's address of record (Exhibit 10B).
3. On November 1, 2017 the Health Connector issued a Final Renewal Notice. The Appellant was advised that they were no longer eligible for state and federal subsidies to pay for their health coverage. The Appellant was informed that the new monthly premium would be \$1,272.44 and that the premium must be paid in full by December 23, 2017 for coverage beginning January 1, 2018. This notice was mailed to the Appellant's address of record (Exhibit 10A).
4. On December 31, 2017 the Health Connector issued a Past Due Warning Notice advising the Appellant that Health Connector had not received full payment of the most recent bill for the Appellant's chosen health insurance plan. The Appellant was advised that they must pay \$1,272.44 right away to avoid a gap in coverage. This notice was sent to the Appellant's address of record (Exhibit 8).
5. On January 2, 2018 the Health Connector issued a Termination Warning Notice. The Appellant was informed that the January and February premiums totaling \$2,544.88 must be paid by February 7, 2018 or their coverage would end retroactively to December 31, 2017. This notice was sent to the Appellant's address of record (Exhibit 7).
6. The Appellant updated and verified their income in January 2018 (Exhibits 3, 4; Appellant and Witness Testimony).
7. On February 9, 2018 the Health Connector issued a Termination for Non-Payment notice. The Appellant was informed that their coverage ended on January 31, 2018. The Appellant was advised that to reinstate their coverage, they must contact Customer Service and pay all past due premiums by March 11, 2018 (Exhibit 6).
8. All notices issued by the Health Connector contain the Customer Service contact information (Exhibits 5, 6, 7, 8, 10).
9. It is undisputed that the Appellant failed to pay the full past due premiums by March 11, 2018 (Exhibit 4; Appellant and Witness testimony).
10. On March 23, 2018 the Appellant updated their income. The Appellant was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits (Exhibit 5).
11. The Appellant's request for a Special Enrollment Period was denied for failing to document a qualifying life event (Exhibit 5; Testimony of Appellant and Witness).
12. The Appellant filed an appeal on March 28, 2018 (Exhibit 4).

13. The Appellant testified that they knew in November 2017 that they had to update and verify their income. The Appellant said that there was a line at the service center and they did not want to wait a long time to be seen. The Appellant said that they got the bill for \$1,272.44 but thought it was for a whole year. The Appellant said that they did not receive the Warning Notice. The Appellant said that they did receive the Termination notice but did not understand it because their primary language is Moldavia/Romanian (Exhibit 4; Appellant and Witness (Testimony)).
14. 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 October 26, in conjunction with the annual review process, the Appellant was determined eligible for Health Connector Plans without subsidies for failing to verify income. This determination was effective January 1, 2018.

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 § 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).

It is undisputed that verification of the Appellant's income was not submitted to the Health Connector prior to November 1, 2018 when the Final Renewal Notice was issued. On October 26, 2018, because the Appellant's income had not been verified, the Health Connector reverted to electronic data sources, but no data was available. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). The Appellant was found eligible for Health Connector plans, without subsidy, and is the correct determination for a person whose household income cannot be determined. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

On November 1, 2018 the Appellant was determined eligible for Health Connector Plans without subsidies. An approval notice was sent to the Appellant at her address of record. The notice informed the Appellant that they must pay the monthly premium of \$1,272.44 for their chosen health plan each month. For coverage to be effective January 1, 2018 the appellant was required to pay the full premium by December 23, 2017. This timeline is consistent with Health Connector Policy NG-6B. It is undisputed that the Appellant did not pay the full monthly premium as required. On December 31, 2017 the Health Connector issued a Past Due Warning Notice. On January 2, 2018 the Appellant was issued a Termination Warning. The Appellant was informed that the total premiums of \$2,544.88 for January and February must be paid in full by February 7, 2018 to avoid termination of their health coverage. The full amount was not paid and on February 9, 2018 the Appellant was notified that their coverage was terminated effective January 31, 2018. The Appellant was advised that to reinstate their insurance they must contact Customer Service and pay all past due premiums by March 11, 2018. The Appellant did update their income information in January 2018, but the Appellant did not pay their past due premiums in full by March 11, 2018.

On March 23, 2018, the Appellant updated their Application. The Appellant was determined eligible for ConnectorCare coverage with Advance Premium Tax credits, but the Appellant's request to enroll in a plan was denied because the Appellant failed to verify a qualifying life event. The Appellant disputes the denial.

The Appellant acknowledges that they were aware in November 2017 that they were required to update their income. The Appellant explained that they went to a Service Center for this purpose but there was a long line of people and the Appellant did not wish to wait. The Appellant argues that they did not receive the Warning notice and did not understand the termination notice issued on February 9, 2018 since English is their second language.

The Health Connector issued multiple notices to the Appellant during the period of October 26, 2017 through February 9, 2018 advising the Appellant of the steps needed to ensure that their health coverage would be continued. All notices contain the Customer Service contact information. The Appellant and their Advocate argue that the Appellant was willing to pay the back premiums but were told that because the Appellant did not do this by March 11, 2018, their insurance would not be reinstated. This decision is consistent with Health Connector Policy NG-6B which requires that reinstatement activities, including payment of past due premiums, be completed within 30 days (plus five additional days to account for mailing of the notice) from the date of the Termination notice.

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

This Appeal is Denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant may contact the Office of Patient Protection at 800-436-7757 to request further assistance to obtain health insurance coverage.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4642

Appeal Decision: Appeal Denied
Hearing Issue: Open Enrollment
Hearing Date: 5/9/2018
Decision Date: 6/18/2018

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 Health Connector did not permit the Appellant to enroll in health insurance outside of the open enrollment period.

ISSUE

Whether the Health Connector correctly determined that the Appellant was not eligible to obtain health insurance outside of the open enrollment period.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 5/9/2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of the Keeper of the Records
- Exhibit 2: Notice of Hearing
- Exhibit 3: Health Connector Notation of Contact with Appellant
- Exhibit 4: Hearing Request Form
- Exhibit 5: Eligibility Denial

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant had previously had health insurance through an employer that went out of business in June 2017. (Testimony)
2. The Appellant believed that she could apply for health insurance coverage through the Connector at any time, since she was not requesting a subsidy. (Testimony)
3. The Appellant applied for Health Care coverage through the Connector in March 2018, more than 60 days after losing health insurance in June 2017. (Exhibit 4)
4. The Health Connector issued an Eligibility Denial to the Appellant, stating that she could not enroll outside of the open enrollment period and that she had not demonstrated that she experienced a qualifying event that would entitle her to a Special Enrollment Period (Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant lost her health care coverage in June 2017. That is an event that qualifies an applicant for a 60-day Special Enrollment Period. Unfortunately, the Appellant neglected to seek enrollment during that time. A person may apply for health care coverage through the Connector outside of open enrollment only if the person experiences a qualifying event within 60 days of application for services. 956 CMR 12.10(5)(a) through (e).

Accordingly, the Appellant's application was appropriately denied.

ORDER

The Appellant's Appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM: The Appellant was advised to contact the Health Policy Commission's Office of Patient Protection to apply for an open enrollment waiver. Details about the waiver process can be found at mass.gov/hpc/opp.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4667

Appeal Decision: Appeal Denied
Hearing Issue: Eligibility for Connector Coverage
Hearing Date: 5/9/2018
Decision Date: 6/1/2018

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 Health Connector determined that the Appellant was not eligible for a Health Connector Plan.

ISSUE

Pursuant to 45 CFR 155.305, whether the Health Connector correctly determined that the Appellant was a Medicare member and therefore ineligible to obtain a health care plan through the Connector.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 5/9/2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of the Keeper of the Records
- Exhibit 2: Notice of Hearing
- Exhibit 3: Connector Acknowledgement of Appeal
- Exhibit 4: Health Connector Notation of Contact with Appellant
- Exhibit 5: Hearing Request Form
- Exhibit 6: Eligibility Denial
- Exhibit 7: Eligibility Details
- Exhibit 8: Computer Printout

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied for Health Care coverage through the Connector on March 26, 2018. (Exhibit 7)
2. On that same date, the Health Connector issued an Eligibility Denial to the Appellant, stating that receipt of Medicare makes her ineligible for health insurance coverage through the Connector. (Exhibit 6)
3. The Appellant is enrolled in Medicare. (Testimony, Exhibit 5)
4. The Appellant has been advised to contact the SHINE program, which may be able to provide guidance to her.

ANALYSIS AND CONCLUSIONS OF LAW

Federal law does not permit people who are eligible for Medicare to receive additional services through the Affordable Care Act. 42 USC 1395ss.

ORDER

The Appellant’s Appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4687

Appeal Decision: Appeal Denied

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

Hearing Date: May 10, 2018

Decision Date: June 2, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On March 22, 2018, the Appellant was determined ineligible for Health Connector plans without subsidies, due to failure to have a life qualifying event.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 10, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (5 pages, dated April 18, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (4 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (2 pages)
- Exhibit 5: Appellant's appeal request form (3 pages dated March 28, 2018)
- Exhibit 6: Notice of Eligibility Determination (6 pages, dated March 22, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated March 21, 2018)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies. (Exhibit 7)
2. The Appellant was not found eligible for subsidized health insurance through the Health Connector because he did not sign up for a health plan by January 31, 2018. (Exhibit 6)
3. Appellant did not experience a life qualifying event. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans but was not granted a special enrollment period and therefore could not enroll in coverage. The Appellant asserts that this determination was incorrect and that the Appellant should be permitted to enroll in coverage through the Health Connector. Under 45 CFR s. 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2018 was November 1, 2017 to January 31, 2018. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420. Appellant did not sign up for a health plan.

Appellant was determined eligible for Health Connector plans with APTC, but he did not sign up for a health plan within the time for open enrollment from November 1, 2016 to January 31, 2017. Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. At the hearing I asked the Appellant whether the Appellant had experienced any qualifying event, as listed in the Health Connector's policy NG-1E. The Appellant testified to the Appellant not experiencing any qualifying life event. Because the Appellant did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR s. 155.

ORDER

The appeal is Denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4725

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: May 15, 2018

Decision Date: June 11, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On March 21, 2018, Appellant was determined eligible for Health Connector plans, but ineligible for subsidies 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

Appellant appeared at the hearing, which was held by telephone, on May 15, 2018.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file,
- Exhibit 2: Correspondence from Connector Appeals Unit
- Exhibit 3: Hearing Request Form and support documents
- Exhibit 4: Notices on Appeal
- Exhibit 5: Eligibility Results and Application Summary of March 21, 2018
- Exhibit 6: Eligibility Results and Application Summary of April 6, 2018
- Exhibit 7: Eligibility Results and Application Summary of April 13, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. During 2017, Appellant was covered by a subsidized Health Connector Plan (Testimony of Appellant).
2. In September 2017, and November 2017 Appellant was sent notices to send in proof of income in order to continue the subsidized health insurance (Exhibit 4).
3. On March 21, 2018, Appellant was found eligible for Health Connector Plans with no subsidies, since Appellant had not sent in documents showing proof of income (Exhibit 5).
4. On April 6, 2018, Appellant sent the Health Connector proof of income (Exhibit 6 and Testimony of Appellant).
5. Based upon the documents sent by Appellant on April 6, 2018, Appellant was re-determined and found eligible for ConnectorCare Plan Type 2B, beginning on May 1, 2018 (Exhibit 7).

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 § 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).

The Health Connector requested income information in September and November 2017. Appellant did not send in requested information verifying income when requested. As a result, Appellant was found eligible for Health Connector Plans with no subsidies beginning on April 1, 2018, based upon electronic data sources. That determination is upheld since Appellant did not provide the verifying income needed.

ORDER

The Appeal is denied.

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

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

ADDENDUM

Appellant sent in the requested proof of income on April 6, 2018. Based on the information submitted by Appellant on April 6, 2018, Appellant was found eligible for ConnectorCare Plan Type 2B, beginning on May 1, 2018. Appellant was encouraged to immediately take steps to enroll in a ConnectorCare Plan.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4744

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of liability for excess tax credits paid to Internal Revenue Service

Hearing Date: May 16, 2018

Decision Date: May 31, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On or about February 15, 2018, Appellant submitted an application for subsidized insurance and was determined to be eligible for ConnectorCare Plan Type 2B with Advanced Premium Tax Credits and Massachusetts subsidies. On March 5, 2018, Appellant updated the application with new income information, and was determined to be eligible for Connector Care Plans with Advance Premium Tax Credit without Massachusetts subsidies. Appellant filed an appeal based on having had to pay back Advance Premium Tax Credits to the federal government for Tax year 2017 or earlier.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Plans with APTC and no Massachusetts subsidies, based on the information submitted by Appellant and verified by the Health Connector. The issue regarding the repayment to the federal government of previously allowed Advance Premium Tax Credits is not an issue properly before the Health Connector.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 16, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (4-25-18) (in Spanish and English) (10 pages);
- Exhibit 3: Acknowledgement of Appeal (4-9-18) (in Spanish and English) (4 pages);
- Exhibit 4: Outreach notes (5 pages);
- Exhibit 5: Hearing Request form (4-2-18) (2 pages);
- Exhibit 6: Eligibility letter (2-15-18) (in Spanish) (14 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (10 pages);
- Exhibit 8: Documents from Appellant (7 pages);
- Exhibit 9: Request for Information letter (12-18-17) (in Spanish) (6 pages); and
- Exhibit 10: Salesforce notes of contacts with Appellant (8 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in February 2018. Appellant was deemed eligible at that time for ConnectorCare Plan Type 2B based on an income level of 188.31% of the Federal Poverty level.
2. Appellant updated the application in March 2018.
3. Appellant was deemed eligible for Health Connector plans with Advance Premium Tax Credits but with no Massachusetts subsidy based upon a Federal Poverty level of 341.41%.
4. On April 2, 2018, Appellant filed an appeal based on having had to repay to the federal government the Advance Premium Tax Credits received in a prior year because the income was greater than had been estimated.

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

Appellant applied for health insurance coverage through the Connector in February 2018. At that time, Appellant was deemed eligible for ConnectorCare Plan Type 2B based on income equating to 188.31% of the Federal Poverty Level. Appellant's application was updated on March 5, 2018, and Appellant was deemed eligible for Health Connector Plans with Advanced Premium Tax Credit but with no Massachusetts subsidy based on income that equated to 341.41% of the Federal Poverty Level. Appellant filed an appeal to contest having had to pay back to the federal government the Advance Premium Tax Credits from a prior tax year. The issue of repayment to the federal government of Advance Premium Tax Credits is not an issue appealable to the Health Connector.

The Connector made the correct determination based on the information available to the Connector.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4565

Appeal Decision: Appeal Denied because the Health Connector correctly determined Appellants' eligibility for enrollment in subsidized health insurance coverage based on information available at the time of the determination.

Hearing Issue: Whether the Health Connector correctly determined Appellants' eligibility for subsidized health insurance coverage.

Hearing Date: June 6, 2018

Decision Date: June 18, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 23, 2018, the Health Connector notified Appellants that they were not qualified to enroll in health insurance coverage in 2018 through the Health Connector because they are enrolled in or have access to Medicare.

ISSUES

Whether the Health Connector correctly determined Appellants' eligibility for health insurance coverage in 2018.

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone with the assistance of a Hindi interpreter on June 6, 2018. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary and Results pages from Appellants' April 23, 2018 application for health insurance coverage in 2018;

Exhibit 2: Health Connector Eligibility Denial letter dated April 23, 2018;

Exhibit 3: Appellants' April 24, 2018 request for hearing on the Health Connector's April 23, 2018 eligibility determination;

Exhibit 4: Health Connector Appeals Data form date May 9, 2018;

Exhibit 5: Health Connector hearing request acknowledgment letter dated April 30, 2018;

Exhibit 6: Notice of Hearing dated May 9, 2018; and

Exhibit 7: 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. Appellants are married adult residents of Massachusetts. Testimony.
2. Appellants had health insurance coverage through MassHealth until April of 2018 when their MassHealth enrollment ended due to eligibility for Medicare. Testimony
3. Appellants are both currently enrolled in Medicare. Exhibit 1 at 4; Testimony.
4. Appellants have no income and cannot afford the copayments for medical care under Medicare. Testimony; Exhibit 3.
5. Appellants completed an application for 2018 health insurance coverage for themselves on April 23, 2018. Exhibit 1. In this application, Appellants indicated that they are eligible for Medicare. *Id.* at 4.
6. The Health Connector issued an "Eligibility Denial" letter dated April 23, 2017 stating that Appellants do not qualify for health insurance coverage through the Health Connector because they Appellant has access to Medicare or is enrolled in Medicare. Exhibit 2.
7. Appellants requested a hearing to appeal the Health Connector's eligibility denial determination. Exhibit 3.
8. The Health Connector sent Appellants a letter acknowledging their hearing request and forwarding information on assistance resources for individuals on Medicare including the Serving the Health Insurance Needs of Everyone (SHINE) program, which is a state health insurance assistance program that

provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare. Exhibit 5.

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*, 567 U.S. 519, 538 (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 insurance 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).¹ Appellants’ testimony at the hearing confirmed that Appellants are enrolled in Medicare. Because the Appellants are eligible for Medicare, the Health Connector found that the Appellants are not eligible for Health Connector plans. This was the correct determination, and the appeal is therefore denied.

ORDER

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector’s April 23, 2018 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law.

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

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

Hearing Officer

¹ 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).

Cc: Connector Appeals Unit

ADDENDUM

Appellants were encouraged during the hearing to contact the Commonwealth's SHINE ("Serving the Health Insurance Needs of Everyone") Program which provides free health insurance information and counseling to all Massachusetts residents with Medicare and their caregivers. People who have Medicare or who are about to become eligible for Medicare, can meet with a SHINE counselor to learn about benefits and options available. A counselor will review programs that help people with limited income to pay health care costs. You can reach a SHINE Counselor at (800) 243-4636, press 3 or press 5 if calling from cell phone. TTY (877) 610-0241. See <https://www.mass.gov/health-insurance-counseling> for additional information.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-4917

Appeal Decision: Appeal Denied
Hearing Issue: Eligibility for Connector Coverage
Hearing Date: 6/7/2018
Decision Date: 6/15/2018

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 Health Connector determined that the Appellant was not eligible for a Health Connector Plan.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 6/7/2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of the Keeper of the Records
- Exhibit 2: Notice of Hearing
- Exhibit 3: Appeal Unit Record of Contact
- Exhibit 4: Hearing Request
- Exhibit 5: Special Enrollment Period Decision
- Exhibit 6: Eligibility Details

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant had previously received MassHealth, but failed to send back information to re-enroll, and was terminated from the program. He learned that he was no longer receiving MassHealth approximately 8 months after termination from the program. (Testimony)
2. The Appellant applied for Health Care coverage through the Connector on March 30, 2018, which is outside of the open enrollment period. (Exhibit 6).
3. The Appellant does not allege a qualifying event, such as marriage, birth of a child or loss of insurance within 60 days of his application for Connector services.
4. In addition, the Appellant did not provide proof that he is a resident or otherwise lawfully present.

ANALYSIS AND CONCLUSIONS OF LAW

The Connector determined that the Appellant was ineligible to apply for a Health Connector Plan because he failed to do so during open enrollment, and did not provide evidence of a qualifying event that would entitle him to a special enrollment period. A person may apply for health care coverage through the Connector outside of open enrollment only if the person experiences a qualifying event within 60 days of application for services. See, 956 CMR 12.10(5)(a) through (e).

In addition, the Appellant failed to establish lawful presence in the United States. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector.

The Appellant did not attest to being lawfully present in his application. Because the Appellant did not present any evidence of being lawfully present, the Appellant is not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

ORDER

The Appellant's Appeal is denied.

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Addendum:

For further assistance obtaining health care, the Appellant may wish to contact Health Care For All, located at One Federal Street
Boston, MA 02110. The phone number is (617) 350-7279.

Hearing Officer

Cc: Connector Appeals Unit