

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA198327

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

**Hearing Issue:** Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector plan without an advance premium tax credit.

**Hearing Date:** April 17, 2019

**Decision Date:** June 3, 2019

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 19, 2019, the Connector determined that the appellant was eligible to purchase a Connector Health plan without an advance premium tax credit.

### ISSUE

Whether the Connector correctly determined that the appellant was ineligible to purchase a Health Connector plan without an advance premium tax credit.

### HEARING RECORD

The appellant and her son appeared at the hearing which was held by telephone on April 17, 2019. The appellant asked that her son act as her representative and interpreter. The procedures to be followed during the hearing were reviewed with the appellant and her son who were then sworn in. Exhibits were also reviewed with Appellant and her son, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant and her son testified.

The hearing record consists of the testimony of the appellant and her representative, and the following documents which were admitted in evidence:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated March 20, 2019 addressed to Appellant for April 17, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated March 6, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Connector Appeals Unit Staff Notes dated March 6, 2019
- Exhibit 3b: Appeals Unit letter dated April 6, 2019 sent to Appellant with representative form attached

- Exhibit 3c: Appeals Unit letter dated March 20, 2019 sent to Appellant with MassHealth application attached
- Exhibit 4: Hearing Request Form submitted by Appellant on March 6, 2019
- Exhibit 5: Connector letter dated February 19, 2019 to Appellant regarding eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated February 19, 2019
- Exhibit 7: Summary and results of Appellant's application for Connector health plan dated October 3, 2018
- Exhibit 8: Appellant's Health Connector and MassHealth Household Determination, October, 2018 and March, 2019
- Exhibit 9: MassHealth Benefit print-out for Appellant

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who is over 65 years old, has lawfully been in the United States since November, 2013. She has a permanent resident card (Testimony of Appellant through Representative, Exhibit 6).
2. In 2018, the appellant had ConnectorCare Type I coverage. She had no income and had been in the United States less than five years (Testimony of Representative).
3. On February 19, 2019 the Connector determined that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit. By February, 2019, the appellant had lawfully been in the United States more than five years (Exhibit 5, Exhibit 6).
4. Appellant is not eligible for Medicare coverage based upon work history (Exhibit 6, Testimony).
5. As of February, 19, 2019, Appellant still had no income. She had no assets (Testimony).
6. Appellant filed a request for an appeal of the Connector's determination on March 6, 2019 (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined that the appellant was eligible to purchase a Health Connector plan without any advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) and 45 CFR 155.305(f) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type

dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

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

Pursuant to 956 CMR 12.04(3)(a) and 45 CFR 155.305 (f)(2), a non-citizen who is lawfully present in the United States and who is ineligible for Medicaid because of immigration status may be eligible for an advance premium tax credit if her income is less than 100% of the Federal Poverty Level. 8 U. S. C., Section 1613 provides that a qualified alien (as defined in 8 U. S. C., Section 1641 as someone who is lawfully admitted for permanent residence under the Immigration and Nationality Act, 8 U. S. C. 1101) is not eligible for a Federal means-tested public benefit, such as Medicaid, for five years as of the date of the alien's entry into the United States.

In this matter, the appellant, who is over 65 years old, is lawfully present in the United States. She has a permanent resident card which was issued in November, 2013. She has had no income and no assets. She was not eligible for Medicare. Until February, 2019, the appellant had ConnectorCare Play Type I coverage. See the testimony of the appellant's representative which I find to be credible and Exhibit 6.

On February 19, 2019 the Connector determined that the appellant was no longer eligible for ConnectorCare coverage, but was eligible for a Connector Health Plan with no advance premium tax credit. The determination was based upon Appellant's income which was less than 100% of the Federal Poverty Level. See Exhibit 5. On March 6, 2019, the appellant requested a hearing. See Exhibit 4.

The issue is whether the Connector's determination was correct. When Appellant was lawfully present less than five years, she was eligible for an advance premium tax credit even though her income was less than 100% of the Federal Poverty Level. The Affordable Care Act provides for a tax credit (assuming the individual is otherwise eligible) for an individual who has an income level between 100% and 400% of the Federal Poverty Level. See cite above. There is an exception for an individual who is lawfully present for less than five year and have incomes less than 100% of the poverty level. See 956 CMR 12.04(3)(a) and 45 CFR 155.305 (f)(2).

Given the exception, Appellant had been eligible for ConnectorCare coverage. Once she was lawfully present for five years or more, the exception no longer applied and the appellant became ineligible for the ConnectorCare plan. Instead, if otherwise eligible, the appellant would be eligible for Medicaid (MassHealth) after the five-year mark. See 8 U. S. C. Section 1613, or for a Connector Health plan with no tax credit. Had she been eligible for Medicare, she would not have been eligible for the Connector Health plan. See cites above.

Given the facts and law summarized above, the Connector's determination that the appellant was no longer eligible for ConnectorCare coverage, but was eligible for a Connector Health plan with no advance premium tax credit was correct.

The determination of the Connector is upheld.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8382

**Appeal Decision:** Appeal Granted

**Hearing Issue:** Eligibility for SEP

**Hearing Date:** April 22, 2019

**Decision Date:** June 26, 2019

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On February 7, 2019, the Health Connector determined that the Appellant was eligible in 2019 for ConnectorCare with APTC and that she qualified for a Special Enrollment Period to enroll at that time.

### **ISSUE**

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

### **HEARING RECORD**

On February 20, 2019, the Appellant and the Appellant's mother/representative appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 2/7/19 Eligibility Approval Notice (20 pages)
- Exhibit 2: 2019 Eligibility Results for 2/7/19 Application (3 pages)
- Exhibit 3: 3/11/19 Appeal (2 pages)
- Exhibit 4: 2019 Eligibility Results for 2/7/19 Application (8 pages)
- Exhibit 5: 3/12/19 Contact Note (1 page)
- Exhibit 6: 3/12/19 Qualifying Events (2 pages)

- Exhibit 7: 2/4/19 SEP Decision Notice (16 pages)  
Exhibit 8: 3/12/19 Appeal Acknowledgment w/ Waiver Info et al (10 pages)  
Exhibit 9: 10/28/18 Past Due Warning (6 pages)  
Exhibit 10: 3/20/19 Notice of Hearing (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned twenty-one years old in 2018. (Exhibit 3)
2. By "Past Due Warning" Notice, dated October 28, 2018, the Health Connector notified the Appellant and her mother that full payment for their health insurance had not been received and that they needed to pay \$22.61 right away to avoid a gap in coverage. (Exhibit 9)
3. The Appellant paid the \$22.61 due, using her debit card, soon after receiving the 10/28/18 notice. (Appellant's testimony)
4. On November 30, 2018, the Health Connector terminated the Appellant's health insurance coverage due to nonpayment of premiums. (Exhibit 5)
5. The Appellant never received any notice that her insurance coverage would terminate, or had terminated, at the end of November 2018. The Appellant thought that her coverage had continued in December, because her debit card payments had been processed by the Health Connector. (Appellant's testimony)
6. In 2019, the Appellant received a refund from the Health Connector for her premium payment for December 2018 coverage. (Appellant's testimony)
7. There is no evidence in the record that the Health Connector ever notified the Appellant that her coverage would terminate on November 30, 2018.
8. The Open Enrollment Period for 2019 coverage through the Health Connector was November 1, 2018, through January 23, 2019. ([blog.mass.gov/consumer](http://blog.mass.gov/consumer))
9. The Appellant did not enroll in health insurance coverage for 2019 during the open enrollment period. (Exhibit 5)
10. On February 7, 2019, the Appellant applied to the Health Connector for insurance coverage for 2019. The Health Connector determined that the Appellant qualified for ConnectorCare and for a Special Enrollment Period through June 17, 2019. (Exhibit 2)
11. On March 11, 2019, the Appellant appealed the Connector's 2/7/19 determination, stating: "I thought I had coverage because my Dec checks were cashed then found out in Feb I got cancelled. I called looking for my bill didn't get any letter to warn me." (Exhibit 2)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant is appealing the Connector's 2/7/19 determination regarding her 2019 health insurance coverage. In her appeal and at hearing, the Appellant indicated that she thought that her 2018 coverage had continued into 2019, until she learned in February 2019 that her 2018 coverage had terminated at the end of November 2018.

In order to have health insurance coverage through the Health Connector in 2019, the Appellant had to submit an application to the Health Connector for 2019 coverage. Anyone seeking health insurance coverage through the Health Connector for the coming year must apply each year during the open enrollment period, or qualify for a special enrollment period, to obtain coverage for that year. In this case, the Appellant did not seek coverage through the Health Connector in 2019, until she applied for 2019 coverage on February 7, 2019. At that time, she was granted a Special Enrollment Period, until June 17, 2019, to enroll in coverage for 2019.

However, at hearing, the Appellant expressed concern about losing her coverage for the last month of 2018 and not having coverage at the start of 2019. As there is nothing in the record to show that the Appellant was mailed notice that her 2018 coverage would terminate on November 30, 2018, and the Appellant denies receiving any such notice, I approve the Appellant's request for a Special Enrollment Period for retroactive coverage, beginning on or after December 1, 2018, at her expense, if she wants the coverage.

**ORDER**

The appeal is granted. The Appellant is eligible for a Special Enrollment Period for retroactive coverage, beginning on December 1, 2018, if she wants such coverage.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8434

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for SEP

**Hearing Date:** April 22, 2019

**Decision Date:** June 20, 2019

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On February 20, 2019, the Health Connector determined that the Appellants did not qualify to enroll in a new health insurance plan at that time.

### **ISSUE**

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

### **HEARING RECORD**

On February 20, 2019, the Appellant/wife and the Appellants' daughter/representative appeared at the hearing by telephone and offered testimony under oath or affirmation.

The hearing record consists of the testimony of the Appellant/wife and the Appellants' daughter, and the following documents that were admitted into evidence:

- Exhibit 1: Affidavit (1 page)
- Exhibit 2: 2/20/19 Notice of SEP Decision (8 pages)
- Exhibit 3: 3/18/19 Appeal (1 page)
- Exhibit 4: 3/18/19 Appeal – Screenshot (1 page)
- Exhibit 5: 3/18/19 Appeal Ack. (5 pages)
- Exhibit 6: 3/18/19 2019 Eligibility Results for 2/20/19 Application (7 pages)
- Exhibit 7: 3/18/19 Contact Note (1 page)

Exhibit 8: 3/20/19 Notice of Hearing (4 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On February 20, 2019, the Appellants applied to the Health Connector for insurance coverage for 2019. (Exhibit 2)
2. By Special Enrollment Period Decision letter dated February 20, 2019, the Health Connector notified the Appellants that the Appellants did not qualify to enroll in a new or different health insurance plan at that time “because you did not tell us that you had a qualifying event.” The letter went on to explain what could be considered a qualifying event and what the Appellants could do if they felt that they had experienced a qualifying event. In addition, the letter stated that the Appellants also had the option to apply to the Office of Patient Protection for an open enrollment waiver in certain circumstances. (Exhibit 2)
3. The Appellants have not represented to the Health Connector that they had experienced a qualifying event for purposes of a special enrollment period for 2019 coverage. (Appellant/wife’s testimony)
4. On March 18, 2019, the Appellants appealed the Health Connector’s 2/20/19 determination, circling “Qualifying Event to Enroll” as the reason for their appeal and stating that they need insurance and are always denied when they apply. (Exhibit 3)
5. The Appellants have never enrolled in health insurance coverage through the Health Connector. (Exhibit 7)
6. Both Appellants are employed, and their annual household income is 430.77% of FPL for household of three. (Exhibit 6)
7. The Appellants looked into obtaining health insurance coverage through the Appellant/wife’s employer for 2019, but they decided that the cost was more than they could afford to pay. (Appellant/wife’s testimony)
8. The Appellants applied for coverage through the Health Connector for 2019 because they considered the cost of the health coverage offered by the Appellant/wife’s employer to be unaffordable. (Appellant/wife’s testimony)
9. The Open Enrollment Period for 2019 coverage through the Health Connector was November 1, 2018, through January 23, 2019. ([blog.mass.gov/consumer](http://blog.mass.gov/consumer))

## **ANALYSIS AND CONCLUSIONS OF LAW**

In this case, while the health insurance coverage offered by the Appellant/wife’s employer may well be unaffordable, as the Appellants’ contend, the issue before me is whether the Health Connector correctly determined that the Appellants did not qualify for a special enrollment period as of the date that they applied for coverage. The Open Enrollment Period for 2019 coverage ended on January 23, 2019, and the Appellants did not apply for coverage until February 20, 2019. Because they had applied outside of Open Enrollment, the Appellants had to show that they qualified for a Special Enrollment Period (SEP) in order to enroll in coverage at that time. The Appellants provided no information in their 2/20/19 application to show that they qualified for an SEP. At hearing, the Appellants offered no additional information in support of qualifying for an SEP.

As the Appellants have not identified any basis for overturning the Health Connector’s 2/20/19 determination that they did not qualify for a Special Enrollment Period at that time, the 2/20/19 determination is upheld and the Appellants’ appeal is denied.

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8617

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** May 13, 2019

**Decision Date:** June 28, 2019

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On March 23, 2019, the Health Connector determined that the Appellants no longer qualified for coverage through the Health Connector, due to failure to verify residency.

### **ISSUE**

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

### **HEARING RECORD**

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

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

- Exhibit 1: 3/23/19 Eligibility Termination Notice (8 pages)
- Exhibit 2: 4/4/19 Appeal (4 pages)
- Exhibit 3: 4/24/19 Appeals Unit Contact Notes (1 page)
- Exhibit 4: 2019 Eligibility Results for 3/23/19 Application (9 pages)
- Exhibit 5: 2019 Eligibility Results for 4/11/19 Application (10 pages)
- Exhibit 6: 12/13/18 Request for Proof of Residency (4 pages)

- Exhibit 7: 12/13/18 Application (9 pages)  
Exhibit 8: 3/23/18 Termination Notice (6 pages)  
Exhibit 9: 4/22/19 Affidavit of Residence (4 pages)  
Exhibit 10: 5/9/19 Reminder of Hearing (1 page)  
Exhibit 11: 4/23/19 Notice of Hearing (10 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On December 13, 2018, the Appellants submitted an application to the Health Connector for health insurance coverage. On that date, the Appellants were found eligible for ConnectorCare Plan Type 1 and informed that they both needed to submit proof of residency to the Health Connector. (Exhibit 7)
2. By letter dated December 13, 2018, addressed to the Appellants' address of record, the Health Connector reminded the Appellants that they both needed to provide proof of residency by March 13, 2019. The letter included a List of Acceptable Documents. (Exhibit 6)
3. By Eligibility Termination Notice dated March 23, 2019, the Health Connector notified the Appellants that they no longer qualified for coverage through the Health Connector, because they had not received the information needed to verify their eligibility; and, that their coverage would end on March 31, 2019. (Exhibit 6)
4. The Appellants live in Massachusetts, but they did not send in documents verifying their residency by the deadline. (Appellant's Testimony)
5. On April 19, 2019, the Appellants faxed to the Health Connector documents verifying their residency. (Exhibit 9)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellants were found ineligible for Health Connector Plans based on failing to verify residency. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by applicants, including an applicant's residency status, in accordance with 45 CFR § 155.315(d). Where the Health Connector cannot verify an applicant's residency electronically, it requests verifying information from the applicant, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On December 13, 2018, the Appellants were determined eligible for ConnectorCare Plan Type 1 and were asked to verify their residency. On that same date, a letter was sent to the Appellants reminding them to send in residency verification documents by March 13, 2019. The Appellants failed to send in documents verifying their residency by the deadline and were determined ineligible for Health Connector plans on March 23, 2019, for not being residents of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for persons who have not verified compliance with the requirement to be residents of Massachusetts. 45 CFR § 155.305(a).

While the Appellants have now sent in documents verifying their residency and eligibility, the Health Connector correctly determined on March 23, 2019, that the Appellants were no longer eligible for Health Connector plans, and that determination is upheld.

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8622

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for Health Connector plans based on failure to establish lawful presence

**Hearing Date:** May 21, 2019

**Decision Date:** June 24, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated March 14, 2019, the appellant was advised that he did not qualify for health insurance coverage through the Health Connector because its records indicated that he was not lawfully present in the United States. (Ex. 1) The appellant filed an appeal dated March 25, 2019 based on citizenship/immigration status. (Ex. 7) The matter was referred to a hearing after receipt of the appeal. (Ex. 11)

### ISSUE

Was the Connector's decision regarding the appellant's qualification for health insurance through the Health Connector correct at the time of its determination on March 14, 2019, pursuant to 45 C.F.R. section 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 21, 2019, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Notice of Eligibility Denial dated March 14, 2019 (6 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for March 14, 2019 (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 4—Health Connector's Notice of Eligibility Approval dated April 19, 2019 (8 pages)

- Ex. 5—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for April 19, 2019 (2 pages)
- Ex. 6—Computer printout of Health Connector’s Review of Application (3 pages)
- Ex. 7—Hearing Request Form dated March 25, 2019 (7 pages)
- Ex. 8—Acknowledgement of Appeal dated April 9, 2019 (5 pages)
- Ex. 9—Appellant’s submissions to the Health Connector (5 pages)
- Ex. 10—Appeals Unit Case Notes (1 page)
- Ex. 11—Notice of Hearing (4 pages)
- Ex. 12—Affidavit of Connector representative (1 page)

The appellant testified that he filed tax returns for 2017 and 2018, and had mailed copies of both returns to the Health Connector prior to the instant hearing.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 40-years-old and has a tax household size of one. (Testimony, Exs. 3,6)
2. The appellant was enrolled in health insurance through MassHealth in 2018. (Testimony)
3. By notice March 14, 2019, the Health Connector advised the appellant that he did not qualify for health insurance because its records indicated that he was not lawfully present in the United States. (Testimony, Exs. 1,2)
4. On the application associated with the March 14, 2019 determination, the appellant indicated that he did not have citizenship or immigration status. (Ex. 3)
5. The appellant appealed the Connector’s March 14, 2019, determination on March 25, 2019, based on citizenship/immigration status, and stated in part that he is a permanent resident, but was advised that he is staying in the U.S. unlawfully. He attached a copy of the front of his U.S. Permanent Resident Card to his appeal form. (Ex. 7)
6. On April 22, 2019, the Health Connector received a copy of the front and back of the appellant’s U.S. Permanent Resident Card which indicated that he has been a resident since February 8, 2018. (Ex. 9)
7. By notice April 19, 2019, the Health Connector advised the appellant that he qualified for a Health Connector Plan with no financial help effective May 1, 2019. (Testimony, Ex. 5)
8. On the application associated with the April 19, 2019 determination, the appellant indicated that he had a permanent resident card and that he was a non-tax filer. (Ex. 6)

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

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

The appellant maintains that at the time of the Connector's March 14, 2019 determination regarding lawful presence in the U.S., he had lawful immigration status. According to the documentation he submitted subsequent to the March 14<sup>th</sup> determination, he has been a permanent resident since February 8, 2018. It appears that he may have inadvertently provided inaccurate information regarding his immigration status on the application connected with the March 14<sup>th</sup> determination, and that the issue was resolved after he submitted a copy of both sides of his permanent resident card to the Connector on April 19, 2019.

Based on the totality of the evidence, it is concluded that the Connector's March 14, 2019 determination that the appellant was not eligible for health insurance was correct because he could not establish lawful presence pursuant to 45 CFR § 155.305(a)(1).

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant was advised to contact customer service at 1-877-623-6765 to update his application with information regarding his tax filing status.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8688

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for Health Connector plans based on failure to establish lawful presence

**Hearing Date:** May 14, 2019

**Decision Date:** June 14, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

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

### ISSUE

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 14, 2019, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Notice of Eligibility Denial dated March 26, 2019 (6 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for March 26, 2019 (2 pages)
- Ex. 2A— Computer printout of Health Connector's Review of Application (4pages)
- Ex. 3—Online Appeal Request received on April 10, 2019 (2 pages)

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

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

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

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

#### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 40-years-old and has a tax household size of one. (Testimony, Ex. 2A)
2. The appellant was enrolled in health insurance through MassHealth until the end of February, 2019, at which time she got a job and was no longer eligible for benefits. (Testimony)
3. On or about March 15, 2019, the appellant was granted asylum to live in the U.S. Prior to that date, her immigration status was that of an “asylum seeker” and her documentation in that regard was valid until May 2, 2019. (Testimony)
4. On March 26, 2019, the appellant called the Health Connector to provide notification of the change in her asylum status. She was advised by the customer service representative to whom she spoke that the Connector could not “take her I-94 document for asylum status without either a passport number (which she doesn’t have) or a document expiration date (which she doesn’t have).” The appellant advised the representative that she was upset about the requirement to substantiate her immigration status. During the conversation, the appellant updated her income and shopped for a plan, and was told that she had to submit proof of income by June 29, 2019. (Testimony, Ex. 10)
5. By notice March 26, 2019, the Health Connector advised the appellant that she did not qualify for health insurance because its records indicated that she was not lawfully present in the United States. She was further advised that she qualified for Health Safety Net Partial and had to produce proof of income. (Testimony, Exs. 1,2)
6. The appellant appealed the Connector’s March 26, 2019, determination on April 10, 2019, based on lawful presence. In her appeal, she stated in part that “...You...didn’t have qualified employees to change my status 3/26 when I called. I have been granted asylum 3/15/2019. I got notice of approval and I called you. Instead of change my status from asylum pending application to granted, you refused me...medical coverage and stated that I’m no legal residing in the country. I will sue you for the horrible week end I spend in moral suffering after I received your note, as well as if I will need medical help during uncovered period you will be totally responsible.” (Ex. 3)

7. The appellant mailed her asylum documents to the Connector at the end of April or beginning of May. (Testimony)

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

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

The appellant maintains that when she called the Connector on March 26, 2019 to report that her asylum application had been approved, she was advised that she was all set without the need for further action. Contrary to her assertion, the Connector provided credible evidence to establish that a request was made during the conversation for information to substantiate her status and she became upset. It is unfortunate that the appellant's status was changed to "unlawful presence" as a result of her call, but the evidence demonstrated that she was unable to provide the specific information requested of her at that time. She testified that she subsequently submitted additional documentation to the Connector, and it appears that her eligibility was redetermined prior to the hearing. (See Addendum)

Based on the totality of the evidence, it is concluded that the Connector's March 26, 2019 determination that the appellant was not eligible for health insurance was correct because she could not establish lawful presence pursuant to 45 CFR § 155.305(a)(1).

#### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8716

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Eligibility for Health Connector Plans with subsidies based on failure to verify income.

**Hearing Date:** June 10, 2019

**Decision Date:** June 14, 2019

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On March 17, 2019, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant eligible for Health Connector plans without subsidies, based on the Appellant's failure to verify income in a timely manner.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 10, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing, dated May 8, 2019.
- Exhibit 2: Health Connector Appeals Unit Outreach Notes.
- Exhibit 3: Health Connector Agent Portal printout with 2019 Eligibility Results and an Application Summary dated December 11, 2018.
- Exhibit 4: Health Connector Outreach E-mail communications with the Appellant while the appeal was pending.

- Exhibit 5: The Appellant's Hearing Request Form with attachments submitted to the Appeals Unit on April 16, 2019.
- Exhibit 6: 2019 Eligibility Results with an Application Summary dated April 26, 2019.
- Exhibit 7: 2019 Eligibility Results with an Application Summary dated March 17, 2019.
- Exhibit 8: A MassHealth Customer Service note dated January 17, 2019.
- Exhibit 9: A My Workspace printout of documents sent by the Appellant to the Health Connector on April 3, 2019.
- Exhibit 10: A My Workspace printout of documents sent by the Appellant to the Health Connector on April 16, 2019.
- Exhibit 11: A Request for Information issued by the Health Connector to the Appellant on December 6, 2018.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Prior to April 1, 2019 the Appellant was receiving ConnectorCare with Advance Premium Tax Credits based on the Appellant's having attested to having income equal to 298.91% of the federal poverty level for the Appellant's household of two. The Appellant's Spouse receives Medicare (Exhibit 3 and Appellant Testimony).
2. As a result of a routine renewal received on October 26, 2018 the Health Connector determined that the Appellant's household had income from Social Security that was not detailed on their application (Exhibit 8).
3. On December 6, 2018 the Health Connector issued a Request for Information. The Appellant was asked to provide updated income verification for both household members by March 6, 2019. The Notice advised the Appellant of the types of documents needed to verify income as well as the contact information to submit the documentation requested by mail or fax (Exhibit 11).
4. As of March 17, 2019, the Health Connector had not received updated income verification from the Appellant. The Health Connector was unable to obtain proof of the Appellant's income from third party data sources (Exhibit 6).
5. On March 17, 2019 the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial help effective April 1, 2019 because the Health Connector was unable to determine the Appellant's countable income (Exhibit 7).
6. On April 3, 2019 and April 16, 2019, the Appellant submitted proof of income for their household to the Health Connector (Exhibits 9, 10).
7. On April 16, 2019 the Appellant filed an appeal to dispute the loss of their health care subsidies (Exhibit 5).
8. On April 26, 2019 the Health Connector determined, based on the income verifications submitted in April 2019 that the Appellant's income is equal to 309.23% of the federal poverty level. The Appellant is eligible for Health Connector Plans with Advance Premium Tax Credit of \$111.00 effective June 1, 2019 (Exhibit 6).
9. The Appellant did not dispute the fact that they submitted income verification after the March 17, 2019 deadline as outlined in the Notice issued on December 6, 2018 (Exhibit 11 and Appellant Testimony).

## **ANALYSIS AND CONCLUSION OF LAW**

Prior to April 1, 2019 the Appellant was determined eligible for ConnectorCare with Advance Premium Tax Credits. This determination was based on the Appellant's having reported income equal to approximately 298.91% of the federal poverty level for the Appellant's household of two. The Appellant's spouse receives Medicare and their eligibility is not at issue in this case. When processing the Appellant's renewal submitted in October 2018, there was a question raised regarding the household's income from Social Security. On December 6, 2018 the Health Connector issued a Request for Information. The Appellant was informed, in writing, that updated income information was required to be submitted to the Health Connector by March 6, 2019. As of March 17, 2019, the Health Connector had not received the information requested.

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 resorted to third party data sources for information, but no information was available. On March 17, 2019 the Appellant was notified that they were eligible for Health Connector Plans without subsidies for the period beginning April 1, 2019. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). The Appellant was correctly found eligible for Health Connector plans, without subsidy for the period beginning April 1, 2019.

The Appellant filed an appeal to dispute the determination on April 16, 2019. The Appellant had submitted some income documentation to the Health Connector on April 3, 2019 and sent additional information on April 16, 2019. Based on the documentation submitted, the Health Connector determined that the Appellant's income is equal to approximately 309.23% of the federal poverty level. Since the income is greater than 300% but less than 400% of the federal poverty level, the Health Connector correctly determined that the Appellant is not financially eligible for ConnectorCare but is eligible for Health Connector Plans with Advance Premium Tax Credits of \$111.00 effective June 1, 2019. 956 CMR § 12.04, 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

## **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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8764

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare, income

**Hearing Date:** May 28, 2019

**Decision Date:** June 20, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 16, 2019, the Appellant was deemed eligible for Health Connector plans based on income.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 28, 2019. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (4-30-19) (2 pages);
- Exhibit 3: Acknowledgement of Appeal (4-24-19) (7 pages);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (4-16-19) (2 pages);
- Exhibit 6: Eligibility Denial letter (3-18-19) (6 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (21 pages);

Exhibit 8: Workspace form and documents (26 pages); and  
Exhibit 9: Enrollment information (1 page).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance for Appellant and Appellant's spouse.
2. Appellant was deemed ineligible due to access to Medicare, and Appellant is not appealing that issue.
3. Appellant is appealing the results regarding Appellant's spouse due to income.
4. After the initial application, Appellant updated the application with income information and submitted documents.
5. As a result, the federal poverty level based on the income was determined to be 494.80%. Appellant verified that the income projection was accurate.
6. Appellant's spouse was deemed to be eligible for Health Connector plans without financial assistance.
7. Appellant's spouse thereafter enrolled in a health connector plan, but feels the premiums are too high.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In this case, Appellant's spouse was determined eligible for Health Connector plans with no financial assistance based upon household income that translated to a federal poverty level of 404.80%. The Appellant confirmed during the hearing that the income was correct. Therefore, the determination of the Health Connector was correct.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

*Note:* Appellant had been deemed ineligible for Health Connector plans due to access to Medicare, and Appellant indicated he was not appealing that issue.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-8806

**Appeal Decision:** Appeal denied

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

**Hearing Date:** May 21, 2019

**Decision Date:** June 1, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated March 24, 2019, the appellant was advised that she was eligible for a Health Connector Plan with no financial help beginning on May 1, 2019. (Ex. 2) The appellant filed an appeal dated April 19, 2019 based on income (Ex. 8). The matter was referred to a hearing after receipt of the appeal. (Ex. 12)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help correct on March 24, 2019, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 21, 2019, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Request for Information dated December 18, 2018 (6 pages)
- Ex. 2—Health Connector's Notice of Eligibility Approval dated March 24, 2019 (8 pages)
- Ex. 3—Computer printout of Health Connector's Eligibility Determination Results showing a program determination for March 24, 2019 (3 pages)
- Ex. 4— Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 5—Computer printout of My Workspace Results (23 pages)

- Ex. 6—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for April 29, 2019 (2 pages)
- Ex. 7—Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 8—Hearing Request Form dated April 19, 2019 (20 pages)
- Ex. 9—Acknowledgement of Appeal dated April 24, 2019 (3 pages)
- Ex. 10—Appeals Unit email dated April 25, 2019 (2 pages)
- Ex. 11—Appeals Unit Case Notes (1 page)
- Ex. 12—Notice of Hearing (4 pages)
- Ex. 13—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 31-years-old and has a tax household size of one. (Testimony, Exs. 4,7)
2. Prior to May, 2019, the appellant was enrolled in a ConnectorCare health insurance plan for which she paid approximately \$88.00/month. (Testimony)
3. By notice dated December 18, 2018, the Health Connector asked the appellant to submit proof of income by March 18, 2019 in order to determine whether she qualified for health insurance. (Ex. 1)
4. By notice dated March 24, 2019, the appellant was determined eligible for a Health Connector Plan with no financial help based on having an income and household size equivalent to 413.25% of the Federal Poverty Level (FPL) beginning on May 1, 2019. She was further notified that the determination was based on data from other sources because the Health Connector did not receive the documents it had requested. (Exs. 2,3)
5. The appellant appealed the Connector’s March 24, 2019, determination on April 19, 2019 based on income. In her appeal, she stated in part that she submitted her income, was told that she makes 400% above the FPL and cannot afford the premium. (Ex. 8)
6. The appellant submitted copies of her 2018 Form 1040—U.S. Individual Income Tax Return and Massachusetts Resident Income Tax Return on April 25, 2019 showing that in 2018, she had an adjusted gross income of \$44,097.00 in 2018. (Ex.5)
7. Subsequent to the submission, the appellant was determined eligible for Health Connector Plans with an Advance Premium Tax Credit of \$0 based on having an income and household size equivalent to 363.29% of the FPL beginning on June 1, 2019. (Ex. 6)
8. The appellant is employed on a seasonal basis and during periods of layoff, she receives unemployment compensation. (Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant was found eligible for a Health Connector Plan with no financial help based on having an income and family size equivalent to 413.25% of the FPL. The appellant testified that she is employed on a seasonal basis and receives unemployment compensation during her periods of layoff. She does not dispute her projected yearly income of \$44,097.00, but argues that the increase over her prior subsidized premium of \$88.00/month has made health insurance unaffordable.

Based on the evidence in the record, it is concluded that the Connector's determination on March 24, 2019, regarding the appellant's eligibility for Health Connector Plans was correct, and is therefore affirmed.

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant was advised to review what insurance plans are available in light of the new determination on April 29, 2019 finding her income to be within a lower FPL than the March 24, 2019 determination.