

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA20-12837

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 5, 2021

**Decision Date:** May 24, 2021

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

### **ISSUE**

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

### **HEARING RECORD**

On January 5, 2021, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 10/26/20 Review Application (4 pages)
- Exhibit 2: 11/9/20 Eligibility Denial Notice (6 pages)
- Exhibit 3: 11/9/20 Online Appeal (6 pages)
- Exhibit 4: 11/10/20 Eligibility Approval Notice (9 pages)
- Exhibit 5: 12/13/20 Appeals Unit Email to Appellant re Medicare eligibility (1 page)
- Exhibit 6: 12/15/20 Hearing Notice (3 pages)

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned sixty-five years old on October 23, 2020. (Exhibit 1)
2. The Appellant applied to the Health Connector for health insurance coverage on October 26, 2020. (Exhibit 1)
3. By letter dated November 9, 2020, the Health Connector notified the Appellant that she did not qualify for health insurance coverage through the Health Connector because she had access to Medicare or was enrolled in Medicare. (Exhibit 2)
4. On November 9, 2020, the Appellant appealed the Health Connector’s denial on line. (Exhibit 3)
5. By letter dated November 10, 2020, the Health Connector notified the Appellant that she qualified for Health Connector Plan without any financial help; and, stated that she did not qualify for ConnectorCare plan or an Advance Premium Tax Credit for one of several reasons, including that the Appellant had access to health insurance through another source that met minimum essential coverage standards. (Exhibit 4)

**ANALYSIS AND CONCLUSIONS OF LAW**

The issue before me is whether the Health Connector correctly decided on November 9, 2020, that the Appellant did not qualify for health insurance coverage through the Health Connector.

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

The Appellant became eligible for Medicare insurance coverage on October 23, 2020, when she turned sixty-five years old. When the Appellant’s eligibility for 2020 coverage was determined on November 9, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. Because the Appellant had access to Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination, under 42 USC 1395ss(d)(3)(A)(i). Therefore, the Appellant’s appeal is denied.

**ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION ACA21-13965

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for subsidized insurance through the Health Connector

Hearing Date: April 28, 2021

Decision Date: May 19, 2021

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 11, 2021, Appellant was determined to not be eligible for subsidized insurance through the Health Connector, based on a determination that the Appellant did not reside in Massachusetts, and further that the Appellant's income did not meet the federal poverty level ("FPL") threshold for eligibility under Health Connector.

### ISSUES

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidized insurance through the Health Connector because the Appellant's was not a resident of Massachusetts and that the FPL did not meet the minimum the threshold for eligibility in a Health Connector Care subsidized plan.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 28, 2021.

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

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

Exhibit 2:	Appellant's Appeal Request Form with Utility Invoice	( pages, received	3/21/2021)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 page, dated	3/10/ 2021)
Exhibit 4:	Health Connector's Notice of Hearing	(3 pages, dated	4/5/2021)
Exhibit 5	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated	11/20/ 2020)
Exhibit 6:	Health Connector's Eligibility Denial	(6 pages, dated	2/11/2021)
Exhibit 7:	Health Connector's Application Summary	( 3 pages, dated	12/20/2020)
Exhibit 8:	Health Connector's Eligibility Results	( 3 pages, dated	4/11/2021)
Exhibit 9:	Medicaid Household Determination	(	)
Exhibit 10:	Email to Appellant re: Proof of Residency	( 2 pages,	3/30/2021)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant has never enrolled with the Health Connector and had previously been on MassHealth through October 21, 2020. (Exhibits 5 and 9).
2. The Appellant had not submitted a MassHealth Denial Letter. (Exhibit 5).
3. The Appellant applied for ConnectorCare on February 11, 2021. (Exhibit 8).
4. The Appellant's Family also includes a child. (Exhibits 7 and 8).
5. The Health Connector found the Appellant did not qualify for health insurance through the Connector because the records did not indicate the Appellant lived in Massachusetts. (Exhibit 6).
6. The Appellant submitted a utility bill with a Massachusetts address in February 2021 with the Appeal submitted in March 21, 2021. (Exhibit 2)
7. Based on the Appellant's projected income, the FPL was 135.12%. (Exhibits 7 and 8).
8. The Health Connector found based on the Appellant's residency and FPL that the Appellant was not eligible for Health Connector plans without subsidies. (Exhibit 1, 6 and 7, and 8)
9. Based on the Appellant's FPL, the Appellant was encouraged to contact MassHealth and remove the Administrative closure and report the correct Massachusetts address. (Exhibit 2)
10. The Appellant's FPL does not meet the minimum income threshold for eligibility for a Health Connector plan. (Exhibits 6-8).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was not found eligible for Health Connector plans without subsidies. The Appellant asserts that this determination was incorrect because the Appellant does not have coverage and is a Massachusetts resident. (Exhibits 2,6, and 9). The Appellant has never enrolled with the Health Connector and had previously been on MassHealth through October 21, 2020. (Exhibits 5 and 9). The Health Connector found the Appellant did not qualify for health insurance through the Connector because the records did not indicate the Appellant lived in Massachusetts. (Exhibit 6). An administrative closure was placed on the Appellant's application due to failure to verify residency. (Exhibits 1, 5 and 6). The Appellant's FPL based on income was 135.12%, which does not meet the Health Connector minimum threshold, and the Appellant's MassHealth coverage is not in effect.

Although the Appellant submitted a utility bill with a Massachusetts address in February 2021 with the Appeal for proof of her residency, because of the eligibility rules for APTC and ConnectorCare, the Health Connector cannot

allow the Appellant to continue to be eligible for subsidized insurance, since the Appellant has attested to an income that makes the Appellant ineligible for those benefits. 45 CFR § 155.305(f) and 956 CMR 12.04(3)(c). 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 between 100 - 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. Individuals whose income falls below 100% of the Federal Poverty Level are not eligible for APTC, unless they are denied Medicaid eligibility based on their lawful presence status. 45 CFR § 155.305(f)(2).

On February 11, 2021, Appellant was determined to not be eligible for subsidized insurance through the Health Connector, based on a determination that the Appellant's income did not meet the federal poverty level ("FPL") threshold for eligibility under Health Connector, and that the Appellant's income.

The Appellant was advised to contact the Massachusetts Medicaid agency and submit residency verification, which she did, and was determined to be eligible for MassHealth.

#### 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: ACA2113843

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

**Hearing Issue:**

Whether the Connector correctly determined the appellant's eligibility to enroll in a Health Connector plan with an advance premium tax credit.

**Hearing Date:** April 9, 2021

**Decision Date:** June 1, 2021

### 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 January 29, 2021, the Connector determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit based upon information supplied by the appellant to the Connector and other data sources.

### ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 9, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Connector affidavit regarding creation and maintenance of Appeals files and verification of data from other sources, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated March 11, 2021 for April 9, 2021 hearing addressed to Appellant

Exhibit 3: Connector Appeals Unit letter dated February 23, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit staff outreach notes, dated February 23, 2021

Exhibit 4: Hearing Request Form from Appellant received by the Connector on February 12, 2021 with note attached

Exhibit 5: Connector letter dated January 29, 2021 to Appellant regarding eligibility for a Health

Connector plan

Exhibit 5a: Connector letter to Appellant dated May 20, 2020 requesting proof of income by August 18, 2020 with a list of acceptable forms of proof attached

Exhibit 6: Summary and results of Appellant's application for Connector health plan dated January 29, 2021

Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated April 6, 2021

Exhibit 7: Letter from the Department of Unemployment Assistance to Appellant dated January 28, 2021

sent to Connector by Appellant as proof of income

Exhibit 7a: Print-out showing receipt and processing of Appellant's proof of income

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through the Connector in 2020. Appellant had lost his job in July, 2020 and started to collect unemployment compensation of \$823 a week. Appellant also had investment income of \$166 a month. As of the date of this hearing, Appellant was still collecting \$823 a week in unemployment compensation and the investment income (Testimony of Appellant, Exhibit 1).
2. In January, 2021, Appellant updated his application for coverage. Appellant attested to having investment income of \$166 a month and of collecting a one-time payment of unemployment compensation benefits of \$9,876 in January. Appellant attested to an annual projected income of \$11,868 which equaled less than 100% of the Federal Poverty Level (Exhibit 6, Testimony of Appellant).
3. The Connector verified the appellant's income and determined that Appellant was collecting \$823 a week in unemployment compensation benefits in addition to the investment income. This determination was based upon proof of income sent to the Connector by Appellant on January 28, 2021 showing his continuing receipt of unemployment benefits. Appellant's projected income was determined to be 350.98% of the Federal Poverty Level (Exhibits 6 and 7).
4. The Connector notified the Appellant in a letter dated January 29, 2021 that Appellant was eligible for Connector Health plan coverage with an advance premium tax credit based upon self-attestation of his projected income and verified income (Exhibits 5 and 6).
5. Appellant submitted a request for an appeal of the Connector's determination on February 12, 2021. Appellant appealed the January 29, 2021 Connector determination because he felt his income had decreased (Exhibit 4, Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on January 29, 2021 that the appellant was eligible to purchase a Connector Health plan with an advance premium tax credit. See Exhibit 5.

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

45 CFR Section 155.320 provides for verification of an applicant's income by the Connector through data sources other than the applicant.

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.

In this matter, in January, 2021, Appellant updated his application for coverage. Appellant attested to having investment income of \$166 each month and to collecting a one-time payment of unemployment compensation benefits of \$9876 in January. Appellant attested to an annual projected income of \$11,868 which equaled less than 100% of the Federal Poverty Level. The Connector verified the appellant's income and determined that Appellant was collecting \$823 a week in unemployment compensation benefits in addition to the investment income. This determination was based upon proof of income sent to the Connector by Appellant on January 28, 2021 showing his continuing receipt of unemployment benefits and income verification by the Connector. Appellant's projected income was determined to be 350.98% of the Federal Poverty Level. At the time of this hearing, Appellant was still collecting \$823 a week in unemployment benefits and the monthly investment income. See the testimony of the appellant which I find to be credible and Exhibits 6 and 7.

Based upon the attestation by the appellant, and the verification by the Connector of Appellant's income, the Connector correctly determined the appellant's eligibility for a Connector Health plan with an advance premium tax credit.. As noted above, if individuals are otherwise eligible to purchase health insurance through the Connector and if the individuals have an income which is between 100% and 400% of the Federal Poverty level, the individuals are eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit.

**ORDER:** The action taken by the Connector regarding Appellant's eligibility to enroll in a Connector Health plan with an advance premium tax credit is affirmed.

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

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



Cc: Connector Appeals Unit

Hearing Officer

Addendum: If Appellant's income changes for any reason (for example, if unemployment compensation benefits end), Appellant should contact the Connector at Customer Service to report the change in income. Appellant's eligibility for coverage through the Connector and the amount of the advance premium tax credit may change depending upon the change in income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2114151

**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 without an advance premium tax credit.

**Hearing Date:** May 18, 2021

**Decision Date:** June 9, 2021

### 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 12, 2021, the Connector determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit based upon information supplied by the appellant to the Connector.

### ISSUE

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

### HEARING RECORD

The appellant and a relative appeared at the hearing which was held by telephone on May 18, 2021. The procedures to be followed during the hearing were reviewed with the appellant and her relative. The appellant was then sworn in. Exhibits were reviewed with the appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated April 26, 2021 addressed to Appellant for May 18, 2021 hearing

Exhibit 3: Connector Appeals Unit letter dated April 23, 2021 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit staff outreach notes dated April 23, 2021

Exhibit 3b: Emails to Appellant from the Connector Appeals Unit dated April 23rd and 28th, 2021

- Exhibit 4: Hearing Request Form from Appellant received by the Connector on April 14, 2021 with Appellant's 2020 Federal and Massachusetts tax returns attached
- Exhibit 5: Connector letter dated March 12, 2021 to Appellant regarding eligibility approval for Connector Health Plan with no financial assistance
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated March 12, 2021 and April 20, 2021
- Exhibit 7: Medicaid household determination print-out regarding Appellant

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had ConnectorCare Type 1 coverage in 2020 and in 2021 until the end of March (Testimony of Appellant, Exhibit 3a).
2. On March 12, 2021, the Connector determined that the appellant would not be eligible for Connector-Care coverage as of April 1, 2021. The Connector found that the appellant would be eligible for a Health Connector plan without an advance premium tax credit because the appellant's income was too low, and because Appellant was now eligible for MassHealth (Exhibits 3a, 5, 6).
3. Appellant submitted a request for an appeal of the Connector's determination on April 14, 2021 and Appellant requested financial aid pending the outcome of the appeal (Exhibit 4, Exhibit 3b, and Testimony of Appellant).
4. The appellant, who is over 65 years old, came to the United States on March 12, 2016. Appellant has a permanent resident card. (Testimony of Appellant, Exhibit 7).
5. The appellant has no source of income. The appellant attested to a projected annual income of \$0.00 on her application for health insurance through the Connector. This amounts to zero percent of the Federal Poverty Level (Testimony of Appellant, Exhibit 6, Exhibit 4 attachment).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on March 12, 2021 that the appellant was eligible to purchase a Connector Health plan without an advance premium tax credit. See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(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 less than 100% or more than 400% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan. but without an advance premium tax credit. An exception may be made for an individual who is a qualified alien who has been in the United States less than five years. Since such an individual is barred from receiving MassHealth benefits, the Connector may provide ConnectorCare Type I benefits to the legally present individual. Once the individual is eligible for Medicaid, the individual is no longer eligible for coverage with an advance premium tax credit. See 8 U. S. C. 1613, 42 CFR 435.406(a) and (b), 45 CFR 155.305(f)(2), and 956 CMR 12.00 et. seq.

In this matter, the appellant was found to be eligible for a Health Connector plan without an advance premium tax credit. According to the notice sent to the appellant and dated March 12, 2021, Appellant was not eligible for a tax credit because Appellant had income that was too low, and/or had access to health insurance through another source which met minimum essential coverage standards. See Exhibit 5. Appellant had previously been enrolled in a ConnectorCare, Type I plan. Appellant appealed the Connector's decision to terminate her ConnectorCare coverage and instead enroll Appellant in a health plan without an advance premium tax credit. See the testimony of the appellant which I find to be credible and Exhibits 3a, and 4.

Appellant attested on her application that she had no access to other insurance, and that she intended to file taxes. She also attested to a projected income of \$0.00 for 2021 which equals 0% of the Federal Poverty Level. Appellant is over 65, and has been in the United States lawfully since March 12, 2016. Appellant submitted proof of income, her 2020 Federal tax return, to the Connector showing the same lack of income. Appellant has no source of income. See Exhibits 4, 5, and 6 and the testimony of the appellant which I find to be credible.

Based upon the projected income that the appellant attested to on her application for 2021 coverage, and the fact that Appellant had been in the United States lawfully for over five years, Appellant became eligible for MassHealth as of mid-March, 2021. The Connector, taking this into account, correctly determined that the appellant was no longer eligible for a ConnectorCare Plan, Type 1, but was eligible for a Connector Health plan without an advance premium tax credit. As noted above, if an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. If the projected income is less than 100%, the individual is not eligible for a tax credit, though the applicant may purchase a Connector Health plan. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit.

Appellant's projected income, equaling less than 100% of the Federal Poverty Level, was too low for her to be eligible for a tax credit. See Exhibit 6 and the testimony of the appellant which I find to be credible. Appellant had been eligible for ConnectorCare, Type I until her immigration status changed. Once Appellant was legally present for five years, her eligibility for MassHealth changed and she was no longer eligible for ConnectorCare coverage. See cites above.

The Connector's determination is affirmed.

**ORDER:** The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan without an advance premium tax credit is affirmed.

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

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

Hearing Officer

Addendum: Appellant requested that her ConnectorCare coverage remain in place pending the outcome of this appeal. She was informed by the Connector that if she did not prevail, she would be required to refund any advance premium tax credit that she was found not to be entitled to. See email to the appellant from the Connector Appeals Unit, Exhibit 3b.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-14152

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Denial of a Request for a Premium Waiver or Reduction.

**Hearing Date:** May 19, 2021

**Decision Date:** May 28, 2021

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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, 2021, the Health Connector denied the Appellant's request for a Waiver or Reduction of the Appellant's monthly premium contribution.

### ISSUE:

Did the Health Connector correctly deny the Appellant's March 12, 2021 Application for a full Waiver of the Appellant's monthly ConnectorCare premium based on the Appellant's refusal to enroll in a lower cost health plan?

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 19, 2021. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated April 16, 2021.
- Exhibit 3: Health Connector Eligibility Approval Notice dated April 13, 2021.
- Exhibit 4: 2021 Eligibility Results with an Application Summary dated April 13, 2021.
- Exhibit 5: The Appellant's letter requesting an Appeal dated April 13, 2021.
- Exhibit 6: The Appellant's Application for a Premium Waiver or Reduction due to Financial Hardship dated March 12, 2021.

- Exhibit 7: Health Connector Notice of Hardship Waiver Denial dated March 17, 2021.
- Exhibit 8: Health Connector Notice of Premium Waiver Approval dated February 10, 2021.
- Exhibit 9: Health Connector Notice of Premium Waiver Approval dated February 11, 2021.
- Exhibit 10: Health Connector Policy NG-17: Waiver or Reduction of Premium.
- Exhibit 11: Copies of premium bills issued to the Appellant for the period of March 2021 through June 2021.
- Exhibit 12: Health Connector Customer Service Operations Notes dated March 15, 2021.
- Exhibit 13: Health Connector Operations E-mail sent to the Appeals Unit regarding the March Premium Waiver that had been issued by mistake on February 11, 2021.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was enrolled in ConnectorCare 2B during the period of March 2021 through May 2021 (Exhibits 11, 12).
2. The Appellant's Application was updated on April 13, 2021. The Appellant reported unemployment compensation income equal to 160.14% of the federal poverty level for the Appellant's reported household of one. The Appellant remains eligible for ConnectorCare 2B. The Appellant does not dispute the financial eligibility determination (Exhibits 3, 4 and Appellant Testimony).
3. The Appellant enrolled in the Allways Health Partners plan. The required monthly Enrollee contribution of \$272 is the highest cost ConnectorCare 2B plan in the Appellant's Service Area. Tufts Direct is available to the Appellant at a monthly cost of \$51 and BMC is available at a monthly cost of \$46 (See Health Connector 2021 ConnectorCare Enrollee Contributions Chart).
4. The Appellant applied for a Waiver or Reduction of their monthly health care premium on March 12, 2021, citing a large increase in monthly expenses due to Covid-19 (Exhibit 6).
5. Based on a prior Waiver Application the Health Connector issued a notice on February 11, 2021, informing the Appellant that their monthly premium payment would be lowered by \$272 for the period of March 1, 2021- March 31, 2021. Health Connector Operations noted that this notice was issued by mistake. The approval was not issued in compliance with Health Connector Policy NG-17 regarding Premium Waiver or Reduction requests (Exhibits 9, 10, 12, 13).
6. The Appellant spoke with a Supervisor on March 15, 2021, to request that their monthly premium of \$272 be reduced to zero. The Appellant was informed that the February 11, 2021, notice was issued by mistake. The Supervisor explained to the Appellant that to receive the maximum premium reduction the Appellant would be required to switch to the lowest cost plan in the Appellant's service area. The Appellant was also informed that if they chose to remain in the Allways Plan, their premium of \$272 would be reduced by \$44. The Appellant informed the Supervisor that they would not change plans and were no longer interested in pursuing a Waiver if all they could receive was \$44 (Exhibits 10, 12, 13).
7. On March 17, 2021, Health Connector issued a Hardship Waiver Denial Notice based on the Appellant's refusal to switch health plans and/or accept a \$44.00 premium reduction (Exhibits 6, 12).

8. The Appellant filed an Appeal of the Premium Waiver or Reduction denial on April 13, 2021 (Exhibit 5).
9. The Appellant testified that they have been treated by the same medical team for forty-five years. The Appellant alleges that the providers available under the less expensive health plans in their service area are not as good. The Appellant said that the Health Connector Policy requiring them to enroll in a less expensive health Plan puts their health in jeopardy and is unfair (Appellant Testimony).

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

Prior to March 2021 the Appellant was determined eligible for ConnectorCare 2B based on the Appellant's reported unemployment compensation income which Health Connector determined was equal to 160.14% of the federal poverty level. 956 CMR § 12.04(3)(b). The Appellant's Application was updated on April 13 and the Appellant remains eligible for ConnectorCare 2B. The Appellant did not dispute the financial eligibility determination.

The Appellant applied for a Premium Waiver due to financial hardship on March 12, 2021. The Appellant's request was denied on March 17, 2021, and the Appellant filed this Appeal on April 13, 2021.

Under 956 CMR 12.11(5), individuals who are eligible for ConnectorCare and who experience extreme financial hardship may be eligible to have their premium payment waived or reduced. In accordance with Health Connector Policy NG-17 regarding Premium Waiver or Reduction, to receive the maximum amount of waiver or reduction of premium, an individual or family that is granted a waiver or reduction should enroll in the lowest cost ConnectorCare plan available in their service area. Health Connector, at its discretion, shall determine the amount of waiver or reduction based on the proof of extreme financial hardship provided.

The Appellant enrolled in the Allways Health Partners plan which requires an Enrollee contribution of \$272 toward the monthly premium. This is the highest cost ConnectorCare 2B plan available in the Appellant's service area. There are two other plans available to the Appellant in the service area. Tufts Direct requires an Enrollee contribution of \$51 and BMC requires a premium contribution of \$46.

In response to a Premium Waiver application submitted by the Appellant prior to the March 12, 2021 application at issue in this case, on February 11, 2021, Health Connector issued a notice to the Appellant informing the Appellant that their premium of \$272 would be lowered by \$272 for the period of March 1, 2021- March 31, 2021. Health Connector Operations determined that this notice was issued by mistake and is not in accordance with Health Connector Policy NG-17 as noted above. This mistake understandably led to confusion on the Appellant's part.

On March 15, 2021, a supervisor spoke with the Appellant at length to explore the options available to the Appellant in an attempt to lower the Appellant's monthly premium contribution. The Appellant was advised to enroll in the BMC plan which would allow Health Connector to reduce the Appellant's premium contribution to near zero. The Appellant declined to change plans. The Supervisor informed the Appellant that if they chose to remain in the Allways plan, the Health Connector would reduce the premium of \$272 by \$44 per month. The Appellant informed the Supervisor that the \$44 was not enough and the Appellant would not pursue the Waiver or Reduction request. Based on this conversation and Health Connector Policy NG-17 Health Connector denied the Appellant's request for a Premium Waiver or Reduction on March 17, 2021.



The Appellant argues that they filed the Appeal to dispute the Health Connector Policy that would require them to change health plans. The Appellant explained that they have had the same medical treatment providers for forty-five years and should not be forced to change providers and put their health in jeopardy. While the Appellant's reluctance to change health plans is understandable, Health Connector Policy is clear that to receive the maximum premium reduction, the Appellant is required to enroll in the lowest cost plan available in their service area. As explained at the Hearing, a challenge to the Health Connector's regulations and policies is beyond the scope of administrative review. 956 CMR § 12.02, 12.12 and Health Connector Policy NG-17. The denial of the Appellant's March 12, 2021, application for a Premium Waiver or Reduction was correctly denied in accordance with Health Connector Policy on March 17, 2021.

**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: ACA21-14162

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare, based on failure to attest an intention to file taxes.

**Hearing Date:** June 4, 2021,

**Decision Date:** June 9, 2021

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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 16, 2021, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after the Appellant failed to attest that they intended to file an income tax return.

### ISSUE:

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is only eligible for Health Connector plans and not eligible for ConnectorCare, based on the Appellant's failure to attest their intention to file a tax return.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 4, 2021. The Appellant appointed a friend to act as their Authorized Representative for the Appeal. The Representative also provided Interpreter services. The hearing record consists of the testimony of the parties and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated May 13, 2021.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector's Eligibility Approval Notice dated March 16, 2021.

- Exhibit 5: 2021 Eligibility Results with an Application Summary dated March 16, 2021.  
Exhibit 6: The Appellant's Hearing Request Form dated April 11, 2021.  
Exhibit 7: Medicaid Household Eligibility Printout.

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied for ConnectorCare on March 16, 2021, and reported having zero income. The Appellant did not attest on their application that they intended to file an income tax return (Exhibit 4).
2. The Appellant is not a US Citizen. The Appellant is a Legal Permanent Resident (LPR) present in the United States under this status for less than five years (Exhibits 3, 7).
3. On March 16, 2021, the Appellant was determined eligible for Health Connector plans, without subsidies because the Appellant did not attest their intention to file taxes (Exhibits 3, 4).
4. The Appellant filed an appeal on April 11, 2021 (Exhibit 6).
5. The Appellant and their Representative were not aware that the Appellant must file an income tax return in order to be eligible for help paying for health insurance (Representative Testimony).

**ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant applied for ConnectorCare on March 16, 2021 and reported having zero income. The Appellant is a LPR who is ineligible for Medicaid because they have not been in the country under this status for at least five years. 45 CFR § 155.305(f)(2). On March 16, 2021, the Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect because the Appellant had reported income of less than 300% of the Federal Poverty Level and they are otherwise eligible for subsidies.

Applicants for subsidized insurance are only eligible if they attest that they will file taxes. This is because the benefit is administered through the tax code. 26 CFR § 1.36B-2T. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

Although the Appellant is lawfully present in Massachusetts with income less than 300% of the federal poverty level, the Appellant did not attest that they planned to file taxes as required to be eligible for APTC. 26 CFR § 1.36B-2T. As a result, Health Connector correctly determined on March 16, 2021, that the Appellant was not eligible for ConnectorCare.

**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 is reminded to update their application and attest that they plan to file taxes. The Appellant may contact Health Connector Customer Service at 1-877-623-6765 for assistance.