

**FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Approved, Eligibility determination overturned

**Hearing Issue:** Eligibility for Health Connector plans, based on failure to establish lawful presence and income

**Hearing Date:** June 8, 2022,

**Decision Date:** June 20, 2022

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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 April 1, 2022, Appellant was determined eligible for Health Connector plans without subsidies, due to failure to establish lawful presence of his Spouse and income to the Health Connector.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 8, 2022.

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	(6 pages, received 4/13/2022)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 page, dated 5/4/ 2021)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	( 1 page, dated 5/6/ 2022)
Exhibit 5:	Health Connector’s Application Summary	(3 pages, dated 4/1/ 2022)
Exhibit 6:	Health Connector’s Eligibility Results	(3 pages, dated 4/1/2022)

# Massachusetts Health Connector Appeals Unit



Exhibit 7	Health Connector’s Eligibility Approval	(8 pages, dated	4/1/2022)
Exhibit 8:	Health Connector’s Appeals Unit Staff Notes	( 2 pages, dated	4/22/ 2022 5/4/2022)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	4/1/ 2022)
Exhibit 10:	Email	(1 page, dated	4/25/2022)
Exhibit 11:	Request for Information	(5 pages, dated	3/4/2022 )
Exhibit 12:	Health Connector’s Application Summary	(3 pages, dated	4/28/ 2022)
Exhibit 13:	Health Connector’s Eligibility Results	(3 pages, dated	4/28/2022)
Exhibit 14:	Medicaid Household Determination	(5 pages, dated	4/28/ 2022)
Exhibit 15	Health Connector’s Eligibility Approval	(8 pages, dated	4/1/2022)
Exhibit 16:	Health Connector’s Application Summary	(3 pages, dated	5/9/ 2022)
Exhibit 17:	Verifications submitted by the Appellant including 2021 Form 1040 and 2021 Schedule HC, Affidavit of Zero Income Permanent Residence Card and Social Security Card.		

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans on April 1, 2022, without subsidies after failing to establish that the Appellant’s Spouse is lawfully present and for failing to provide income verification for the Appellant and Spouse. (Exhibit 1, Exhibits 5-8).
2. The Appellant received a Request for Information from the Connector dated March 4, 2022, requesting proof of immigration status and income for the Appellant’s spouse and proof of income for the Appellant due by March 27, 2022. (Exhibit 11).
3. The Appellant had provided immigration documents regarding lawful presence including the Spouse’s permanent residence card and social security number, and an affidavit of zero income documents for the spouse in February 2022 and did provide proof of income for the Appellant by March 27, 2022. (Appellant testimony, Exhibits 1, 5-8, 11, 17).
4. The Appellant had submitted documents showing that the Appellant is lawfully present to the Health Connector and zero income for the Spouse, as well as proof of his income, reapplied, and has been redetermined and is now eligible for ConnectorCare Bronze Plan. (Exhibit 5, Appellant Testimony).
5. The Appellant testified that he was unable to afford the unsubsidized plan on or about April 28, 2022, reapplied, and has been approved and is enrolled with the spouse in a plan based on a household income equivalent to 349.39% of the Federal Poverty Level. (Appellant’s testimony, Exhibits 13-17).
6. The Appellant testified that he was not requesting retroactive coverage. (Appellant’s Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans based on failing to establish lawful presence and unknown income. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector.

On April 1, 2022, the Appellant was determined eligible for a Health Connector plans without subsidies. The Appellant testified that he cancelled the existing plan and reapplied because he could not afford the unsubsidized

plan. On April 28, 2022, the Health Connector processed the Appellant's application, updated the Appellant's projected household income to equivalent to 349.39% of the Federal Poverty Level, and issued a new eligibility determination, finding that Appellant and Spouse were therefore eligible for Health Connector plans with subsidies and Advanced Premium Tax Credits.

I find that that the Health Connector failed to process the documents the Appellant had submitted in February, 2022 including proof of lawful Presence and income. This was an error on the Health Connector's part and did not comply with the process described in federal regulations at 45 CFR §§ 155.315(f) and 155.320(d). The Health Connector should instead have affirmed the Appellant's lawful presence and income and determined their eligibility determination on the attested household determination using the date submitted by the Appellant. However, the Appellant reapplied on April 28, 2022, using attested to income, and is now eligible with the Spouse and enrolled with a Connector plan with subsidies and APTC's.

### **ORDER**

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

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

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

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

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

## Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2022 from the federal government will be reconciled when you file your 2022 federal income tax return (usually in the spring of 2022). 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 2022 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2022 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2016 will be paid to you when you file your 2016 federal income tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-16478

**Appeal Decision:** Appeal denied

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

**Hearing Date:** June 8, 2022

**Decision Date:** June 28, 2022

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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 April 19, 2022, the Appellant was advised determined eligible for ConnectorCare with Advanced Premium Tax Credits (“APTC’s”) beginning in May 2022. The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan with Advanced Premium Tax Credits beginning in May 2022, based on the income used in the Health Connector’s verification process.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on June 8, 2022, and testified under oath. An interpreter was requested by the Appellant, the Appellant was instructed by the Hearings Officer, and both the Interpreter and Appellant were sworn in. The Appellant testified at the hearing. The hearing record consists of testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 page, undated )
Exhibit 2:	Appellant’s Appeal Request Form	(6 pages, received 4/19/2022)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 page, dated 4/26/ 2021)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	( 1 page, dated 5/6/ 2022)

Exhibit 5:	Health Connector's Application Summary	(3 pages, dated	4/19/ 2022)
Exhibit 6:	Health Connector's Eligibility Results	(3 pages, dated	4/19/2022)
Exhibit 7:	Health Connector's Eligibility Approval	(8 pages, dated	4/19/2022)
Exhibit 8:	Health Connector's Appeals Unit Staff Notes	( 2 pages, dated	4/26/ 2022)
			5/6/2022)
Exhibit 9:	Medicaid Household Determination	(5 pages, dated	4/26/ 2022)
Exhibit 10:	Verification Documents of		(1 page, dated
			4/25/2022)
Exhibit 11:	Virtual Gateway	(5 pages, dated	4/26/2022)
Exhibit 12:	Appellant's Earnings Statement	(3 pages, dated	
			3/18/2022
Exhibit 13:	Health Connector's Application Summary	(3 pages, dated	3/23/ 2022)
Exhibit 14:	Health Connector's Eligibility Results	(3 pages, dated	3/23/2022)

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is married, who plans to file a federal income tax return for tax year 2022. (Exhibits 1,5, and 9)
2. The appellant had been enrolled with ConnectorCare Plan Type 3 and was eligible for a health connector plan with an APTCs for May 2022. (Testimony, Exs. 1, 7, 13, and 19).
3. The appellant testified that she was enrolled in Connectorcare and that her Spouse was enrolled in Employer Sponsored Insurance("ESI"). (Appellant's Testimony).
4. The Appellant was sent a notice on April 19, 2022, that she was eligible only for Connectorcare with APTC's. (Exs. 1, 5-9).
5. This notice stated that the Health Connector's determination was based on an income equivalent to 380.05% of the Federal Poverty Level. The notice also instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibits 1,7).
6. The Appellant testified her income was \$422 per week and her husband's income was \$622 per week. (Appellant's testimony).
7. The Appellant's self-attested income for her husband was \$43,988.62 and the Appellant's self-attested income was \$22,216.33. (Exhibits 1,7).
8. The Appellant was encouraged at the hearing to contact the Connector for income verification and update her income if it had changed.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans with APTC's, after being enrolled for ConnectorCare Plan Type 3, based on the income verification process. The Appellant asserts that this determination was incorrect because the Appellant cannot afford to purchase the Health Connector plan with APTC's. The Appellant was found eligible for ConnectorCare with APTC's beginning in May 2022 based on the Health Connector's determination that used an income and family size equivalent to 380.05 % of the Federal Poverty Level. The Appellant asserts that this determination was incorrect because the Appellant received Connectorcare Plan 2 with subsidies until March 2022 which changed in April and again in May 2022 based on income verifications. Appellant testified that her household income consisted of her and her spouse's income, which income warrants continued subsidies, and the Appellant should therefore have remained eligible for ConnectorCare Plan Type 2, as she was until March 31, 2022. (Appellant's Testimony).

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On April 19, 2022, the Appellant was advised that she was eligible for ConnectorCare with APTC's beginning in May 2022 based on having a household income equivalent to 380.05 % of the Federal Poverty Level. The Appellant testified that her income was \$422 per week and her husband's income was \$622 per week but asserts that she should keep her ConnectorCare Plan Type 2 eligibility, since they cannot afford the Health Connector. However, 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). This is consistent with annual renewal rules in federal regulation at 45 CFR § 155.335.

Based upon the totality of the evidence, it is concluded that the Connector's determination on April 19, 2022, regarding the Appellant's eligibility for Health Connector Plans with APTC's was correct. The Appellant is advised to report any changes to her income or any other information on her application.

## **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**

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 2022 from the federal government will be reconciled when you file your 2022 federal income tax return (usually in the spring of 2023). 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 2022 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2022 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2022 will be paid to you when you file your 2022 federal income tax return.



## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination of eligibility for financial assistance.

**Hearing Date:** May 31, 2022

**Decision Date:** June 8, 2022

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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**

Appellant was notified by letter from the Health Connector dated March 23, 2022 that she did not qualify for financial assistance to purchase health insurance.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the information provided in the application.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 31, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Hearing Request Form (dated 3/28/22) (2 pages)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: Eligibility Notice (dated 3/23/22) (4 pages)
- Exhibit 4: Screen Shot of Application Summary (3 pages)
- Exhibit 5: Screen Shot of Eligibility Summary (3 pages)

# Massachusetts Health Connector Appeals Unit



- Exhibit 6: Summary of Medicaid eligibility (4 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Email from Appeals Unit (4/5/22) (2 pages)
- Exhibit 9: Request for income information (12/10/21) (4 pages)
- Exhibit 10: Screen shot of eligibility determination (12/10/21) (4 pages)
- Exhibit 11: Screen shot of application summary (12/10/21) (4 pages)
- Exhibit 12: Hearing Notice (dated 4/25/22) (3 pages)
- Exhibit 13: Acknowledgement of Appeal Request (1 page)

## FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a married woman. She and her husband had a child in November 2021.
2. At the time of the child's birth, Appellant had been working full-time.
3. After the child's birth, Appellant elected to return to work on a part-time basis only. As a result, her income was halved.
4. In December 2021, Appellant applied for health insurance through the Health Connector and requested financial assistance. As a result, she was asked to provide information about her income. In response, she stated that her household income was approximately \$60,000. Exhibit 11. Based on that attestation, Appellant was determined eligible for Connector Care, a program of subsidized health insurance for persons whose household income is below 300 percent of the federal poverty level ("FPL"). Exhibit 10.
5. The federal poverty limit is a threshold set by the federal government annually to determine eligibility for various government assistance programs. The federal poverty limit, which is used to determine eligibility for Health Connector programs in 2022, is \$23,030 for a household of three persons like Appellant's. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. Thus, 300 percent of that figure would be \$69,090.
6. Shortly afterward, Appellant was requested to provide proof of her income. Exhibit 9.
7. Appellant believes that she provided a pay stub to the Health Connector in response to that request. However, there is no indication in the record that any proof of income was received by the Health Connector.
8. As a result, the Health Connector based an eligibility determination on income available from other federal data sources. Exhibits 4, 5. Based on those data sources, which included income from earlier years when Appellant's income was higher, Appellant was determined to have income above 300 percent of FPL. At that level, she was no longer eligible for Connector Care. Exhibit 4.
9. When Appellant received this new eligibility determination, her monthly premium went up significantly because she was no longer receiving the subsidy that came as part of Connector Care. She believed that she could resolve this problem by switching to a different insurance plan. She called up the Health Connector and asked to switch plans, but she was told that she couldn't do that because it was outside the annual open enrollment period.

10. Appellant filed a timely appeal of the determination. Exhibit 1.

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

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible for Connector Care. In order to be eligible for Connector Care, which is a program jointly funded by the state and federal governments, an individual's household income must be below 300 percent of the federal poverty limit (FPL). 956 C.M.R. § 12.04. As stated above, the applicable FPL for a household of three persons like Appellant's is \$23,030. Thus, 300 percent of that amount would be \$69,090.

When Appellant applied for health insurance, she gave an income figure that reflected the salary she was making when she worked full-time. With that salary figure, she was just under the Connector Care cutoff

The procedure for determining income for eligibility purposes is dictated by federal law. 45 C.F.R. § 155.320. When an applicant provides an income figure in an application, the Health Connector must seek to verify that figure by comparing it to information contained in recent federal data sources regarding income. *Id.* § 155.320(c)(1). If the information in the tax record does not match what the individual has stated in the application, then the Health Connector must request that the individual provide proof of the amount claimed in the application. *Id.* § 155.320(c)(1)(B). If the individual does not provide satisfactory proof, then the Health Connector is directed to determine eligibility based on the figure contained in these data sources. *Id.*

In keeping with this required procedure, the Health Connector determined that there was an inconsistency between the amount claimed by the Appellant in her application and the amount in the most recent data sources. As a result, the Health Connector sent Appellant a request for verification. Exhibit 9. The record indicates that the Health Connector never received proof of the income claimed by Appellant in her application. As a result, the Health Connector followed the required procedure and determined eligibility based on income from the most recent data sources. That figure was above 300 percent of FPL, and as a result, Appellant was no longer eligible for Connector Care.

In any event, the income figure that Appellant provided in her application is no longer correct. That figure was based on an income amount that assumed she was working full-time. However, Appellant has since reduced her work to part-time, resulting in a reduction of income. Appellant should report to the Health Connector this reduced income figure. This will trigger a new determination of eligibility based on that figure. Appellant can report the income change by logging into her on-line account and updating her on-line application. She can do this at the [www.mahealthconnector.org](http://www.mahealthconnector.org) website. Alternately, she can call the Health Connector customer service at 1-877-623-6765 and say that she wants to report an income change. After reporting her new income, Appellant may be asked to provide proof of that income. She can do that by providing pay stubs reflecting the reduced amount of work, along with an explanation of her reduced number of hours.

Because the Health Connector correctly determined eligibility based on information available to it from federal data sources, I am denying this appeal.

## Massachusetts Health Connector Appeals Unit



### 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

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination of eligibility for financial assistance.

**Hearing Date:** May 31, 2022

**Decision Date:** June 8, 2022

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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**

Appellant was notified by letter from the Health Connector dated March 23, 2022 that she qualified for \$170 a month in health insurance subsidies based on her income.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that the Appellant's eligibility for subsidies.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 31, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Hearing Request Form (1 page)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: Eligibility Notice (dated 3/28/22) (8 pages)
- Exhibit 4: Screen Shot of Application Summary (3 pages)
- Exhibit 5: Screen Shot of Eligibility Summary (2 pages)

- Exhibit 6: MassHealth eligibility denial notice (2 pages)
- Exhibit 7: Summary of Medicaid eligibility (4 pages)
- Exhibit 8: Appeals Unit database notes (1 page)
- Exhibit 9: Email from Appeals Unit (4/21/22) (2 pages)
- Exhibit 10: Record of income verification documents (2 pages)
- Exhibit 11: Verification documents (4 pages)
- Exhibit 12: Request for income information (2/15/2022) (4 pages)
- Exhibit 13: Hearing Notice (dated 4/25/22) (3 pages)
- Exhibit 14: Acknowledgement of Appeal Request (1 page)

### FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a single individual with no dependents.
2. For some years prior to 2022, Appellant had been enrolled in health insurance through the Health Connector. She was receiving subsidies to offset the cost of this insurance. The amount of subsidies is based on the individual's income. In 2021, after subsidies, Appellant was paying about \$180 a month for health insurance.
3. The amount of subsidy that Appellant received in 2021 was based on her having an income of approximately \$49,000 a year.
4. Appellant worked at two part-time jobs and earned about \$49,000 per year. She expected her earned income to be similar in 2022 to what it had been in 2021.
5. In early 2022, Appellant withdrew \$20,000 from an individual retirement account ("IRA") that she held. She used this money to assist an adult child with tuition.
6. In February 2022, as part of its annual re-determination of eligibility, the Health Connector requested Appellant to provide information about her expected 2022 income. Exhibit 12.
7. Appellant provided documents evidencing her salary from her two part-time jobs. She also provided documentation showing that she had withdrawn \$20,000 from her IRA.
8. Based on this information, the Health Connector determined that her income for 2022 would be \$69,000, instead of \$49,000. It reached this figure because the IRA withdrawal was considered income.
9. As a result, the amount of subsidy for which she was eligible was significantly reduced from the amount she had been receiving in 2021. Consequently, the monthly premium that she was required to pay nearly doubled.
10. The Health Connector notified Appellant of this eligibility determination by notice dated March 28, 2022.
11. Appellant filed a timely notice of appeal. Exhibit 1.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined Appellant's income for purposes of determining her eligibility for subsidies.

The Health Connector determines eligibility of individuals to receive federal subsidies to purchase health insurance under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). The amount of APTCs that an individual is entitled to receive is based on that person's household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

The Health Connector must determine the applicant's household income based on federal regulations. These regulations state that, for purposes of eligibility determination, income is defined as "modified adjusted gross income." 45 C.F.R. § 155.305(f)(1)(i). "Income" is determined in accordance with the federal tax code. Id. In turn "modified adjusted gross income" is defined, for purposes of calculating eligibility for APTCs, as "gross income" increased by certain adjustments not at issue in this case. 26 C.F.R. § 1.36B-1(e)(2). Under the federal tax code, withdrawals from an IRA are considered part of "gross income." 26 U.S.C. § 408(d)(1). Thus, one-time withdrawals from an IRA are considered part of modified adjusted gross income, and must be considered when determining an individual's eligibility for APTCs.

Thus, the Health Connector correctly included the Appellant's withdrawal from her IRA as part of her household income in 2022 for purposes of determining her eligibility for APTCs. With that withdrawal included, her annual income was \$69,000. At that income level, the amount of APTCs that Appellant was eligible to receive was significantly reduced from what she had been receiving in 2021. This resulted in the increase in her monthly premium, which is the cost of the insurance after the subsidies have been applied.

Because the Health Connector correctly determined eligibility based on Appellant's income, I am denying this appeal.

## 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.

# Massachusetts Health Connector Appeals Unit



Hearing Officer

Cc: Health Connector Appeals Unit



## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination of eligibility for financial assistance.

**Hearing Date:** May 31, 2022

**Decision Date:** June 8, 2022

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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**

Appellant was notified by letter from the Health Connector dated April 11, 2022 that he did not qualify for a special enrollment period, which would have allowed him to obtain insurance outside the annual open enrollment period.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that the Appellant did not qualify for a special enrollment period.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 31, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Hearing Request Form (4/11/2022) (1 page)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: Eligibility Notice (dated 4/11/22) (8 pages)
- Exhibit 4: Screen Shot of Application Summary (3 pages)

- Exhibit 5: Screen Shot of Eligibility Summary (2 pages)
- Exhibit 6: Appeals Unit database notes (1 page)
- Exhibit 7: Screen shot of eligibility summary (4/16/22) (3 pages)
- Exhibit 8: Screen shot of application summary (4/16/22) (3 pages)
- Exhibit 9: Notice of Appeal Hearing (4/25/2022) (3 pages)
- Exhibit 10: Acknowledgement of Appeal Request (1 page)

## FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a single individual with no dependents.
2. In October 2021, Appellant lost his job. He had been receiving health insurance through his employment.
3. At the time, Appellant opted to keep his health insurance plan under COBRA, the federal law that provides that individuals who lose employment may continue enrollment in their insurance plan, at their own expense, for some period of time after the job loss.
4. Appellant applied for and began receiving unemployment compensation.
5. In April 2022, Appellant decided that the COBRA premiums were too expensive and so he decided to seek health insurance through the Health Connector.
6. When he applied on April 11, 2022, he had missed the annual open enrollment period during which people can purchase insurance. The annual open enrollment to purchase Health Connector plans for 2022 was from November 1, 2021 to January 23, 2022. <https://www.mahix.org/individual/>.
7. He was notified by the Health Connector that he did not qualify for a “special enrollment period,” which is a period following a certain circumstance that would permit him to purchase insurance outside of open enrollment. Exhibit 3.
8. Appellant was notified of that determination by notice dated April 11, 2022. Exhibit 3.
9. Appellant filed a timely appeal of that determination. Exhibit 1.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant did not qualify for a special enrollment period.

Under federal law, enrollment in health insurance plans is limited to certain times of the year, called open enrollment. See 42 U.S.C. § 18031(c)(6)(B); 45 C.F.R. § 155.410(a). The annual open enrollment period for 2022 coverage ended on January 23, 2022, before Appellant applied for insurance.

Exceptions to this rule, known as special enrollment periods, are allowed only under certain circumstances, known as “qualifying events.” Such events are situations in which an individual has lost other insurance coverage due to a recent loss of a job or divorce, or has a new dependent as a result of a birth or adoption. See 42 U.S.C. §

18031(c)(6)C), incorporating 26 U.S.C. § 9801(f). See also 45 C.F.R. § 155.420. When such a qualifying event occurs, the individual must purchase insurance within 60 days of the event. 45 C.F.R. § 155.420(c)(1). After 60 days, the special enrollment period is over.

In this case, Appellant experienced a job loss in October 2021. This would have qualified him for a special enrollment period if he had acted within 60 days of the job loss. However, Appellant chose not to do so. When he finally sought to purchase health insurance in April 2022, more than 60 days had elapsed. Appellant did not offer any other circumstances that would have qualified him for a special enrollment period. Accordingly, the Health Connector could not allow him to obtain health insurance in April 2022 when he applied.

Appellant can seek an open enrollment waiver from the Office of Patient Protection, a state agency that has the authority to grant waivers of the open enrollment rule. To apply for such a waiver, an individual must fill out a required form and submit it by mail. Information on how to apply for the waiver is available at <https://www.mass.gov/request-an-open-enrollment-waiver>.

During the course of the hearing, Appellant stated that his unemployment compensation had stopped and that he currently had no income. If Appellant expects that his income for all of 2022 (including whatever unemployment compensation he has received to date and whatever other income he expects to make in the remainder of the year) is less than \$40,776, he could be eligible for Connector Care, provided he meets the other eligibility requirements. Connector Care is a program of subsidized health insurance run by the Health Connector for persons whose household income is below 300 percent of the federal poverty limit (or \$40,776 for a household of one person) and who meet other eligibility requirements. If Appellant were eligible for Connector Care, he would be able to enroll at any time outside of open enrollment. In order to apply for Connector Care, Appellant could go into his on-line account at the Health Connector's website at [www.mahealthconnector.org](http://www.mahealthconnector.org). Within his account, he could open his application and respond that he wants financial assistance; he would then enter information about his projected 2022 income. Alternately, Appellant could call the Health Connector's customer service line and say that he wants to apply for financial assistance based on updated income information; the number for customer service is 877-623-6765.

Because the Health Connector correctly determined that Appellant did not qualify for a special enrollment period, I am denying this appeal.

### **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.

# Massachusetts Health Connector Appeals Unit



Hearing Officer

Cc: Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Allowed.

**Hearing Issue:** Determination of eligibility for financial assistance.

**Hearing Date:** June 24, 2022

**Decision Date:** June 29, 2022

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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**

Appellant was notified by letter from the Health Connector dated April 21, 2022 that she qualified for advance premium tax credits only, in an amount based on household income of 402.14 percent of the federal poverty level (FPL).

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined the Appellant's household income.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 24, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Request Form (dated 4/26/22) (5 pages)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: Eligibility Notice (dated 4/21/22) (8 pages)
- Exhibit 4: Screen Shot of Eligibility Summary (2 pages)

- Exhibit 5: Screen Shot of Application Summary (4 pages)
- Exhibit 6: Summary of Medicaid eligibility (5 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Appeals Unit email to Appellant (1 page)
- Exhibit 9: Income detail summary (Appellant) (3 pages)
- Exhibit 10: Income detail summary (Husband) (3 pages)
- Exhibit 11: Customer service notes (7 pages)
- Exhibit 12: Verification documents (8 pages)
- Exhibit 13: Request for verification (9/13/21) (4 pages)
- Exhibit 14: Request for verification reminder (3/14/22) (4 pages)
- Exhibit 15: Notice (4/11/22) (6 pages)
- Exhibit 16: Hearing Notice (dated 5/18/22) (3 pages)
- Exhibit 17: Acknowledgement of Appeal Request (1 page)

### FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is married. She files taxes jointly with her husband. They claim no dependents. Thus, they have a tax household of two persons. Exhibit 5.
2. Appellant has been enrolled in Connector Care through the Health Connector since she was laid off from her job three years ago. In 2021, she had been paying a monthly premium of roughly \$148 a month. Connector Care is a program in which state and federal subsidies offset the cost of health insurance. The amount of the subsidies is determined based on the recipient's household income.
3. In 2022, Appellant had two sources of income: monthly Social Security benefits and a monthly withdrawal from an individual retirement account.
4. Appellant's husband also had two sources of income: monthly Social Security benefits and a monthly withdrawal from an individual retirement account. Appellant's husband was enrolled in Medicare during the relevant time period and thus was not seeking coverage through the Health Connector.
5. In September 2021, Appellant was sent a notice from the Health Connector stating that she needed to provide proof of her income. Exhibit 13. A second notice requesting the same information was sent in March 2022. Exhibit 14.
6. The Health Connector sent Appellant a notice dated April 11, 2022 stating that documents she had provided were unacceptable because they were illegible or for another reason. Exhibit 15.
7. However, records from the document verification unit indicate that verification had been received and was used to verify Appellant's household income. Exhibits 9, 10.
8. Appellant received a letter from the Health Connector stating that she had provided sufficient verification of income.

9. In a notice dated April 21, 2022, the Health Connector stated that Appellant's household income had been determined to be 402.14 percent of the federal poverty level (FPL.) Exhibit 3. As a result of that determination, the amount of subsidies that Appellant received was reduced significantly.
10. Appellant filed a timely appeal of that notice. Exhibit 1.
11. The federal poverty limit is a threshold set by the federal government annually to determine eligibility for various government assistance programs.
12. The federal poverty limit for 2021, which is used to determine eligibility for Health Connector programs in 2022, for a household of two persons like Appellant's is \$18,312.  
<https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 402.14 percent of that amount would be approximately \$73,639.
13. The Health Connector's records indicate that in her application for subsidies, Appellant projected annual income for herself and her husband of \$43,695 annually. Exhibit 5. This would be 238.61 percent of the FPL for a household of two.
14. Other records establish that the documents produced by Appellant to verify her income indicated that the combined income of Appellant and her husband was \$70,104. Exhibits 9, 10. This would be 382.83 percent of the FPL for a household of two.
15. At the hearing, Appellant testified that, in fact, the couple's combined income for 2022 will be approximately \$64,332. This would consist of 351 percent of the FPL for a household of two.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined Appellant's household income for the purposes of calculating the amount of subsidies she should receive.

The Health Connector determines eligibility for advance premium tax credits (APTCs.) APTCs are federal subsidies provided under the Affordable Care Act (ACA). 26 U.S.C. § 36B. The amount of APTCs is determined under a formula that depends on the calculation of the person's household income as a percentage of the federal poverty limit. The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2). In 2022, the federal poverty limit for a household of two persons, like Appellant's, is \$18,312. See Federal Poverty Level Chart (available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

The procedure that the Health Connector follows to determine income for eligibility purposes is dictated by federal law. 45 C.F.R. § 155.320. When an applicant provides an income figure in an application, the Health Connector must seek to verify that figure by comparing it to information contained in recent federal data sources regarding income. Id. § 155.320(c)(1). If the information in that data source does not match what the individual has stated in the application, then the Health Connector must request that the individual provide proof of the amount claimed in the application. Id. § 155.320(c)(1)(B). The Health Connector did that in this case by requesting that Appellant provide documentation of her income. Exhibit 13.

The information in Appellant's application stated that her household income was \$43,695 annually. Exhibit 5. This figure does not match either Appellant's testimony or the verification that Appellant provided.

Appellant provided documents verifying her household income. According to the Health Connector, these documents established that her expected household income would be \$70,104. Exhibits 9, 10. This would be 382.83 percent of the FPL for a household of two. This figure is lower than the amount reflected in the April 21, 2022 notice, which is under appeal. That notice stated that Appellant's household income was 402.14 percent of the FPL for a household of two. That percentage would amount to \$73,639. Thus, the amount reflected in the notice is incorrect when compared to the Health Connector's own determination of Appellant's income based on the verification documents. This should be corrected.

At the hearing, Appellant testified that her actual income for 2022 was expected to be approximately \$64,332. This is lower than the amount determined based on the documents she provided as verification. However, it is considerably higher than the amount stated in her application. If Appellant wishes to have her eligibility for APTCs calculated based on this amount, she should seek to update her application with correct, updated income figures. She can do this by going into her on-line application at [www.mahealthconnector.org](http://www.mahealthconnector.org) and entering new, correct figures in response to various questions regarding income. Alternatively, she could call the Health Connector's customer service line at 1-877-623-6765 and say that she wishes to update her application with new income figures.

### **ORDER**

The appeal is allowed. The Health Connector should, for any period of coverage governed by the erroneous household income calculation on the April 21, 2022 eligibility notice, redetermine the Appellant's eligibility using the verified amount of 382.83 percent of the FPL.

### **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



## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination of ineligibility to purchase insurance outside of open enrollment.

**Hearing Date:** June 24, 2022

**Decision Date:** June 29, 2022

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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**

Appellant was notified by letter from the Health Connector dated April 5, 2022 that he did not qualify for a special enrollment period, which would have allowed him to obtain insurance outside the annual open enrollment period.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that the Appellant did not qualify for a special enrollment period.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 24, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Appeals Request Form (5/2/2022) (2 pages)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: Eligibility Notice (dated 4/5/22) (2 pages)
- Exhibit 4: Screen Shot of Eligibility Summary (2 pages)

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- Exhibit 5: Screen Shot of Application Summary (2 pages)
- Exhibit 6: Appeals Unit database notes (1 page)
- Exhibit 7: Appeals Unit email to Appellant (1 page)
- Exhibit 7: Screen shot of eligibility summary (4/16/22) (3 pages)
- Exhibit 8: Notice of Appeal Hearing (5/18/2022) (3 pages)
- Exhibit 9: Acknowledgement of Appeal Request (1 page)

## FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a single individual with no dependents.
2. Appellant applied for insurance through the Health Connector in December 2021. He was accepted and enrolled in a plan effective January 1.
3. The plan had a monthly premium of approximately \$300 a month.
4. Appellant stated that he attempted to set up an electronic fund transfer from his bank account to the Health Connector in order to pay the premium. However, for some reason, this fund transfer was not effective and as a result, Appellant was not making monthly premium payments.
5. Appellant did not read monthly billing notices from the Health Connector, which would have notified him that his account was delinquent and that he was in danger of being cancelled.
6. Appellant's policy was cancelled for non-payment in March 2022.
7. When Appellant realized that his insurance had been cancelled, he contacted the Health Connector and attempted to reinstate the policy.
8. Appellant was notified that he could not reinstate the policy because the annual open enrollment period had ended, and he did not have a qualifying event that would have permitted him to enroll in insurance outside of the open enrollment period.
9. The annual open enrollment to purchase Health Connector plans for 2022 was from November 1, 2021 to January 23, 2022. <https://www.mahix.org/individual/>.
10. Appellant was notified of that determination by notice dated April 5, 2022. Exhibit 3.
11. Appellant filed a timely appeal of that determination. Exhibit 1.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant did not qualify for a special enrollment period.

Under federal law, enrollment in health insurance plans is limited to certain times of the year, called open enrollment. See 42 U.S.C. § 18031(c)(6)(B); 45 C.F.R. § 155.410(a). The annual open enrollment period for 2022 coverage ended on January 23, 2022.

Exceptions to this rule, known as special enrollment periods, are allowed only under certain circumstances, known as “qualifying events.” Such events are situations in which an individual has lost other insurance coverage due to a recent loss of a job or a divorce, or has a new dependent as a result of a birth or adoption. See 42 U.S.C. § 18031(c)(6)C), incorporating 26 U.S.C. § 9801(f). See also 45 C.F.R. § 155.420. The regulations expressly state that loss of coverage because of the non-payment of premiums is not a qualifying event that would permit an individual to re-enroll outside of open enrollment. 45 C.F.R. § 155.420(e)(1).

In this case, Appellant did enroll in insurance during the open enrollment period. However, he lost that insurance for non-payment of premiums. The open enrollment period had ended in January 2022, over two months before he sought to re-enroll. He did not state any basis for getting an exception to the rule. In fact, the reason he had lost coverage, i.e., non-payment of premiums, is expressly stated not to be a basis for an exception. Accordingly, the Health Connector could not allow him to obtain health insurance in April 2022 when he applied.

Appellant can seek an open enrollment waiver from the Office of Patient Protection, a state agency that has the authority to grant waivers of the open enrollment rule. To apply for such a waiver, an individual must fill out a required form and submit it by mail. Information on how to apply for the waiver is available at <https://www.mass.gov/request-an-open-enrollment-waiver>.

Because the Health Connector correctly determined that Appellant did not qualify for a special enrollment period, I am denying this appeal.

### **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

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination of ineligibility for a special enrollment period.

**Hearing Date:** June 27, 2022

**Decision Date:** June 29, 2022

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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**

Appellant was notified by letter from the Health Connector dated April 28, 2022 that he did not qualify for a special enrollment period, which would have allowed him to obtain insurance outside the annual open enrollment period.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that the Appellant did not qualify for a special enrollment period.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 27, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Appeals Request Form (4/29/2022) (4 pages)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: [No Exhibit 3 in record]
- Exhibit 4: Screen Shot of Eligibility Summary (8 pages)

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- Exhibit 5: Screen Shot of Application Summary (3 pages)
- Exhibit 6: SEP Denial Notice (dated 4/28/22) (6 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Appeals Unit email to Appellant (1 page)
- Exhibit 9: Notice of Appeal Hearing (5/18/2022) (3 pages)
- Exhibit 10: Acknowledgement of Appeal Request (1 page)

### FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant and his wife have been enrolled in health insurance through the Health Connector for several years.
2. For the past few years, they have been enrolled in a plan through Tufts Direct, a health insurance carrier.
3. In April 2022, Appellant's wife received a cancer diagnosis.
4. Appellant and his wife wished to consult a specialist at Dana Farber Cancer Institute, located in Boston, in order to receive a second opinion about the treatment plan.
5. When Appellant attempted to schedule this consult, he learned that his Tufts Direct insurance policy would not pay the cost of the consultation because Dana Farber is not within that carrier's network of providers.
6. Appellant contacted the Health Connector seeking to change insurance carriers to another carrier that did include Dana Farber in its network.
7. Appellant was told that he could not switch carriers because it was outside the annual open enrollment period and Appellant did not state a basis for an exception to that rule.
8. The annual open enrollment to purchase Health Connector plans for 2022 was from November 1, 2021 to January 23, 2022. <https://www.mahix.org/individual/>.
9. Appellant was notified of this determination by notice dated April 28, 2022. Exhibit 6.
10. Appellant filed a timely appeal of the notice. Exhibit 1.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant did not qualify for a special enrollment period.

Under federal law, enrollment in health insurance plans is limited to certain times of the year, called open enrollment. See 42 U.S.C. § 18031(c)(6)(B); 45 C.F.R. § 155.410(a). The annual open enrollment period for 2022 coverage ended on January 23, 2022.

Exceptions to this rule, known as special enrollment periods, are allowed only under certain circumstances, known as "qualifying events." Such events are situations in which an individual has lost other insurance coverage due to

## Massachusetts Health Connector Appeals Unit



a recent loss of a job or divorce, or has a new dependent as a result of a birth or adoption. See 42 U.S.C. § 18031(c)(6)C), incorporating 26 U.S.C. § 9801(f). See also 45 C.F.R. § 155.420. The desire to switch to another plan because it has a different network of providers is not a qualifying event.

In this case, Appellant did not state a circumstance that would qualify as a basis for granting him a special enrollment period under the governing regulations. Accordingly, the Health Connector could not allow him to switch insurance carriers in April 2022 when he applied.

Appellant can seek an open enrollment waiver from the Office of Patient Protection, a state agency that has the authority to grant waivers of the open enrollment rule. To apply for such a waiver, an individual must fill out a required form and submit it by mail. Information on how to apply for the waiver is available at <https://www.mass.gov/request-an-open-enrollment-waiver>.

Because the Health Connector correctly determined that Appellant did not qualify for a special enrollment period, I am denying this appeal.

### **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

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination of ineligibility to purchase insurance outside of open enrollment.

**Hearing Date:** June 27, 2022

**Decision Date:** June 29, 2022

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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**

Appellant was notified by letter from the Health Connector dated March 31, 2022 that he did not qualify for a special enrollment period, which would have allowed him to obtain insurance outside the annual open enrollment period.

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined that the Appellant did not qualify for a special enrollment period.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 27, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Appeals Request Form (5/3/2022) (4 pages)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: Special Enrollment Period Denial Notice (3/31/2022) (6 pages)
- Exhibit 4: Screen Shot of Eligibility Summary (8 pages)

- Exhibit 5: Screen Shot of Application Summary (3 pages)
- Exhibit 6: Appeals Unit database notes (1 page)
- Exhibit 7: Request for Information (3/31/22) (4 pages)
- Exhibit 8: Notice of Appeal Hearing (5/18/2022) (3 pages)
- Exhibit 9: Acknowledgement of Appeal Request (1 page)

### FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant applied for insurance in March 2022 through the Health Connector. Exhibits 4,5.
2. Appellant was notified that he could not purchase insurance at that time because it was outside the annual open enrollment period.
3. The annual open enrollment to purchase Health Connector plans for 2022 was from November 1, 2021 to January 23, 2022. <https://www.mahix.org/individual/>.
4. Appellant did not have health insurance prior to applying. He was paying for a form of coverage that did not constitute health insurance.
5. Appellant had at one time been covered under his parents' insurance plan, but that coverage had ended when he turned 26 in 2020.
6. Appellant had married in October 2021. His wife was covered under her parents' insurance plan.
7. Appellant was notified by letter dated March 31, 2022 that he did not qualify for a special enrollment period that would allow him to purchase health insurance outside of open enrollment. Exhibit 3.
8. Appellant filed an appeal of the notice. Exhibit 1.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant did not qualify for a special enrollment period.

Under federal law, enrollment in health insurance plans is limited to certain times of the year, called open enrollment. See 42 U.S.C. § 18031(c)(6)(B); 45 C.F.R. § 155.410(a). The annual open enrollment period for 2022 coverage ended on January 23, 2022.

Exceptions to this rule, known as special enrollment periods, are allowed only under certain circumstances, known as "qualifying events." Such events are situations in which an individual has lost other insurance coverage due to a recent loss of a job or divorce, or has a change in household status, such as a marriage or the birth or adoption of a child. See 42 U.S.C. § 18031(c)(6)(C), incorporating 26 U.S.C. § 9801(f). See also 45 C.F.R. § 155.420. In those cases, an individual must enroll in coverage within 60 days of the qualifying event in order to get a special enrollment period. 45 C.F.R. § 155.420(c)(1).



## Massachusetts Health Connector Appeals Unit



In this case, Appellant did not state a circumstance that would qualify as a basis for granting him a special enrollment period under the governing regulations. He had gotten married in October 2021, but that was more than 60 days before he sought to purchase health insurance; thus, he no longer qualified for a special enrollment period. Similarly, he had lost health insurance coverage when he turned 26 in 2020, but that was also more than 60 days before he sought to purchase health insurance.

Appellant can seek an open enrollment waiver from the Office of Patient Protection, a state agency that has the authority to grant waivers of the open enrollment rule. To apply for such a waiver, an individual must fill out a required form and submit it by mail. Information on how to apply for the waiver is available at <https://www.mass.gov/request-an-open-enrollment-waiver>.

Because the Health Connector correctly determined that Appellant did not qualify for a special enrollment period, I am denying this appeal.

### **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

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Determination of eligibility for financial assistance.

**Hearing Date:** June 27, 2022

**Decision Date:** June 29, 2022

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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**

Appellant was notified by letter from the Health Connector dated April 14, 2022 that she did not qualify to receive any advance premium tax credits, because her household income was 760 percent of the federal poverty level (FPL).

### **ISSUE**

The issue addressed in this appeal is whether the Health Connector correctly determined the Appellant's household income.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 27, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Request Form (dated 5/4/22) (4 pages)
- Exhibit 2: Affidavit of Health Connector record keeper (1 page)
- Exhibit 3: Eligibility Notice (dated 4/14/22) (8 pages)
- Exhibit 4: Screen Shot of Eligibility Summary (2 pages)

- Exhibit 5: Screen Shot of Application Summary (3 pages)
- Exhibit 6: Summary of Medicaid eligibility (5 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Verification documents (including pay stub 2/26/22) (4 pages)
- Exhibit 9: Request for information (11/7/21) (4 pages)
- Exhibit 10: Eligibility summary (11/7/21) (2 pages)
- Exhibit 11: Application summary (11/7/21) (3 pages)
- Exhibit 12: Hearing Notice (dated 5/18/22) (3 pages)
- Exhibit 13: Acknowledgement of Appeal Request (1 page)

### FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. Appellant is a single individual with no dependents. Thus, she has a tax household of one person. Exhibit 5.
2. Appellant applied for health insurance through the Health Connector in November 2021. At the time, she had recently become unemployed, and her sole income was unemployment compensation.
3. In her application for financial assistance, she stated that her household income was \$35,305 annually. Exhibit 11. Based on that figure, she was determined eligible for Connector Care, which is a program of subsidized health insurance. Exhibits 10, 11. While she was enrolled in Connector Care, she was paying approximately \$87 for health insurance, because the remainder of the cost of the insurance was subsidized.
4. In November 2021, after her application had been received, the Health Connector sent Appellant a notice requesting her to submit information verifying her income. See Exhibit 9.
5. In early January, Appellant was retained by a company to work on a contract basis.
6. In February 2022, Appellant responded to the request for income verification information by submitting a copy of her pay stub from her new position. Exhibit 8. That pay stub showed that she was earning \$3,825 every two weeks and that, as of February 26, she had been paid \$16,650 in the year to date. *Id.*
7. Based on that document, Appellant's eligibility for subsidies was recalculated. The Health Connector determined that her household income was 760 percent of the federal poverty level.
8. The federal poverty limit for 2021, which is used to determine eligibility for Health Connector programs in 2022, for a household of one person like Appellant's is \$13,590. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 760 percent of that amount would be approximately \$103,284.
9. Based on that income figure, Appellant no longer qualified for subsidies. She was notified of that fact in a notice dated April 14, 2022. Exhibit 3. As a result of that change, her monthly premium for health insurance increased to \$595 a month.
10. Appellant filed a timely appeal of the April 14 notice. Exhibit 1.
11. At the end of April, Appellant's contract position was not renewed. Thus, her income again dropped.

12. In the time before the hearing, Appellant was hired for a new position. She has been offered health insurance through that position and was enrolled in the insurance as of the date of the hearing.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue in this appeal is whether the Health Connector correctly determined Appellant's household income for the purposes of calculating the amount of subsidies she should receive.

The Health Connector determines eligibility for advance premium tax credits (APTCs.) APTCs are federal subsidies provided under the Affordable Care Act (ACA). 26 U.S.C. § 36B. The amount of APTCs is determined under a formula that depends on the calculation of the person's household income as a percentage of the federal poverty limit. The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2). In 2022, the federal poverty limit for a household of one person, like Appellant's, is \$13,590. See Federal Poverty Level Chart (available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>).

Additionally, the Health Connector determines eligibility for Connector Care, which is a state-run program that combined APTCs with state-funded subsidies. In order to be eligible for Connector Care, a person must have income below 300 percent of the FPL. See 956 C.M.R. § 12.08(1). That amount is \$40,770 for a household of one person like Appellant's.

The procedure for determining income for eligibility purposes is dictated by federal law. 45 C.F.R. § 155.320. When an applicant provides an income figure in an application, the Health Connector must seek to verify that figure by comparing it to information contained in recent federal data sources regarding income. Id. § 155.320(c)(1). If the information in those data sources does not match what the individual has stated in the application, then the Health Connector must request that the individual provide proof of the amount claimed in the application. Id. § 155.320(c)(1)(B). The Health Connector did that in this case by requesting that Appellant provide documentation of her income. Exhibit 13.

The information in Appellant's application stated that her household income was \$35,305 annually. Exhibit 5. That figure represented her situation at the time of the application in November 2021 when she was unemployed and living on unemployment compensation. That income amounts to approximately 260 percent of the FPL for a household of one person like Appellant's. At that income level, Appellant qualified for Connector Care, and she was enrolled in that program. In Connector Care, because she was receiving federal and state subsidies, her premium was relatively low at approximately \$85 a month.

After receiving the application, the Health Connector correctly requested that Appellant provide verification of the income claimed in her application. This request was in accordance with the governing regulations.

However, when Appellant provided verification of her income in February 2021, her financial situation had changed. At that time, she was working at a high-paying contract position in which she was making \$3,825 every two weeks. She provided a pay stub evidencing that higher income. Exhibit 8. The Health Connector annualized that figure. As a result, it determined that Appellant's income was approximately 760 percent of the FPL. At that level, she no longer qualified for APTCs or for Connector Care. The Health Connector notified her of that fact on

## Massachusetts Health Connector Appeals Unit



April 14. Exhibit 3. This notice, which is the subject of this appeal, was correct based on the information that the Health Connector had at that time

Subsequently, Appellant's income situation changed two more times. First, she lost the contract position which resulted in a reduction of income at the end of April. The Health Connector was never notified of this change in income, however. Then Appellant was hired for a new position, which provided her with health insurance. At that point, she was no longer interested in obtaining health insurance from the Health Connector.

### **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: ACA 22-16414

**Appeal Decision:** Denied

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

**Hearing Date:** May 27, 2022

**Decision Date:** June 3, 2022

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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, 2022 Health Connector determined that the Appellant was not eligible for a Special Enrollment Period because the Appellant had failed to verify that they had a qualifying life event.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 27, 2022. 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's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated April 21, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Special Enrollment Period Decision denial notice dated March 17, 2022.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated March 17, 2022
- Exhibit 6: Medicaid Household Determination Printout dated March 17, 2022.
- Exhibit 7: Health Connector Eligibility Approval Notice dated March 17, 2022.

Exhibit 8: The Appellant's Hearing Request Form received on or about April 21, 2022.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied for health insurance coverage on March 17, 2022 and reported income equal to 512.42% of the federal poverty level (Exhibit 5).
2. On March 17, 2022 Health Connector determined that the Appellant was eligible for Health Connector Plans but was not eligible for a Special Enrollment Period because the Appellant failed to verify that they had experienced a Qualifying Life Event (Exhibits 4, 7).
3. On or about April 21, 2022 the Appellant filed an Appeal (Exhibit 8).
4. I take Administrative Notice of the fact that for tax year 2022 the Health Connector Open Enrollment period was November 1, 2021 through January 23, 2022.
5. The Appellant testified that they were covered under a parent's employer sponsored health insurance plan through December 31, 2021. The Appellant said that because they were turning age 26 their parent took them off the plan. The Appellant said that they did not know about the termination of coverage until they went to the dentist in February 2022 and was told their insurance had been cancelled. The Appellant said that they never got a notice. The Appellant said that their employer told them that they missed open enrollment and that the Appellant should try to apply at the Health Connector. The Appellant said that they applied but was told they also missed open enrollment at Health Connector. I found the Appellant to be credible (Exhibits 4, 5 and Appellant Testimony).
6. It is undisputed that the Appellant did not attempt to obtain health insurance during the sixty-day period following the termination of their health insurance effective January 1, 2022.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant applied for health insurance through the Health Connector on March 17, 2022 and reported income equal to 512.42% of the federal poverty level. The Appellant was determined eligible for Health Connector Plans. Although the Appellant met eligibility criteria, Health Connector determined on March 17, 2022 that the Appellant was not eligible for a special enrollment period to enroll in a plan because the Appellant had failed to verify that they experienced a qualifying life event in the sixty-day period preceding their application. The Appellant filed an appeal to dispute that determination.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG-5. Qualifying life events include marriage, birth or adoption of a child, loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances. The Appellant experienced a qualifying life event on December 31, 2021 when they lost their access to their parent's employer sponsored health insurance. The Appellant was eligible for a special enrollment period at that time. The special enrollment period is a sixty-day open enrollment period. The

Appellant did not contact the Health Connector until March 17, 2022. By the time the Appellant attempted to enroll in a health insurance plan, the sixty-day special enrollment period had expired. Open Enrollment through the Health Connector ended on January 23, 2022.

The Appellant testified credibly that they did not know that their parent had removed them from their health insurance plan until February when they went to their dentist and was informed that their insurance had lapsed. The Appellant was unable to enroll in their employer's health insurance plan because the company's open enrollment period had also ended.

While I found the Appellant's testimony credible, as explained at the Hearing Health Connector regulations required a Hearing Officer to make a determination based on the evidence and testimony in the record as well as the applicable regulations. There is no provision that allows a Hearing Officer to waive the Open Enrollment regulations. 956 CMR 12.11, 12.12. The Appellant was referred to the Office of Patient Protection to request a waiver.

It is undisputed that the Appellant did not experience a second qualifying life event within the sixty-day period prior to filing their March 17, 2022 application. Because the Appellant did not experience a qualifying life event, the Health Connector correctly determined on March 17, 2022 that the Appellant is not eligible for a special enrollment period. 45 CFR § 155.420.

#### **ORDER**

The Appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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 was advised that they could contact the Office of Patient Protection at 1-800-436-7757 and request a Waiver of the open enrollment regulations.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2215755

**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 ConnectorCare, Type 3B plan.

**Hearing Date:** February 24, 2022

**Decision Date:** June 6, 2022

### 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 19, 2022, the Connector determined that the appellant was eligible to purchase a ConnectorCare plan, Type 3B based upon information supplied by the appellant to the Connector and/or other data sources.

### ISSUE

Whether the Connector correctly determined that the appellant was eligible to enroll in a ConnectorCare, Type 3B plan.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 24, 2022. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing the record was left open in order for the Connector to submit documentation of the appellant's contacts with the agency. Documents were received from the Connector in May, 2022. They have been marked as exhibits and admitted in evidence. The record is now closed.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files

Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 27, 2022 addressed to Appellant for February 24, 2022 hearing

Exhibit 3: Connector Appeals Unit letter dated January 25, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit outreach notes dated January 21, 2022

Exhibit 4: Hearing Request Form from by Appellant received on January 20, 2022

Exhibit 5: Connector letter dated January 19, 2022 to Appellant regarding eligibility

Exhibit 6: Summary and results of Appellant's application for Connector health plan dated January 19, 2022

Exhibit 7: MassHealth Member Benefits print-out regarding Appellant's household determination dated January 19, 2022

Exhibit 8: Connector print-out showing documents received from Appellant on January 6, and 14, 2022,

Exhibit 9: Connector print-out showing Appellant's self-attested income and manual verification dated September 21, 2021

Exhibit 10: December 13, 2021 Connector letter to Appellant requesting proof of income and residency with Appellant's verification of income and business expenses with cover letter from Appellant dated December 30, 2021 attached

Exhibit 11: Connector salesforce print-outs, November and December, 2021 regarding Appellant's account

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in December, 2021. In a letter dated December 13, 2021, the Connector asked the appellant to send in proof of residency and income. Appellant sent in documentation with a cover letter dated December 30, 2021 (Testimony of Appellant, Exhibit 10, 10a).
2. Appellant's proof of residency and proof of income was received by the Connector on January 6, and January 14, 2022. Her proof of residency was accepted, but proof of income, a letter from the appellant and a list of business expenses and sources of income, was not acceptable. Appellant attested to being self-employed starting in September, 2021. Prior to that month, she had two jobs working for employers. Appellant sent in a cover letter and a list of earnings and business expenses for 2021 with a statement explaining that she no longer had 2 of her jobs (Testimony of Appellant, Exhibits 8 and 10).
3. When the Connector manually verified the appellant's annual income, the Connector found Appellant's income to be \$36,028 or 279.73% of the Federal Poverty Level. Appellant had attested to an income of \$17,178 for 2022 (Testimony of Appellant, Exhibits 5, 6, 8, 9).
4. Based upon the manual verification, the Connector determined that the appellant was eligible to enroll in a ConnectorCare Type 3B plan in 2022. Appellant was notified of this determination in a letter dated January 19, 2022 (Exhibits 5, 6, and 9).
5. Appellant submitted a request for an appeal of the Connector's determination on January 20, 2022. (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on January 19, 2022 that the appellant was eligible for a ConnectorCare plan, Type 3B.

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 over 100% of the Federal Poverty Level, the applicant may be eligible for to 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. See 956 CMR 12.00 et. seq. Pursuant to 45 CFR 155.320 the Connector may verify information obtained from the applicant by checking with other data sources.

In this matter, Appellant applied for health insurance through the Connector in December, 2021. In a letter dated December 13, 2021, the Connector asked the appellant to send in proof of residency and income. Appellant sent in documentation with a cover letter dated December 30, 2021. Appellant's proof of residency and proof of income was received by the Connector on January 6, and January 14, 2022. Her proof of residency was accepted, but proof of income, a letter from the appellant and a list of business expenses and sources of income, was not acceptable. Appellant attested to being self-employed starting in September, 2021. Prior to that month, she had two jobs working for employers. Appellant sent in a cover letter and a list of earnings and business expenses for 2021 with a statement explaining that she no longer had 2 of her jobs. See the testimony of the appellant which I find to be credible and Exhibits 8, 10 and 10a.

When the Connector manually verified the appellant's annual income, the Connector found Appellant's income to be \$36,028 or 279.73% of the Federal Poverty Level. Appellant had attested to an income of \$17,178 for 2022. Based upon the manual verification, the Connector determined that the appellant was eligible for ConnectorCare Type 3B in 2022. Appellant was notified of this determination in a letter dated January 19, 2022. Appellant submitted a request for an appeal of the Connector's determination on January 20, 2022. See the testimony of the appellant which I find to be credible and Exhibits 4, 5, 6, 8, and 9.

As noted above, the Connector may verify information received from an applicant from other data sources. See Pursuant to 45 CFR 155.320. Based upon the verification and the fact that the documents received from the appellant were not acceptable proof of income, the Connector correctly determined that the appellant was eligible for a ConnectorCare plan, Type 3B. The determination of the Connector is, therefore, affirmed. Appellant may at any time update her income status with the Connector for a redetermination of eligibility.

**ORDER:** The action taken by the Connector regarding Appellant's eligibility to enroll in a ConnectorCare Type 3B plan 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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-15855

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** April 29, 2022

**Decision Date:** June 16, 2022

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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 January 3, 2022, 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 April 29, 2022, 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: 1/3/22 Application Summary (3 pages)
- Exhibit 2: 1/3/22 Notice of Eligibility Denial (3 pages)
- Exhibit 3: 1/31/22 Appeal (6 pages)
- Exhibit 4: 3/15/22 Hearing Notice (3 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. On January 3, 2022, the Appellant applied online to the Health Connector for health insurance coverage, stating that her Medicare deduction had increased to \$170.10; that the IRS was deducting \$400/monthly; that she was struggling to pay for recent medical procedures; and, that she would like to enroll in health insurance coverage through the Health Connector because insurance coverage through Medicare was costing her too much. (Exhibit 1)
2. On January 3, 2022, the Health Connector determined that the Appellant was ineligible for Health Connector plans; and, denied any subsidies, because the Appellant has access to Medicare or is enrolled in Medicare. (Exhibit 2)
3. The Appellant's date of birth is May 12, 1954. (Exhibit 1)
4. The Appellant has had health insurance coverage through Medicare since 2019. (Appellant's testimony)

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

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.

When the Appellant's eligibility for 2022 coverage was determined on January 3, 2022, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant acknowledged at hearing that she was enrolled in Medicare and has been enrolled since 2019. Because the Appellant has 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: ACA2215873

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

**Hearing Issue:** Whether the Connector correctly determined the appellant's eligibility to purchase and enroll in a Connector Health plan with advance premium tax credit.

**Hearing Date:** March 14, 2022

**Decision Date:** June 1, 2022

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

### ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase and enroll in a Connector Health plan with an advance premium tax credit based upon information supplied by the appellant to the Connector and/or other data sources.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 14, 2022. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also 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 the Appellant and the following documents which were admitted in evidence:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated February 9, 2022 addressed to Appellant for March 14, 2022 hearing
- Exhibit 3: Connector Appeals Unit letter dated February 3, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated February 3, 2022

- Exhibit 4: Hearing Request Form received from Appellant on February 2, 2022  
Exhibit 5: Connector letter dated December 29, 2021 to Appellant regarding eligibility  
Exhibit 6: Appellant's application summary and results dated December 29, 2021  
Exhibit 7: MassHealth Member Benefits print-out regarding Appellant's household determination, December 29, 2021  
Exhibit 8: Connector print-out showing Appellant's income details  
Exhibit 9: Connector print-out showing documents received from Appellant, December 28, 2021  
Exhibit 10: Appellant's paystub for December 6, 2021 through December 12, 2021 sent to Connector

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through the Connector for several years before she updated her projected annual income in December, 2021 (Testimony of Appellant, Exhibit 6).
2. When Appellant updated her income, Appellant attested to a projected annual income of \$42,322 (Exhibit 6).
3. On December 28, 2021, Appellant submitted paystubs to the Connector. The paystub submitted showed that Appellant's annual income was actually \$51,751. Appellant had attested to her net income rather than gross income (Testimony of Appellant, Exhibits 8 through 10).
4. Based upon this proof of income, the Connector determined that the appellant's projected annual income of \$51,751 was equal to 401.80% of the Federal Poverty Level. Appellant was found to be eligible for a Connector Health plan with an advance premium tax credit (Exhibits 5, 6)
5. In a letter dated December 29, 2021, the Connector notified the appellant of its determination that Appellant was eligible for a Health Connector plan with an advance premium tax credit (Exhibits 5).
6. Appellant submitted a request for an appeal of the Connector's determination on February 2, 2022 because the cost of her monthly premium had increased (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on December 29, 2021 that the appellant was eligible for a Connector Health plan with an 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) 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), 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is at least 100% of the Federal Poverty Level, the applicant may be eligible for to 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. See 956 CMR 12.00 et. seq. The Connector is required to verify information, including income, on applications



from other data sources and by asking applicants to submit documents to verify data on applications. 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 provide verifying information that does not match the original attestation, the Health Connector may update applicants' information to match the documents sent in, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5) and 155.320(c)(3)(i)(D), and 956 CMR 12.05.

In this matter, Appellant had health insurance through the Connector for several years before she updated her projected annual income in December, 2021. When Appellant updated her income, Appellant attested to a projected annual income of \$42,322. On December 28, 2021, Appellant submitted paystubs to the Connector. The paystub submitted showed that Appellant's annual income was actually \$51,751. Appellant had attested to her net income rather than gross income. Based upon this proof of income, the Connector determined that the appellant's projected annual income of \$51,751 was equal to 401.80% of the Federal Poverty Level. Appellant was found to be eligible for a Connector Health plan with an advance premium tax credit. On December 29, 2021, the Connector notified the appellant of its determination. Appellant submitted a request for an appeal of the Connector's determination on February 2, 2022 because the cost of her monthly premium had increased. See the testimony of the appellant which I find to be credible and Exhibits 4, 5, 6, 8, 9, 10.

Appellant, in error, attested to her net income on her application. When Appellant submitted proof of income, the Connector determined an increase in income and based its eligibility determination on the higher and correct amount. During the hearing for her appeal, Appellant acknowledged that she had indicated her net income rather than adjusted gross income on her application.

The December 29, 2021 determination of the Connector is correct, and, therefore, affirmed.

**ORDER:** The action taken by the Connector regarding Appellant's eligibility to purchase 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.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2215888

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

**Hearing Issue:** Whether the Connector correctly determined that the appellant was eligible to purchase health insurance through the Health Connector, but ineligible for an advance premium tax credit.

**Hearing Date:** March 14, 2022

**Decision Date:** June 6, 2022

### 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 21, 2022, the Connector determined that the appellant was eligible to purchase a Health Connector plan, but without an advance premium tax credit.

### HEARING RECORD

The appellant's representative appeared at the hearing which was held by telephone on March 14, 2022. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were reviewed with the representative, marked as exhibits, and admitted in evidence with no objection. The representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated February 9, 2022 for March 14, 2022 hearing addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated February 4, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated February 4, 2022
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on February 3, 2022
- Exhibit 5: Connector letter dated January 21, 2022 to Appellant regarding eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated January 21, 2022
- Exhibit 7: MassHealth Member Benefits print-out determination January 21, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector on January 21, 2022. Appellant attested on her application that she was tax filer (Exhibit 6).
2. Appellant was married at the time she applied for coverage through the Connector. She and her spouse are still married. The spouse lives in China. He had been in the United States on a visitor's visa. When he returned to China, he got stuck there because of the pandemic. At the time Appellant applied for insurance, her spouse did not have a Social Security number or a tax identification number. Appellant did not list her spouse on her application because he was not applying for coverage. Appellant is a permanent resident (Exhibits 5, 6, and Testimony of Appellant's representative).
3. Because her spouse was not in the United States, she filed her 2021 Federal tax return as a married person, filing separately (Testimony of the appellant's representative).
4. On her application, Appellant attested to an income of \$1,800 a month. The Connector determined that her projected income for the year equaled 167.7% of the Federal Poverty Level (Exhibit 6).
5. The Connector determined that the appellant was eligible to purchase and enroll in a Connector Health plan without an advance premium tax credit (Exhibit 5).
6. Appellant submitted a request for an appeal of the Connector's determination on February 3, 2022 (Exhibit 4).
7. As of the date of this hearing, Appellant's spouse had obtained a tax identification number and the appellant had filed an amended 2021 tax return as a married couple, filing jointly (Testimony of Representative).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on January 21, 2022 that the appellant was eligible to purchase health insurance through the Connector, but without an advance premium tax credit. See Exhibit 5.

Appellant was married at the time she applied for coverage through the Connector. She and her spouse still are married. The spouse lives in China. He had been in the United States on a visitor's visa. When he returned to China, he got stuck there because of the pandemic. At the time Appellant applied for insurance, her spouse did not have a Social Security number or a tax identification number. Appellant did not list her spouse on her application because he was not applying for coverage. Appellant is a permanent resident. Because her spouse was not in the United States, she filed her 2021 Federal tax return as a married person, filing separately. See the testimony of the appellant's representative which I find to be credible, and Exhibits 5 and 6.

On her application, Appellant attested to an income of \$1,800 a month. The Connector determined that her projected income for the year equaled 167.7% of the Federal Poverty Level. Despite the appellant's income, the Connector determined that the appellant was eligible to purchase and enroll in a Connector Health plan without an advance premium tax credit. Appellant submitted a request for an appeal of the Connector's determination on February 3, 2022. See Exhibits 4, 5, and 6.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible for an advance premium tax credit, a married individual must file their Federal

tax return jointly as a married couple. See 26 CFR Section 1.36B-2(b)(2). There are some exceptions such as abandonment, or domestic abuse, but there is no evidence in the record to suggest that either applies in this matter.

The Connector's determination that Appellant was eligible to obtain health insurance through the Connector, but without an advance premium tax credit is affirmed. As noted above, an applicant, a married individual, must file her Federal tax return jointly order to be eligible for financial assistance. Appellant indicated on her application that she had not done so. Her representative corroborated this. Using the information supplied by the appellant to the Connector, the Connector correctly denied eligibility for financial assistance..

**ORDER:** The determination by the Connector regarding Appellant's eligibility to obtain 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's representative testified that the appellant had amended her Federal tax return, filing the return as married, jointly. He also testified that there was an error in the appellant's income. Appellant had indicated an income in U.S. dollars, but the amount is actually in yuans, the Chinese currency. If the appellant has not already done so, she may wish to contact the Connector and amend her application as to her tax filer status and as to her income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2215967

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, age over 65, income under 100%

**Hearing Date:** March 22, 2022

**Decision Date:** June 7, 2022

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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 February 12, 2022, the Appellant was determined eligible for Health Connector plans with no financial assistance due to being under 100% of the Federal Poverty Level and also over 65 years of age.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans, based on the Appellant's reported and verified income and based on being over age 65 and under 100% FPL.

### **HEARING RECORD**

Appellant's representative appeared at the hearing, which was held by telephone, on March 22, 2022. The hearing was recorded. The hearing record consists of the Appellant's representative'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 (2-22-22) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (2-17-22) (1 page);
- Exhibit 4: Outreach notes and emails (3 pages);
- Exhibit 5: Hearing Request form (2-13-22) (6 pages);

- Exhibit 6: Eligibility Approval letter (2-12-22) (9 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (7 pages); and  
Exhibit 8: Medicaid Household Determination (6 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for subsidized health insurance through the Health Connector in February 2022. (Testimony, Exhibit 7).
2. Appellant is seventy-three years old. They are not eligible for Medicare. (Testimony, Exhibit 7)
3. Based on the Appellant's application for subsidized health insurance, the Health Connector determined that Appellant was eligible for Health Connector plans without financial assistance based on Appellant's income resulting in a Federal Poverty Level of under 100%. (Exhibits 6, and 7).
4. Appellant filed a hearing request dated February 13, 2022. (Testimony, Exhibit 5).
5. Appellant's projected yearly income on the application for subsidized health insurance was \$0.00, which is 0% of the Federal Poverty Level. (Exhibit 7, Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Based on Appellant's projected income for 2022, Appellant would have income that was 0% of the Federal Poverty Level. Although Appellant is 73 years old, they are not eligible for Medicare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the Federal Poverty Level (FPL) and less than 400% FPL for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). The Appellant's expected income is 0% FPL. Therefore, the Appellant is not eligible for the APTC.

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% FPL. In addition, the individual must be eligible for the federal APTC pursuant to 45 CFR sec. 155.305 (f). Since the Appellant is not eligible for the federal APTC, they are also not eligible to enroll in ConnectorCare.

Appellant may be eligible for Mass Health, but needs to contact MassHealth. The Health Connector correctly found that the Appellant was eligible for Health Connector plans without financial assistance on February 12, 2022, and that determination is upheld.

## **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: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-16011

**Appeal Decision:** Appeal granted

**Hearing Issue:** Appeal of eligibility for subsidized health insurance based on access to employer sponsored health insurance

**Hearing Date:** June 3, 2022

**Decision Date:** June 16, 2022

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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 January 28, 2022, the appellant was advised that she did not qualify for financial help with her Health Connector insurance because she had access to affordable health coverage. (Ex. 3) The appellant filed an appeal dated February 7, 2022, based on income. (Ex. 5) The matter was referred to a hearing after receipt of the appeal. (Ex.10)

### ISSUE

Was the Connector's decision regarding the appellant's lack of eligibility for subsidized health insurance through the Health Connector correct at the time of its determination on January 28, 2022, 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 June 3, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Health Connector's Eligibility Determination Results based on a program determination date of January 28, 2022 (3 pages)

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

Ex. 3— Health Connector's Notice of Eligibility Approval dated January 28, 2022 (9 pages)

- Ex. 4—Medicaid Household Determination document (5 pages)
- Ex. 5—Hearing Request Form dated February 7, 2022 (22 pages)
- Ex. 6—Acknowledgement of Appeal dated March 2, 2022 (1 page)
- Ex. 7—Health Connector email dated March 2, 2022 (1 page)
- Ex. 8—Appeals Unit notes (1 page)
- Ex. 9—Notice of Hearing dated March 15, 2022 (3 pages)
- Ex. 10—Notice of Hearing dated May 5, 2022 (3 pages)
- Ex. 11—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. It was later determined that the requested information was not necessary in order to reach a determination regarding the issue at hand.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 59-years-old, is single, and has a tax household size of one. (Testimony, Ex. 2)
2. The appellant was enrolled in subsidized health insurance through the Health Connector from 2014 through part of 2016. (Testimony)
3. The appellant enrolled in employer health insurance in the fall of 2016 and terminated her health insurance with the Health Connector. She has remained enrolled in employer insurance since that time. Her current monthly premium is \$224.00/month (Testimony, Ex. 5)
4. Early in 2022, the appellant received a tax form indicating that she had health insurance coverage through the Health Connector for five months in 2021. She was confused by the information since she was enrolled in employer insurance throughout 2021 and had not been enrolled with the Health Connector since 2016. She contacted the Connector and spoke with a customer service representative who advised her that, unbeknownst to her, she had coverage in 2021. The appellant advised the representative that she was enrolled in employer insurance, but would prefer to have coverage through the Connector if it was more affordable. She completed an application over the phone with the representative in which she attested to having the option to enroll in employer health coverage and having a projected yearly income of \$39,053.00. (Testimony, Ex. 2)
5. By notice dated January 23, 2022, the Health Connector notified the appellant that she no longer qualified for help with her Health Connector insurance as of March 1, 2022, because she advised the Connector that she had access to affordable health coverage. The notice further indicated that she should update her application if she no longer had access to an affordable health plan through her employer. (Exs. 1,3)
6. The appellant appealed the Connector's determination on February 7, 2021, based on income, and stated in part that she cannot keep a roof over her head and also pay for healthcare. (Ex. 5)

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

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an APTC (advanced premium tax credit) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if a) their household income does not exceed 300 percent of the FPL and b) they are

eligible for an APTC. See 956 CMR 12.09(1). As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs.

An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

The appellant testified credibly that she was enrolled in subsidized health insurance through the Connector from 2014 through part of 2016 when she enrolled in employer health insurance. She further testified that she cancelled her health insurance with the Connector and has remained enrolled in employer insurance to date. On the application that she completed with the assistance of a customer service representative, she attested to having the option to enroll in employer coverage. Based on that representation, she is blocked from eligibility for financial help for insurance through the Connector. However, if the appellant determines that the coverage is not affordable pursuant to the formula set forth in the preceding paragraph, she should update her application to reflect that change, and consider whether she should terminate her employer insurance.

Based upon the totality of the evidence, it is concluded that the Connector's determination on January 23, 2022, regarding the appellant's eligibility for financial help with her health insurance through the Health Connector was correct as a result of her attestation that she has the option to enroll in employer health coverage.

#### **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

### **NOTIFICATION OF YOUR RIGHT TO ELECT RETROACTIVE COVERAGE**

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

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

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

### **ADDENDUM**

It is not known how the appellant came to have insurance coverage through the Health Connector for part of the 2021 tax year, particularly since she had no knowledge of the coverage and did not pay any premiums. She was advised to contact customer service at 1-877-623-6765 and request information on her enrollment or an investigation to resolve the matter.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2216088

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, age over 65, income under 100%

**Hearing Date:** April 27, 2022

**Decision Date:** June 8, 2022

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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 February 19, 2022, the Appellant was determined ineligible for Health Connector plans due to failure to establish lawful presence to the Health Connector.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 27, 2022. 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 (3-24-22) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (3-8-22) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (3-1-22) (4 pages);

Exhibit 6: Eligibility Denial letter (2-19-22) (5 pages); and  
Exhibit 7: Eligibility detail printout and application summary printout (12 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on February 19, 2022, after failing to establish that the Appellant is lawfully present to the Health Connector. (Exhibit 6, Exhibit 7)
2. Appellant indicated that they had entered the incorrect date of birth on the application, and that is what triggered the denial for failure to establish lawful presence. (Testimony, Exhibits 5, and 7).
3. Appellant filed a hearing request dated March 1, 2022. (Testimony, Exhibit 5).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found ineligible for Health Connector Plans based on failing to establish lawful presence. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector.

On February 18, 2022, the Appellant applied for health insurance through the Health Connector, but did not provide correct information and therefore the Health Connector was unable to confirm that applicants were lawfully present. As a result, Appellant was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

The Health Connector correctly found that the Appellant was not eligible for Health Connector plans on February 19, 2022, based on the information available to the Health Connector, and that determination is upheld.

## **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: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2216095

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income, access to other insurance

**Hearing Date:** April 27, 2022

**Decision Date:** June 9, 2022

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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 January 20, 2022, the Appellant was determined eligible for Health Connector plans with no financial help.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 27, 2022. 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 (3-24-22) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (3-14-22) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (3-7-22) (6 pages);
- Exhibit 6: Eligibility approval letters (1-20 and 3-10-22) (11 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (14 pages);



Exhibit 8: Unpaid premium notice (11-29-21) (2 pages); and  
Exhibit 9: Medicaid Household Determination (6 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through the Health Connector in 2021. (Testimony, Exhibits 6, 7).
2. Appellant received a notice of unpaid premium in November 2021. (Exhibit 8).
3. Appellant responded on the application that they had other insurance coverage. (Exhibit 7).
4. The Health Connector determined that Appellant was eligible for Health Connector plans with no financial help based on access to other insurance and income information. (Exhibits 6, 7).
5. Appellant appealed. (Exhibit 5, Appellant Testimony)
6. Appellant's application was changed so that it indicated that Appellant did not have other insurance, and Appellant was then determined eligible for ConnectorCare 3B. (Testimony, Exhibits 6 and 7).
7. Appellant raised an issue during the hearing regarding a hospital bill, but that is not a part of this hearing. (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed eligible for Health Connector plans with no financial assistance based on income and based on access to other insurance. 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 applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). 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 or provide unacceptable information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On January 20, 2022, the Appellant was determined eligible for Health Connector plans with no financial assistance based on Appellant's income as reported not being verified from other sources and based on having access to other insurance. Appellant believed the insurance was not affordable for them. The process for the determination on January 20, 2022 complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the information available to the Health Connector. 45 CFR § 155.305(f). In addition, based on the response that Appellant had access to other insurance, the determination was correct at the time. Appellant was then found eligible as of March 10, 2022 for ConnectorCare 3B.

The Health Connector correctly found that the Appellant was eligible for Health Connector plans with no financial assistance on January 20, 2022, and that determination is upheld.

## **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: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2216121

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, TCE income and immigration

**Hearing Date:** April 27, 2022

**Decision Date:** June 9, 2022

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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 March 2, 2022, the Appellant was determined ineligible for Health Connector plans based on failure to submit requested information and documents.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was ineligible for Health Connector plans, based on the Appellant's failure to provide requested documents and information.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 27, 2022. 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 (3-24-22) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (3-9-22) (1 page);
- Exhibit 4: Outreach notes and email (6 pages);
- Exhibit 5: Hearing Request form (3-8-22) (6 pages);

- Exhibit 6: Eligibility denial letter (3-2-22) (6 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (17 pages);  
Exhibit 8: Request for Information (11-16-21) (2 pages); and  
Exhibit 9: Medicaid Household Determination (6 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is the parent of the children who are seeking subsidized health insurance. There are four individuals in the household. The parents are not applying for coverage. The two children are applying for coverage. (Appellant Testimony, Exhibits 5, 7).
2. In a prior eligibility determination, on November 16, 2021, the Appellant's children were found eligible for Health Connector plans with no financial assistance, based on having an income and household size equivalent to 435% of the Federal Poverty Level, and was asked to send in documents verifying the Appellant's and Appellant's spouse's income, and the citizenship and social security number for the children. (Exhibits 7, 8).
3. The children both have significant health issues. (Appellant Testimony).
4. The Appellant did not send in additional documents. (Exhibit 4).
5. The Appellant was determined not eligible for Health Connector plans, on March 2, 2022, after failing to send in documents verifying income, citizenship and social security numbers. (Exhibits 6, 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found ineligible for Health Connector Plans based on failing to verify income, and failure to submit proof of U.S. citizenship and social security numbers for the children. The Appellant appealed. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D). In addition, if the applicant fails to submit requested documents, the applicant will be determined ineligible for Health Connector plans.

On November 16, 2021, the Appellant was determined eligible Health Connector plans with no financial assistance, based on having a household income equivalent to 435% of the Federal Poverty Level, was asked to verify their income, and was provided with a list of acceptable documents to verify income, and was also asked to submit proof of citizenship and social security numbers for the children. On March 2, 2022, because the Appellant failed to verify their income, and failed to submit the requested proof of citizenship and social security numbers, the Health Connector found that Appellants were not eligible for health insurance through the Health Connector. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). The Appellant was found ineligible for Health Connector plans, and that is the correct determination based on the failure to submit the documents.

Appellant's children have significant health issues, and the Appellant and Appellant spouse face significant difficulties managing the care for the children. However, if they are able to supply the requested documents, they may be able to obtain health insurance through the Health Connector.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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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: The pronouns "they" and "their" is used in order to be gender neutral, regardless of the singular or plural

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-16326

**Appeal Decision:** Appeal denied

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

**Hearing Date:** May 25, 2022

**Decision Date:** June 15, 2022

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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 February 24, 2022, the appellant was advised that she was eligible for Health Connector Plans with no financial help effective on April 1, 2022. (Exs. 1,3) The appellant filed an appeal dated March 18, 2022. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 11)

### **ISSUE**

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help on February 24, 2022, correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 25, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for February 24, 2022 (3 pages)
- Ex. 2-- Health Connector's Review of Application (4 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated February 24, 2022 (8 pages)
- Ex. 4—Health Connector's Notice of Eligibility Denial dated February 24, 2022 (6 pages)
- Ex. 5—Medicaid Household Determination Document (6 pages)

- Ex. 6—Hearing Request Form dated March 18, 2022 (22 pages)<sup>1</sup>  
Ex. 7—Acknowledgment of Appeal dated March 23, 2022 (1 page)  
Ex. 7A—Health Connector’s Request for Information dated October 28, 2021 (6 pages)<sup>2</sup>  
Ex. 8—Health Connector email dated April 14, 2022 (1 page)  
Ex. 9—My Workspace document (7 pages)  
Ex. 10-- Appeals Unit case notes (1 page)  
Ex.11—Notice of Hearing (3 pages)  
Ex. 12—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant husband is 42-years-old, is married, and has two minor children. She has a tax household size of two, consisting of herself and one daughter who has insurance with MassHealth. (Testimony, Ex. 2)
2. The appellant was enrolled in health insurance through MassHealth throughout 2021 and until January 31, 2022. By letter dated October 28, 2021, the Health Connector advised her that it needed additional information to decide her health/dental coverage consisting of proof of job income from a certain restaurant and a completed Absent Parent/Non-Custodial Parent form. The appellant was advised to submit the documentation by January 26, 2022. The appellant sent a letter to the Health Connector by mail and twice by fax indicating that she only worked for the restaurant for two weeks and had no income. At some point after January 26, 2022, the appellant contacted the Health Connector and was advised that it had not received the documentation. (Testimony, Ex. 7A)
3. On February 23, 2022, the Health Connector received the following documentation from the appellant: 1) a statement dated February 16, 2022, indicating that she is not working and has no income, and 2) a Non-Custodial Parent Form. There was insufficient information on the documentation for the Connector to identify the appellant. (Ex. 9)
4. By notice dated February 24, 2022, the appellant was determined eligible for Health Connector Plans with no financial help, effective April 1, 2022, based on data from other sources due to failure to provide the requested documentation by the allowed date. By notice of the same date, the Health Connector advised the appellant that she did not qualify for MassHealth, Health Safety Net or the Children’s Medical Security Plan due to failure to provide proof within the allowed time. (Exs. 1,3,4)
5. The appellant appealed the Connector’s February 24, 2022, determination on March 18, 2022, and stated in part that she is unemployed, has no income and needs to see a doctor. She attached the following documentation to her appeal: 1) a statement dated March 18, 2022 indicating that she only worked a few months at her last job and was laid off; and 2) Non-Custodial Parent Form dated March 18, 2022. (Testimony, Ex. 6)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant’s behalf, based on a projected yearly MAGI. As a result

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<sup>1</sup> On the Hearing Attendance Sheet, Ex. 7 was erroneously marked as containing 2 pages instead of 22 pages.

<sup>2</sup> The Health Connector’s Request for Information dated October 28, 2021 was inadvertently omitted from the Hearing Attendance Sheet. It has been marked as Ex. 7A.

of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. 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 Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by the applicant, including the applicant's income, in accordance with 45 CFR 155.320(d). When the Connector cannot verify an applicant's income electronically, it requests verifying information, in accordance with 45 CFR 155.315(f). If an applicant does 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 appellant testified that she sent a letter to the Health Connector by mail and twice by fax in response to the October 28, 2021 Request for Information due on or before January 26, 2022. She testified that she contacted the Connector after January 26, 2022, and was advised that it had not received the documentation. It appears that she made a second attempt to submit the requested documentation which was received by the Connector on February 23, 2022. However, the Connector's records indicate that it was unable to identify her due to insufficient information in the documents. In her appeal of March 18, 2022, the appellant included a statement regarding her income and a Non-Custodial Parent Form.

It is unfortunate that the appellant's first attempt to respond to the Connector's October 28, 2021 request for information resulted in the loss of her health insurance and the second attempt contained too little identifying information for the Connector to take any action.

Based upon the totality of the evidence, it is concluded that since the requested information was not submitted by the required date, the Connector relied on other data it had available from other sources to issue its determination. Accordingly, the Connector's determination on February 24, 2022, regarding the appellant's eligibility for Health Connector Plans without financial help 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 update her application with current income information and submit an affidavit of zero income as requested by the Health Connector in its email of April 14, 2022. She was further advised to contact customer service at 1-877-623-6765 if she needs additional assistance.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-16413

**Appeal Decision:** Denied in Part/ Approved in Part

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

**Hearing Date:** May 27, 2022

**Decision Date:** June 17, 2022

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 6, 2022 Health Connector determined that the Appellant was not eligible for a Special Enrollment Period because the Appellant had failed to verify that they had a qualifying life event.

On June 15, 2022 Health Connector determined the Appellant eligible for a Special Enrollment Period because the Appellant submitted documentation that they had a qualifying life event.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined on February 6, 2022 that Appellant was not eligible for a special enrollment period based on the Appellant's failure to verify a qualifying life event.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 27, 2022. 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's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated April 21, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.

- Exhibit 4: Health Connector Special Enrollment Period Decision denial notice dated February 6, 2022.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated January 26, 2022.
- Exhibit 6: Medicaid Household Determination Printout dated January 26, 2022.
- Exhibit 7: Health Connector Eligibility Approval Notice dated January 26, 2022.
- Exhibit 8: The Appellant's Online Appeal Request filed on or about April 21, 2022.
- Exhibit 9: Health Connector Appeals Unit Open Record Form dated May 27, 2022.
- Exhibit 9: Additional information submitted by the Appellant on June 15, 2022.
- Exhibit 10: Health Connector Appeals Unit Outreach Notes dated June 15, 2022 verifying that the Appellant was given a Special Enrollment Period (SEP). The Appellant's SEP is valid June 15, 2022 through August 13, 2022.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied for health insurance coverage on January 26, 2022 and reported income equal to 606.86% of the federal poverty level (Exhibit 5).
2. On January 26, 2022 the Appellant was determined eligible for Health Connector Plans (Exhibits 5, 7).
3. On February 6, 2022 Health Connector determined on the Appellant was eligible for Health Connector Plans but was not eligible for a SEP because the Appellant failed to verify that they had experienced a Qualifying Life Event (Exhibits 3, 4).
4. On or about April 21, 2022 the Appellant filed an Appeal (Exhibit 8).
5. I take Administrative Notice of the fact that for tax year 2022 the Open Enrollment Period was November 1, 2021 through January 23, 2022.
6. The Appellant testified that they had been insured under their spouse's employer sponsored health insurance program until November 2021. The Appellant said that they purchased health insurance through an out of state company in December, but later learned that the insurance purchased did not meet the requirements of the Affordable Care Act or Massachusetts minimum creditable coverage. The Appellant said that they cancelled the insurance in January and applied for health insurance through the Health Connector. I found the Appellant to be credible (Appellant Testimony).
7. The record was left open until June 15, 2022 to allow the Appellant to submit documentation of their loss of insurance (Exhibit 9).
8. On June 15, 2022 the Appellant submitted proof of their insurance for the months of December 2021 and January 2022 as well as the policy cancellation (Exhibit 10).
9. On June 15, 2022 Health Connector approved the Appellant's request for a SEP based on the documentation submitted. The Appellant's SEP period is June 15, 2022 through August 13, 2022 (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

At issue for this appeal is Health Connector's February 6, 2022 determination that the Appellant was not eligible for a Special Enrollment Period (SEP) to enroll in a Health Connector Plan because the Appellant failed to verify that they experienced a qualifying life event in the sixty-day period preceding their application. The Appellant had completed an application on January 26, 2022 and reported income equal to 606.86% of the federal poverty level. Although the Appellant met eligibility criteria for Health Connector Plans, the Appellant was unable to enroll due to the denial of the request for an SEP. On or about April 21, 2022 the Appellant filed an appeal to dispute that determination.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG-5. Qualifying life events include marriage, birth or adoption of a child, loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances. Open Enrollment for tax year 2022 was in effect November 1, 2021 through January 23, 2022.

At the Hearing held on May 27, 2022 the Appellant testified that they lost their insurance coverage in November 2021 and purchased an out of state plan in December 2021. The Appellant said that a family member informed them in January that the policy they purchased did not meet the requirements of the Affordable Care Act or Massachusetts minimum creditable coverage standards. See Mass. Gen. Laws c. 111M, sec. 2(b). The Appellant explained that they cancelled the policy and applied for insurance through the Health Connector.

The record was left open until June 15, 2022 to allow the Appellant to verify their loss of insurance coverage in January 2022. The Appellant submitted the information in a timely manner and on June 15, 2022 Health Connector granted the Appellant's request for an SEP. The Appellant may enroll in a Health Connector Plan through August 13, 2022.

Based on the information in the case record, Health Connector correctly denied the Appellant's request for an SEP on February 6, 2022 because the Appellant did not apply until January 26, 2022 after open enrollment ended and did not verify that they had experienced a qualifying life event. 45 CFR § 155.420. The Appellant submitted documentation of a qualifying life event on June 15, 2022 and Health Connector determined the Appellant eligible for an SEP from June 15, 2022 through August 13, 2022.

## **ORDER**

The Appeal is denied in part and approved in part.

## **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 that the Open Enrollment Period for their household is valid June 15, 2022 through August 13, 2022. The Appellant should choose a plan and enroll as soon as possible.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-16511

**Appeal Decision:** Denied

**Hearing Issue:** Eligibility for ConnectorCare with Advance Premium Tax Credits.

**Hearing Date:** June 13, 2022

**Decision Date:** June 21, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

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

On April 12, 2022, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits. The decision was based on income verification submitted by the Appellant on March 9, 2022.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's financial eligibility based on the income information submitted on March 9, 2022.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on June 13, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated May 17, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector's Eligibility Approval Notice dated April 12, 2022.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated April 12, 2022.
- Exhibit 6: Online Hearing Request dated April 20, 2022.
- Exhibit 7: Health Connector Request for Information dated October 26, 2021.

- Exhibit 8: My Workspace Printout of documents submitted by the Appellant on March 9, 2022.  
Exhibit 9: My Workspace Printout of documents submitted by the Appellant on October 27, 2021.  
Exhibit 10: Health Connector Income Change Detail Printout for the Appellant dated November 5, 2019.  
Exhibit 11: Health Connector Income Change Detail Printout for the Appellant's Spouse dated November 5, 2019.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Prior to May 1, 2022 the Appellant was receiving ConnectorCare. The Appellant is married. The Appellant's spouse is insured through the Veteran's Administration. The Appellant had attested to bi-weekly income of \$180 for themselves and weekly income of \$500 for their spouse (Exhibits 3, 5, 6, 10, 11).
2. On October 26, 2021, the Appellant was notified that they were required to submit updated proof of income for themselves and their spouse. The documentation was to be submitted to the Health Connector by January 24, 2022 (Exhibit 7).
3. On March 9, 2022 the Appellant submitted updated proof of their income to the Health Connector. The Appellant verified bi-weekly income of \$545.69 from one employer and \$531.38 from a second employer. The Appellant did not submit updated income verification for their spouse. The Appellant noted that their spouse is a veteran who does not need coverage (Exhibit 8).
4. On April 12, 2022, based on the income information submitted by the Appellant, Health Connector determined the Appellant has income equal to 456.93% of the federal poverty level (Exhibit 5).
5. On April 12, 2022, the Appellant was notified that they are eligible for Health Connector Plans with Advance Premium Tax Credits (APTC) of \$145 effective May 1, 2022 (Exhibit 4).
6. The Appellant filed an appeal on April 20, 2022 and reported that they are diabetic, one of their two jobs was temporary, and they could not afford the increased health insurance premium (Exhibit 6).
7. The Appellant testified that their income changed since March 2022 because they lost one of their two jobs (Appellant Testimony).
8. The Appellant was advised to update their application and submit updated income verification for themselves and their spouse as soon as possible.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Prior to May 1, 2022 the Appellant was receiving ConnectorCare. The Appellant is married. The Appellant's spouse is a veteran who is not seeking coverage. The Appellant's eligibility was based on reported bi-weekly income of \$180 for themselves and weekly income of \$500 for their spouse.

On October 26, 2021 the Appellant was notified by the Health Connector that they were required to submit updated proof of income for themselves and their spouse by January 24, 2022. On March 9, 2022 the Appellant submitted proof of income for their employment at two separate employers. The Appellant's bi-weekly income

from one job had increased to \$545.69 and the Appellant had additional weekly income of \$531.38 from a second job. The Appellant did not submit updated income documentation for their spouse. The Appellant had noted that their spouse was not seeking coverage.

Based on the documentation submitted by the Appellant and available information for the Appellant's spouse, on April 12, 2022 Health Connector determined the Appellant's household had income equal to \$456.93% of the federal poverty level. The Appellant was notified that they were eligible for Health Connector Plans with APTC of \$145 effective May 1, 2022. On April 20, 2022, the Appellant filed an Appeal to dispute this determination.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. As a result of the federal American Rescue Plan, for Plan Years 2021 and 2022 only, there is no upper income limit to receive APTCs. Any individual who purchases health insurance through the Health Connector may receive APTCs even if their income is greater than 400% of the federal poverty level so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5% of their annual income and they meet other non-income criteria to receive APTCs (See Health Connector Policy NG-2 effective 6/1/21). The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant testified that their income has changed since they submitted the verification of income on March 9, 2022. The Appellant said that they lost one of their two jobs.

As explained at the Hearing, Health Connector reviews eligibility and updates an application based on information received. 956 CMR 12.07. Based on the income documentation submitted by the Appellant on March 9, 2022, Health Connector determined the Appellant's income equal to 456.93% of the federal poverty level. Health Connector therefore correctly determined on April 12, 2022, that the Appellant is eligible for Health Connector Plans with APTC. 26 IRC § 36B 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



**ADDENDUM**

The Appellant is reminded that they should update their application for 2022. The Appellant may submit updated income documentation to the Health Connector for themselves and their spouse at any time.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-16553

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

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

**Hearing Date:** June 16, 2022

**Decision Date:** June 27, 2022

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 7, 2022 Appellant was determined ineligible for Health Connector plans, due to failure to verify residency.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form dated April 20, 2022
- Exhibit 2: Eligibility results and Summary dated April 7, 2022
- Exhibit 3: Appeals Unit outreach notes
- Exhibit 4: Requests for information dated February 22, 2022 and March 22, 2021
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector dated May 17, 2022

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had been covered by subsidized health insurance in 2021 and early 2022 (Testimony of Appellant).
2. On February 22, 2022, Appellant was notified that Appellant was required to provide proof of residency by March 24, 2022 to continue coverage by the Health Connector (Exhibit 4).
3. On April 7, 2022, Appellant was determined ineligible for Health Connector plans after failing to send in documents verifying residency (Exhibit 2).
4. Appellant provided some documents, but they were not sufficient to show residency (Exhibit 3).
5. Appellant filed an appeal on April 20, 2022 (Exhibit 1A).

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

Appellant was found ineligible for Health Connector Plans as Health Connector records indicated that Appellant did not live in Massachusetts. 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 applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d). Where the Health Connector cannot verify applicants' residency 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 consider the information not verified and issue a new eligibility determination.

On February 22, 2022, Appellant was asked to verify residency by March 24, 2022. Appellant failed to send in a proper document verifying residency. On April 7, 2022, Appellant was determined ineligible for Health Connector plans for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

The decision by the Health Connector on April 7, 2022 correctly found that the Appellant was 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. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

### **ADDENDUM:**

**Appellant was given the phone number for the Health Connector (1 877 623-6765) so that Appellant could immediately get information about how to provide the Health Connector with documents**

**regarding residency. Appellant should also review the income information with the Health Connector. Appellant has also been sent an Affidavit of Residency to submit to the Health Connector if Appellant does not have documents to send regarding residency.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-16567

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

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

**Hearing Date:** June 16, 2022

**Decision Date:** June 27, 2022

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 7, 2022 Appellant was determined ineligible for Health Connector plans, due to failure to verify residency.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form dated April 26, 2022
- Exhibit 2: Eligibility results and Summary dated April 7, 2022
- Exhibit 3: Appeals Unit outreach notes
- Exhibit 4: Requests for information dated January 27, 2022 and March 29, 2021
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector dated May 17, 2022

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for subsidized health insurance for 2022 (Testimony of Appellant).
2. On January 27, 2022 and February 16, 2022, Appellant was notified that Appellant was required to provide proof of residency by March 18, 2022 to continue coverage by the Health Connector (Exhibit 4).
3. On March 29, 2022, Appellant was notified that the documents Appellant had provided were not satisfactory proof of residency and Appellant was provided a list of acceptable documents (Exhibit 4).
4. On April 7, 2022, Appellant was determined ineligible for Health Connector plans after failing to send in documents verifying residency (Exhibit 2).
5. On May 4, 2022, the Health Connector Appeals Unit sent Appellant an Affidavit of Residency to complete so Appellant could verify residency (Exhibit 3).
6. Appellant no longer has access to a computer or cell phone, and requested the Affidavit be mailed (Testimony of Appellant).
7. Appellant filed an appeal on April 26, 2022 (Exhibit 1A).

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

Appellant was found ineligible for Health Connector Plans as Health Connector records indicated that Appellant did not live in Massachusetts. 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 applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d). Where the Health Connector cannot verify applicants' residency 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 consider the information not verified and issue a new eligibility determination.

On January 27, 2022 and February 16, 2022, Appellant was asked to verify residency by March 18, 2022. Appellant failed to send in a proper document verifying residency. On April 7, 2022, Appellant was determined ineligible for Health Connector plans for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

The decision by the Health Connector on April 7, 2022 correctly found that the Appellant was 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. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you

must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

**ADDENDUM:**

**After the hearing, the Health Connector mailed Appellant an Affidavit of Residency to submit to the Health Connector regarding residency. Appellant should complete and return the Affidavit and contact the Health Connector regarding enrollment.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-16654

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare, based on tax filing status.

**Hearing Date:** June 13, 2022

**Decision Date:** June 17, 2022

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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 May 3, 2022 the Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies because the Appellant did not attest that they planned to file a joint income tax return.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant's tax filing status information reported on the application.

### HEARING RECORD

The Appellant did not appear at the hearing, which was held by telephone, on June 13, 2022. The Appellant's Authorized Representative did appear. The hearing record consists of the Representative's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated May 17, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Approval Notice dated May 3, 2022.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated May 3, 2022.
- Exhibit 6: Medicaid Household Determination Printout dated May 3, 2022.
- Exhibit 7: The Appellant's Online Hearing Request dated May 3, 2022.
- Exhibit 8: MMIS Printout dated May 13, 2022.



Exhibit 9: 2022 Eligibility Results with an Application Summary dated October 7, 2021.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On October 7, 2021 the Appellant was determined eligible for ConnectorCare Plan Type 1. The Appellant had applied as a single Legal Permanent Resident (LPR) present in the United States for less than five years with no income. The Appellant attested that they planned to file taxes (Exhibits 8, 9).
2. On May 3, 2022, the Appellant updated their application. The Appellant did not report a change in their immigration status. Health Connector verified that the Appellant is married. On this application the Appellant did not attest that they planned to file a joint income tax return with their spouse. The Appellant reported having no income (Exhibits 5, 6).
3. On May 3, 2022, the Health Connector determined that the Appellant was eligible for Health Connector plans without subsidies, because the Appellant is married and did not indicate that they would file a joint income tax return with their spouse (Exhibits 3, 4, 5).
4. There is no evidence in this administrative record to indicate that the Appellant alleged spousal abuse or abandonment on their Application (Exhibits 5, 9).
5. The Appellant filed an appeal on May 3, 2022 (Exhibit 7).
6. The Appellant's Representative testified that the Appellant is married but their spouse is not a US citizen and does not live or work in the United States. The Representative also testified that as of March 2022 the Appellant has been a LPR for five years (Representative Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant applied for subsidized health insurance on October 7, 2021 as a household of one. The Appellant reported being a LPR, present in the United States for less than five years. The Appellant reported having no income and attested that they planned to file an income tax return. Based on this information, the Appellant was determined eligible for ConnectorCare Plan Type 1. On May 3, 2022 the Appellant updated their application. Health Connector verified that the Appellant is married. The Appellant did not report any changes in their immigration status. The Appellant reported having no income. The Appellant did not attest that they planned to file a joint income tax return with their spouse. Based on this information, on May 3, 2022 the Appellant was determined eligible for Health Connector Plans with no financial assistance. 45 CFR § 155.305(f)(2), 956 CMR 12.04. The Appellant filed an appeal to dispute the May 3, 2022 determination.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC applies to married couples. In general,

married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). However, if one of the spouses is the victim of domestic abuse or spousal abandonment, that taxpayer may attest to filing as married filing separately, and still receive APTC. 26 CFR § 1.36B-2T(b)(2)(ii). To claim domestic abuse, the taxpayer must certify that he or she is living apart from the other spouse at the time of tax filing and is unable to file a joint return because the taxpayer is a victim of “physical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate, and intimidate, or to undermine the victim's ability to reason independently.” 26 C.F.R. § 1.36B-2T(b)(2)(ii), (b)(2)(iii). Spousal abandonment similarly requires that the taxpayer certify that he or she is living apart from the other spouse at the time of tax filing, and that the taxpayer is unable to file a joint tax return because “the taxpayer is unable to locate his or her spouse after reasonable diligence.” 26 C.F.R. § 1.36B-2T(b)(2)(iv), (b)(2)(ii), (iv). Each exception may be claimed if only if it has not been claimed in each of the three preceding taxable years. 26 CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their taxes in accordance with the required certification, which appears on Form 8962.

In addition to the above exceptions to the requirement to file a joint tax return, taxpayers who qualify to file as head of household may also receive APTC. Even those taxpayers who are technically married may qualify to file as head of household, so long as the test for head of household status is satisfied. This test requires that the taxpayer be “unmarried,” that the taxpayer paid more than half the cost of keeping up a home for the year, and that a qualifying person lived with the taxpayer for more than half the year. 26 CFR § 1.2-2(b). Married taxpayers may be “considered unmarried,” and therefore eligible for head of household status, so long as the taxpayer, among other requirements, has not lived with the taxpayer’s spouse during the last six months of the tax year. 26 CFR § 1.7703-1. Taxpayers who are married but file as head of household are technically filing as unmarried, and so do not need an exception to the rule that they file a joint tax return and may claim APTC so long as they are otherwise eligible. See 26 CFR § 1.36B-4T(b)(5) (Example 9). Applicants looking to claim APTC by claiming head of household status must attest that they will file their taxes as head of household.

The Appellant’s Representative does not dispute that the Appellant is married or the fact that the Appellant did not attest that they would file a joint income tax return with their spouse. The Representative argues that the Appellant’s spouse is not a citizen and does not live or work in the United States. The Appellant said that the Appellant has no income and cannot afford to pay for health insurance. The Appellant’s Representative testified that as of March 2022 the Appellant has been a LPR present in the United States for five years. The Representative was advised to contact Health Connector Customer Service and MassHealth as soon as possible to report the change in the Appellant’s immigration status.

Based on the Appellant’s marital status and known immigration status at the time of application, and the fact that the Appellant reported they would not file a joint income tax return and did not claim an exemption, the Health Connector correctly found on May 3, 2022 that the Appellant was eligible for Health Connector plans with no financial assistance.

#### **ORDER**

The appeal is denied.

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

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

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

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant may contact Health Connector Customer Service at 1-877-623-6765 to report the change in immigration status.

The Appellant may also contact MassHealth Customer Service at 1-800-841-2900.

The Appellant was advised to contact their tax preparer or Legal Services for tax advice.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2216125

**Appeal Decision:** Appeal denied. The Connector's determination of Appellant's eligibility to obtain a Health Connector plan during the next open enrollment period or when Appellant had a qualifying life event is affirmed.

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility to enroll in a Health Connector plan during the next open enrollment period or upon Appellant having a qualifying life event.

**Hearing Date:** April 19, 2022

**Decision Date:** June 28, 2022

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 24, 2022, the Connector determined Appellant to be eligible to purchase and to enroll in a Connector health insurance plan during the next open enrollment period or when the appellant had a qualifying life event.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 19, 2022. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also 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 the Appellant and the following documents which were admitted in evidence:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated March 14, 2022 addressed to Appellant for April 19, 2022 hearing
- Exhibit 3: Connector Appeals Unit letter dated March 9, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated March 9, 2022
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on March 5, 2022 with statement in support attached
- Exhibit 5: Connector letter dated February 24, 2022 to Appellant regarding eligibility and the special enrollment period
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated February 24, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had been covered by his parents' health insurance plan until he turned 26 on November 30, 2021. After Appellant no longer had insurance, the appellant thought he would obtain coverage through his job (Testimony Appellant, Exhibit 4).
2. Appellant lost his job before he obtained health insurance. He started looking for a new job and thought he would get coverage through his next job. After not being able to find a job, Appellant applied for coverage through the Connector on February 24, 2022 (Testimony of Appellant, Exhibits 4, 6).
3. In a letter from the Connector dated February 24, 2022, the Connector determined and notified the appellant that while he was eligible to purchase health insurance through the Connector, he was not eligible to enroll in a plan until the next open enrollment period or until Appellant had a qualifying life event which would allow him to enroll outside of an open enrollment period (Exhibit 5).
4. Appellant had lost his health insurance more than 60 days before he applied to the Connector for coverage. He had not recently married or had a child or other dependent brought into his household. Appellant also had not recently moved to Massachusetts or within the state, or recently lost Medicaid coverage. He is not a Native American or Alaskan Native. His immigration status had not changed within 60 days before applying to the Connector. Appellant did not ask for any financial assistance, so was not newly eligible for ConnectorCare (Testimony of Appellant, Exhibit 6).
5. Appellant submitted a request for an appeal of the Connector's February 24th determination on March 5, 2022 (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on February 24, 2022 that the appellant was eligible for a Health Connector plan, but was not eligible to enroll until the next open enrollment period or until Appellant had a qualifying life event. The appellant has appealed this determination. See Exhibit 4.

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. See also 45 CFR Section 155. 420 which provides for special enrollment periods and for eligibility requirements for enrolling outside of an open enrollment period. If an individual has had a qualifying life event within 60 days of applying for health insurance and enrolling in a plan, the individual may enroll in a plan outside of an open enrollment period, if otherwise eligible. In 2020, the open enrollment period ran from November 1, 2019 to January 23, 2020.

In this matter, Appellant had health insurance coverage under his parents' health insurance plan until he turned 26 on November 30, 2021. After Appellant was no longer had insurance, the appellant thought he would obtain coverage through his job. Appellant lost his job before he obtained health insurance. He started looking for a new job and thought he would get coverage through his next job. After not being able to find a job, Appellant After not being able to find a job, Appellant applied for coverage through the Connector on February 24, 2022. In a letter from the Connector dated February 24, 2022, the Connector

determined and notified the appellant that while he was eligible to purchase health insurance through the Connector, he was not eligible to enroll in a plan until the next open enrollment period or until Appellant had a qualifying life event which would allow him to enroll outside of an open enrollment period. Appellant appealed this determination. See the testimony of the appellant which I find to be credible and Exhibits 4, 5, and 6.

According to 45 Code of Federal Regulations Section 155.420 (c)(1) and 155.420 (d)(1)(i), the loss of health insurance coverage is a qualifying life event. If an individual, otherwise eligible to purchase coverage through the Connector, has a qualifying event, the individual has 60 days from the date of the event to enroll in a plan. The 60 day period is known as a special enrollment period. After 60 days, if the individual has not enrolled in a plan, the individual is no longer eligible for a special enrollment period and must wait to enroll until the next open enrollment period, or until the individual has another qualifying life event.

Appellant did have a qualifying life event, (in this case, the loss of health insurance coverage), when he turned 26, at the end of November, 2021 and lost coverage through his parents' plan. However, he did not apply to the Connector for coverage for nearly four months after he had the qualifying life event. Appellant testified about other possible qualifying life events; none were applicable. See the testimony of the appellant which I find to be credible.

I determine that the Connector's determination that Appellant was not eligible for a special enrollment period should be affirmed. Appellant missed being able to enroll outside of the open enrollment period (November 1, 2019 through January 23, 2020 in Massachusetts) because he did not apply and enroll within 60 days of losing coverage at the end of November. There is no evidence in the record that Appellant had any other qualifying life event within 60 days of his application for coverage.

During his hearing, Appellant was informed that he could seek a waiver through the Office of Patient Protection. A waiver would allow him to enroll outside of the open enrollment period. Appellant might also apply outside of the open enrollment period if he was found to be eligible for a ConnectorCare plan.

**ORDER:** The action taken by the Connector regarding Appellant's ineligibility to enroll in a Health Connector plan until the next open enrollment period or until the appellant had a qualifying life event 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. Appeals Unit

Hearing Officer

