

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-10645

Appeal Decision: Appeal Denied.

Hearing Issue: Eligibility for Health Connector Plans without subsidies based on failure to reconcile prior tax credits

Hearing Date: February 10, 2020

Decision Date: March 24, 2020

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 October 16, 2019, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 10, 2020. 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. At the Appellant's request, the record was left open until March 2, 2020 to allow the Appellant to submit additional evidence. On February 25, 2020 the Appellant contacted the Appeals Unit and requested additional time. The record open period was extended to March 16, 2020.

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, with attachments, dated January 17, 2020.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form submitted on December 5, 2019.
- Exhibit 5: An Eligibility Approval notice issued by the Health Connector on October 16, 2019, with an Application Summary attached.
- Exhibit 6: A copy of the Appellant's Form 1095-A for filing 2016 taxes with a letter of instruction dated January 19, 2017.
- Exhibit 7: A copy of the Appellant's Form 1095-A for filing 2017 taxes with a letter of instruction dated January 18, 2018.
- Exhibit 8: A copy of the Appellant's Form 1095-A for filing 2018 taxes with a letter of instruction dated January 17, 2019.
- Exhibit 9: 2019 Eligibility Results with an Application Summary dated April 20, 2019.
- Exhibit 10: Health Connector Appeals Unit Open Record Form, with an attachment, dated February 10, 2020.
- Exhibit 11: A copy of an Appeals Unit Research Associate's E-mail detailing a telephone call from the Appellant requesting that the record be left open an additional two weeks to allow the Appellant to submit evidence.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to January 1, 2020 the Appellant was receiving ConnectorCare with Advance Premium Tax Credits based on the Appellant's having attested to having income less than 300% of the federal poverty level (Exhibits 5, 9).
2. On October 16, 2019 the Health Connector determined that the Appellant was eligible for Health Connector plans without subsidies despite the Appellant's verified income of approximately 246.30% of the federal poverty level (Exhibit 5).
3. The Appellant filed an appeal on December 5, 2019. The Appellant noted on the Hearing Request Form that they were unable to do their taxes because they could not afford the expense (Exhibit 4).
4. As part of their outreach, the Health Connector Appeals Unit verified that the Appellant had attested to having filed their taxes on 12/18/18 and 01/17/19 (Exhibit 3).
5. On January 6, 2020 the Health Connector Appeals Unit issued a notice to the Appellant regarding the steps needed to reconcile tax credits received in prior years in order to remain eligible for health care subsidies. The letter contained detailed information regarding how to obtain a tax return transcript from the IRS using a computer as well as information to obtain assistance from Volunteer Income Tax Assistance (VITA) Exhibit 2).
6. The Appellant testified that they do not have access to a printer. The Appellant was advised that they could access the internet and print a copy of their tax transcript at a local library or a Health Connector walk in center. The Appellant then testified that they have never been asked for this information in prior years. The Appellant was unsure if they had filed Form 8962 to reconcile their taxes. The Appellant was advised to contact their tax preparer for assistance to obtain this information.

7. On January 19, 2017 the Health Connector sent the Appellant a copy of Form 1095-A for filing 2016 taxes. The Appellant was informed that they must use the information to file their 2016 income tax return including IRS Form 8962 to reconcile their taxes for tax year 2016 (Exhibit 6).
8. On January 18, 2018 the Health Connector sent the Appellant a copy of Form 1095-A for filing 2017 taxes. The Appellant was informed that they must use the information to file their 2017 income tax return including IRS Form 8962 to reconcile their taxes for tax year 2017 (Exhibit 7).
9. On January 17, 2019 the Health Connector sent the Appellant a copy of Form 1095-A for filing 2018 taxes. The Appellant was informed that they must use the information to file their 2018 income tax return including IRS Form 8962 to reconcile their taxes for tax year 2018 (Exhibit 8).
10. At the Appellant's request, the record was left open until March 2, 2020 to allow the Appellant to submit proof of having filed taxes and reconciling past tax credits for the years 2016, 2017 and 2018. A copy of the Appeals Unit January 6, 2020 letter with instructions on how to obtain this information was sent to the Appellant with an Open Record Form (Exhibits 2, 10).
11. On February 25, 2020 the Appellant telephoned the Health Connector Appeals Unit to request additional time to submit evidence. The Appellant reported that they had tried to request a transcript online but was locked out for some reason (Exhibit 11).
12. The record was left open until March 16, 2020 to allow the Appellant to submit additional evidence.
13. The Appellant did not submit any additional evidence.

ANALYSIS AND CONCLUSION OF LAW

On October 16, 2019 the Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant's expected annual income is only \$30,762 for 2020 and they are otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

The Appellant was eligible for ConnectorCare, and received APTC in tax years 2016, 2017, and 2018. On December 18, 2018 and January 17, 2019, the Appellant attested to having filed their taxes and reconciling past tax credits. At the hearing held on February 2, 2020 the Appellant was unsure if they had filed the required Forms 8962 with their tax returns. The Appellant said that they had never been asked to do this before. This testimony is refuted by the letters with attached Forms 1095As sent to the Appellant in January of tax years 2017, 2018 and 2019. The Health Connector was unable to verify that the Appellant filed their returns and reconciled past tax credits.

The Appellant was informed, in writing by letters sent on January 6, 2020 and February 10, 2020 how to obtain transcripts of their tax returns via internet. After the February 10, 2020 hearing, the record was left open until March 16, 2020 to allow the Appellant to submit documentation. The Appellant failed to submit any documentation. Based on available evidence, the Health Connector correctly determined that the Appellant is not eligible for APTC or ConnectorCare. 45 CFR § 155.305(f)(4), 956 CMR § 12.04.

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 should comply with the requirement to reconcile receipt of all premium tax credits by filing federal income tax returns, including Forms 8962 for tax years 2016, 2017 and 2018. The Appellant will need to use Forms 1095A in order to complete Forms 8962. If the Appellant does not have their Form 1095A, and because the Appellant received APTC in 2016, 2017 and 2018 through the Health Connector, the Appellant should contact the Health Connector's customer service center to request duplicate 1095A forms. Once the Appellant complies with the requirement to reconcile all past APTCs, the Appellant can report a change to their 2020 application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2019 federal income tax return with Form 8962 and reconciling any APTC received in 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-10935

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for Health Connector plans based on failure to verify information

Hearing Date: February 11, 2020

Decision Date: March 12, 2020

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 December 15, 2019, the appellants were advised that they did not qualify for health insurance coverage through the Health Connector because it did not receive the information needed to verify their eligibility to purchase a Connector plan. (Ex. 1) The appellants filed an appeal dated December 22, 2019. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 9)

ISSUE

Was the Connector's decision regarding the appellants' lack of qualification for Health Connector Plans correct at the time of its determination on December 15, 2019, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellants' designated representative appeared at the hearing which was held by telephone on February 11, 2020, and testified under oath. The appellants did not appear. The hearing record consists of his testimony and the following documents which were admitted into evidence:

- Ex. 1—Health Connector's Notice of Eligibility Denial dated December 15, 2019 (6 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (5 pages)
- Ex. 4—Computer printout of Health Connector's Eligibility Determination Results (2 pages)
- Ex. 5—Computer printout of Health Connector's Review of Application (5 pages)
- Ex. 6—Hearing Request Form with attachments dated December 22, 2019 (35 pages)

- Ex. 7—Acknowledgment of Appeal dated January 14, 2020 (2 pages)
- Ex. 8—Health Connector email dated January 14, 2020 (1 page)
- Ex. 9—Notice of Hearing (4 pages)
- Ex. 10—Affidavit of Connector representative (1 page)

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

- Ex. 11—Health Connector memorandum dated February 11, 2020 (2 pages)
- Ex. 12—My Workspace results page (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellants are two sisters ages 18 and 20 who arrived in the United States as unaccompanied alien children. The appellants' designated representative is their caregiver and immigration attorney. (Testimony, Ex. 6)
2. The appellants had health insurance with MassHealth prior to July, 2019. (Testimony)
3. By letter dated July 12, 2019, the Health Connector and MassHealth notified the appellants that they were required to submit proof of immigration status by October 10, 2019 in order to determine whether they were eligible for health insurance coverage. In addition, the appellants' representative was advised to complete the non-custodial parent form for the younger of the two sisters (Sister A) by October 10, 2019. The notice indicated that there were three ways to submit the requested information, one of which was by fax to 1-857-323-8300. (Testimony, Ex. 6)
4. By letter dated December 15, 2019, the Health Connector notified the appellants that they did not qualify for health insurance coverage through the Health Connector because it did not get the information it needed to verify their eligibility to purchase a Health Connector plan. A second notice from the Connector of the same date indicated that the Connector's determination was based on "data from other sources" because it did not receive the documents it had requested. (Exs. 1,2)
5. The appellants appealed the Connector's December 15, 2019 determination based on citizenship/immigration status and lack of non-custodial parent forms, and included several attachments. In an accompanying letter, their representative indicated that he responded to the Connector's July 12, 2019 request on July 23, 2019 with faxes to 18573238300@faxsend.com. Two of the documents he included in the attachments were cover sheets with the following information: his email address, the date and time of transmission, and the following address to which the package was sent: 18573238300@faxsend.com. He stated that his response was timely and resubmitted the same documentation with the appeal that he attempted to send on July 23, 2019. (Testimony, Ex. 6)
6. On January 14, 2020, the Appeals Unit Manager emailed the representative and stated in part that the appellants were eligible for Health Safety Net and that the documents he submitted with the appeal would be forwarded to MassHealth for processing. (Ex. 8)
7. In response to the Open Record Request, the Connector submitted a memorandum dated February 11, 2020, in which it stated in part that "after a thorough search of the Health Insurance Processing Center's document receipt database", two files were located: 1) a set of documents sent with the appeal request which was

processed on February 7, 2020; and 2) a non-custodial parent form which was unacceptable because it was not signed by a parent or legal guardian, and had been sent to another location for processing. (Exs. 11,12)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR 155.305(f), certain taxpayers are eligible for an APTC if their household income is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly income. Taxpayers who qualify for an APTC and who have projected yearly income less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR 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 eligibility 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, and issue a new eligibility determination, in accordance with 45 CFR 155.315(f)(5), 155.320(c)(3)(i)(D).

On July 12, 2019, the Health Connector and MassHealth notified the appellants that that they were required to submit proof of immigration status by October 10, 2019 in order to determine whether they were eligible for health insurance coverage. In addition, the appellants' representative was advised to complete the non-custodial parent form for Sister A by October 10, 2019. On December 15, 2019, the Connector advised the appellants that they did not qualify for health insurance coverage through the Health Connector because it did not get the information it needed to verify their eligibility to purchase a Health Connector plan. The appellants argue that they responded to the July 12th request on July 23, 2019, by sending a package of documents to what seems to be an email address that contains the fax number listed in the July 12th notice. They point to the two cover sheets as proof that the package was submitted in a timely fashion. The Connector maintains that it searched its document receipt database and there is no record of having received the appellants' package. It appears that the representative attempted to submit a response to the Connector on July 23, 2019, but instead of faxing his response, he emailed it to an address which included the fax number. Email transmission was not offered as one of the acceptable ways to send the Connector the requested information in its July 12th notice, and it is unclear what address the representative was trying to reach. Accordingly, since the Connector did not receive the information that it requested by the required date of October 10, 2019, it relied on data it had available from other sources to issue its determination.

Based upon the totality of the evidence, it is concluded that the Connector's determination on December 15, 2019, regarding the appellants' ineligibility for Health Connector Plans due to failure to provide requested information, 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

Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-10568

Appeal Decision: Appeal Approved

Hearing Issue: Eligibility for Advanced Premium Tax Credits, based on failure to reconcile prior tax credits.

Hearing Date: January 10, 2020

Decision Date: March 3, 2020

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 19, 2019, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination was based on the Appellant's failure to establish that they had reconciled APTCS the Appellant received in a prior tax year.

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that the Appellant was only eligible for Health Connector plans and not eligible for Advanced Premium Tax Credits, based on the Appellant's failure to verify that Appellant had reconciled prior tax credits.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 10, 2020. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The record was held open for the Appellant to provide a tax transcript. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (5 pages, dated December 3, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (3 Pages)
- Exhibit 4: Appellant's appeal request form 2 pages dated November 23, 2019)
- Exhibit 5: Notice of Eligibility Determination (10 pages, dated November 19, 2019)
- Exhibit 6: Health Connector's Determination Results and Review Computer Printout (7 pages, dated November 19, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout 7 pages, dated January 16, 2018)
- Exhibit 8: Historical Notices & Printouts (112 pages)
- Exhibit 9: Open Record Documents (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 61-year-old married- female (Exhibit6 & 7)
2. The Appellant has a household of two. (Exhibit 6 & 7)
3. On November 19, 2019 the Appellant's household was determined eligible for a Health Connector Plan with no subsidies. (Exhibit 6)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place them at 367.56% of the 2018 Federal Poverty Level

(FPL). Applicants who do not have access to other health insurance and who have an FPL between 301% and 400% of the Federal Poverty Level may be eligible for help in paying for a Health Connector plan through an Advanced Premium Tax Credit.

5. The Appellant is not eligible for employer-sponsored insurance that meets federal affordability standards. (Exhibit 6, Appellant's testimony)
6. The Appellant is not eligible for government sponsored insurance. (Exhibit 6, Appellant testimony)
7. The Appellant was enrolled in a Health Connector plan in 2019 and received advance premium tax credits in 2019. (Appellant testimony)
8. Appellant filed her tax return on September 26, 2019 because Appellant requested an extension. (Exhibit 9)
9. The documents received in the open record (Tax transcript) indicate that the Appellant completed the form 8962, indicating that the Appellant reconciled the amount of APTC received against the amount the Appellant was eligible for in that year.
10. Appellant then filed her appeal on November 23, 2019.

ANALYSIS AND CONCLUSIONS OF LAW

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

Another requirement to be eligible for APTCs is that an individual who received APTCs in a prior tax year file a federal income tax return for the year APTCs were received and reconcile the amount of APTCs received against the amount the individual is eligible for in that year. 45 CFR s. 155.305(f)(4). The Appellant received an extension to file taxes late and did in fact reconcile APTCs received against what the Appellant eligible. (Exhibit 9)

ORDER

The appeal is allowed. The determination by the Connector is over-ruled.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

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 federal income tax return. 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 received. If you got too much in tax credits during the tax year (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 the tax year (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. The Appellant indicated that their household had experienced reportable changes. I urge the Appellant to contact Customer Service to update income and report spouse's disability status.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA20-10962

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit based on failure to reconcile prior tax credits

Hearing Date: February 11, 2020

Decision Date: March 18, 2020

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 December 30, 2019, the appellant was advised that she was eligible for a Health Connector Plan with no financial help beginning on February 1, 2020. (Ex. 4) The appellant filed an appeal dated January 13, 2020 based on income, access to other insurance and premium waiver/reduction. (Ex. 7) The matter was referred to a hearing after receipt of the appeal. (Ex. 8)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help correct on December 30, 2019, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 11, 2020, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Notice regarding Form 1095-A dated January 18, 2019 (8 pages)
- Ex. 2—Computer printout of Health Connector's Eligibility Determination Results showing a program determination for October 1, 2019 (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (5 pages)
- Ex. 4—Health Connector's Notice of Eligibility Approval dated December 30, 2019 (8 pages)

- Ex. 5—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for December 30, 2019 (3 pages)
- Ex. 6—Computer printout of Health Connector’s Review of Application (5 pages)
- Ex. 6A—Summary of application information (5 pages)
- Ex. 7—Hearing Request Form dated January 13, 2020 (2 pages)
- Ex. 8—Acknowledgment of Appeal dated January 16, 2020 (4 pages)
- Ex. 9—Appeals Unit Case Notes (1 page)
- Ex. 10—Notice of Hearing (4 pages)
- Ex. 11—Affidavit of Connector representative (1 page)

The record was held open at the conclusion of the hearing until March 3, 2020 for documentation requested by the hearing officer from the appellant. Nothing was submitted in response to the request and the record was closed.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 51-years-old and has a tax household size of three consisting of herself, her husband and their daughter. (Testimony, Exs. 3,6)
2. The appellant had subsidized health insurance with APTC (advanced premium tax credit) for the months of November and December, 2018. The appellant and her husband had subsidized health insurance with APTC for a portion of 2019. (Testimony, Ex. 1)
3. By notice dated October 1, 2019, the appellant and her husband were determined eligible for ConnectorCare Plan Type 1 with APTC of \$870.00 beginning on November 1, 2019. Their daughter was determined eligible for MassHealth Standard. (Ex. 2)
3. On the application associated with the October 1, 2019 determination, the appellant and her husband attested to filing taxes and reconciling all past APTCs on October 1, 2019. (Ex. 3)
4. By notice dated December 30, 2019, the appellant was determined eligible for a Health Connector Plan with no financial help with an APTC of \$465.00 beginning on February 1, 2020. Her husband was determined eligible for ConnectorCare Plan Type 1 with an APTC of \$465.00 beginning on February 1, 2020. (Exs. 4,5)
5. On the application associated with the December 30, 2019 determination, the appellant and her husband did not attest to filing taxes and reconciling all past APTCs. (Ex. 6)
6. On the December 31, 2019 notice, the Connector notified the appellant that she did not qualify for help paying for her coverage because of any of the following reasons: access to health insurance through another source that meets minimum essential coverage standards; or annual income is too high; or no plans to file a tax return; or married but planning to file taxes separately; or advance payments of the premium tax credit were paid to reduce your premium costs in a prior year and it is not clear whether a tax return was filed for that year. (Ex. 4)
7. The appellant appealed the Connector’s December 30, 2019, determination on January 12, 2020 based on income, access to other insurance and premium waiver/reduction. In her appeal, she stated that the reasons given for her ineligibility were wrong. (Ex. 7)

8. The appellant and her husband emigrated to the United States from Viet Nam in September, 2018. They have not earned an income since their arrival and were not aware that they were required to file a joint income tax return in order to be eligible for subsidized health insurance and APTCs. On January 28, 2020, they filed a 2018 U.S. Form 1040 and a Form 8962 with the I.R.S. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

According to the Connector's notice dated December 30, 2019, the appellant was found eligible for Health Connector Plans without financial help and with an APTC of \$465.00 effective February 1, 2020. One of the requirements to be eligible for subsidies and APTC is that an individual who received APTC in a prior tax year must file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR section 155.305(f)(4). The appellant does not dispute that she and her husband had not filed a federal tax return at the time of the December 30, 2019 determination.¹ She testified credibly that she filed a Form 1040 and Form 8962 on January 28, 2020. At the time of the instant hearing, she did not yet have proof of the tax filing, and did not submit any proof in response to the Open Record Request. At the conclusion of the hearing, she was provided with information on how to obtain a transcript of her tax filing from the I.R.S. She was also advised to request an extension of the deadline to respond to the Open Record Request if she was unable to obtain the transcript in question.

Based upon the totality of the evidence, it is concluded that the Connector's determination on December 30, 2019, regarding the appellant's eligibility for Health Connector Plans without financial help due to her failure to file a tax return and reconcile prior tax credits, 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.

¹ It is not known why the appellant's husband was determined eligible for subsidized insurance with APTC and why the appellant was determined eligible for APTC in light of the fact that they had not filed a joint tax return and reconciled prior APTCS at the time of the December 30, 2019 determination.

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Any advance premium tax credits you received in 2019 from the federal government will be reconciled when you file your 2019 federal income tax return (usually in the spring of 2020). 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 2019, you may have to pay some of those credits back. On the other hand, if you got too little in tax credits during 2019, you will get the rest of the tax credits you are owed when you file your taxes.