

Massachusetts Health Connector Appeals Unit

Final Appeal Decision ACA 20-12712

Appeal Decision: Appeal Denied, Eligibility Determination Affirmed

Hearing Issue: Eligibility for subsidies

Hearing Date: January 7, 2021

Decision Date: March 8, 2021

AUTHORITY

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

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, § 155.500 et seq. and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, § 12.15.

ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR

In a letter dated November 12, 2020, the Health Connector notified Appellant of his eligibility for a Health Connector plan without financial assistance, based on Appellant's income and tax filing status.

ISSUE

The issue addressed on appeal is whether the Health Connector correctly determined Appellant ineligible for financial assistance in purchasing health insurance through the Health Connector.

HEARING RECORD

Appellant's brother appeared at the hearing on January 7, 2021, on Appellant's behalf, as Appellant is a disabled, non-verbal adult unable to participate in the hearing. The procedures to be followed during the hearing were reviewed with Appellant's representative, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's Representative's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Eligibility Approval Notice dated October 25, 2020.
- Exhibit 2: Health Connector Application Summary for Application submitted October 25, 2020.
- Exhibit 3: Health Connector 2021 Eligibility Results for Application submitted October 25, 2020.
- Exhibit 4: Health Connector 2020 Medicaid Household Determination updated October 25, 2020.
- Exhibit 5: Health Connector Keeper of Records Affidavit – Heidi C-S.
- Exhibit 6: Health Connector Outreach Notes dated November 27, 2020.
- Exhibit 7: Health Connector Secure Document 'ACA 21-12712'
- Exhibit 8: Health Connector Acknowledgment of Appeal dated November 27, 2020.
- Exhibit 9: Health Connector Hearing Notice dated December 15, 2020.

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant is a non-verbal, disabled adult with developmental issues, who has never been employed. (Appellant's Representative's Testimony).
2. Appellant is unable to participate in this hearing. (Appellant's Representative's Testimony).
3. Appellant earns no income, is not required to file taxes, and has never filed a federal income tax return. (Appellant's Representative's Testimony; Exhibit 4).
4. Appellant's citizenship status for purposes of the Health Connector's eligibility determination is Qualified Alien Barred. (Exhibit 4).
5. Appellant has not applied for health insurance in the United States before. (Appellant's Representative's Testimony).
6. Appellant's Representative submitted a Health Connector Application on Appellant's behalf on October 25, 2020. (Exhibits 1-4).
7. The Health Connector determined Appellant was eligible for a Health Connector plan without financial assistance, and notified Appellant of same by letter dated October 25, 2020. (Exhibit 1).
8. The Connector based this eligibility determination on Appellant's Federal Poverty Level ("FPL") of 0%, Appellant's tax filing status as a non-filer, and Appellant's MassHealth eligibility based on his reported income.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined that Appellant could purchase health insurance through the Connector for 2021, but that he was ineligible for subsidies because of his income and tax filing status.

The Health Connector is a health insurance exchange created under state law. *See* M.G.L. c.176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care Act (ACA), a federal law governing access to health insurance. *See* M.G.L. c.176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money, combined with these federal premium tax credits. To be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. *See* 956 C.M.R. 12.08.

Individuals are eligible for Advanced Premium Tax Credits (“APTC”) if their household income is between 133% and 400% of the FPL. *See* 26 C.F.R. §1.36B-2(b). Applicants who qualify for APTC, who have projected yearly Modified Adjusted Gross Income (“MAGI”) less than or equal to 300% FPL, qualify for additional state subsidies through the Connector Care program. *See* 956 C.M.R. § 12.04. Because federal premium tax credits are administered through the tax code, individuals who are not tax filers may not receive APTC on their own. *See* 26 C.F.R. §1.36B-2. An individual who does not file a federal tax return and who cannot or does not attest to an intent to file a federal tax return is ineligible for APTC. An individual must be eligible for APTC to be eligible for Connector Care. *See* 956 C.M.R. 12.08.

Applicants whose income falls below 133% of the FPL are eligible for MassHealth. Access to Minimum Essential Coverage (“MEC”), which includes MassHealth, bars an Applicant from subsidy help in connection with Health Connector coverage. *See* 45 C.F.R. §155.305 (f)(1)(ii)(B); 26 C.F.R. §1.36B-2(a)(2). While Appellant’s citizenship status as a Qualified Alien Barred (“QAB”) may preclude him from receiving MassHealth, in making its eligibility for subsidies determination, the Health Connector looks at Appellant’s income in connection with the FPL, rather than Appellant’s citizenship status in connection with access to MEC.

At the hearing, Appellant’s Representative testified that Appellant is unable to attest to an intent to file a federal tax return, in that because of Appellant’s disability, Appellant is unable to work; because he cannot work, Appellant earns no income. (Appellant’s Representative’s Testimony). Individuals who do not earn employment income are generally not required to file a tax return, and are non-tax filers, ineligible for APTC. *See* 26 C.F.R. §1.36B-2. Appellant is not required to file taxes. (Exhibit 4). Because Appellant is ineligible for APTC based on his tax filing status, he is also ineligible for Connector Care.

Accordingly, I find that the Connector correctly found Appellant eligible for Health Connector plans without subsidies, and the Connector’s 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, § 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.

ADDENDUM

Appellant is encouraged to contact MassHealth, as well as the Health Connector’s Appeals Unit Customer Service Department, to determine his eligibility for MassHealth or other programs for which Appellant may be eligible.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision ACA 21-13274

Appeal Decision: Appeal Denied, Eligibility Determination Affirmed

Hearing Issue: Eligibility for subsidies

Hearing Date: February 4, 2021

Decision Date: March 22, 2021

AUTHORITY

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

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, § 155.500 et seq. and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, § 12.15.

ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR

In a letter dated November 12, 2020, the Health Connector notified Appellant of his eligibility for a Health Connector plan without financial assistance, based on Appellant's income and tax filing status.

ISSUE

The issue addressed on appeal is whether the Health Connector correctly determined Appellant ineligible for financial assistance in purchasing health insurance through the Health Connector.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on January 7, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Application Summary for Application submitted October 31, 2020.
- Exhibit 2: Health Connector 2021 Eligibility Results for Application submitted October 31, 2020.
- Exhibit 3: Health Connector Final Renewal Notice dated October 31, 2020.
- Exhibit 4: Health Connector Application Summary dated December 8, 2020.
- Exhibit 5: Health Connector 2021 Eligibility Results dated December 8, 2020.
- Exhibit 6: Hearing Request Form received by Health Connector December 8, 2020.
- Exhibit 7: Health Connector Keeper of Records Affidavit - M. Lopez.
- Exhibit 8: Health Connector Outreach Notes dated December 19, 2020 and January 8, 2021.

- Exhibit 9: Health Connector Acknowledgment of Appeal dated January 8, 2021.
Exhibit 10: Health Connector Hearing Notice dated January 11, 2021.

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant submitted a Health Connector Application on October 31, 2020, and updated this application on December 8, 2020. (Exhibits 1 and 4).
2. Based on Appellant's self-reported projected 2021 income, the Health Connector determined Appellant eligible for a Health Connector plan without financial assistance.
3. The Connector based this eligibility determination on Appellant's Federal Poverty Level ("FPL") of 783%, as derived from Appellant's projected household income.
4. Appellant submitted a Hearing Request Form, received by the Connector on December 8, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined that Appellant could purchase health insurance through the Connector for 2021, but that he was ineligible for subsidies because of his income.

The Health Connector is a health insurance exchange created under state law. M.G.L. 176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care Act (ACA), a federal law governing access to health insurance. See M.G.L. 176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money combined with these federal premium tax credits. To be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. See 956 C.M.R. 12.08.

Individuals are eligible for Advanced Premium Tax Credits ("APTC") if their household income is at or below 400% of the Federal Poverty Level ("FPL"). Applicants who qualify for APTC, who have projected yearly Modified Adjusted Gross Income ("MAGI") less than or equal to 300% FPL, qualify for additional state subsidies through the Connector Care program. 956 C.M.R. § 12.04.

In 2020, Appellant was eligible for a subsidized Connector Care plan. (Exhibit 8; Appellant Testimony). Following his Health Connector application update on December 8, 2021, the Health Connector determined Appellant eligible solely for an unsubsidized Health Connector plan. (Exhibits 3-5.) The Health Connector based this eligibility determination on Appellant's self-reported 2021 projected income, at 783% of the FPL. At the hearing, Appellant confirmed the accuracy of his 2021 projected income. (Appellant Testimony).

Accordingly, I find that the Connector correctly found Appellant eligible for Health Connector plans without subsidies. The Connector's 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, § 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: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision ACA 21-13285

Appeal Decision: Appeal Denied, Eligibility Determination Affirmed

Hearing Issue: Eligibility for Purchasing Health Insurance Through the Health Connector

Hearing Date: February 4, 2021

Decision Date: March 29, 2021

AUTHORITY

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

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, § 155.500 et seq. and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, § 12.15.

ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR

The Health Connector determined Appellant ineligible for purchasing a health insurance plan through the Connector, based on Appellant's access to Minimum Essential Coverage ("MEC").

ISSUE

The issue addressed on appeal is whether the Health Connector correctly determined Appellant ineligible for purchasing health insurance through the Health Connector.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on January 7, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Hearing Request form received by Health Connector December 9, 2020.
- Exhibit 2: Health Connector document showing Appellant's application comments.
- Exhibit 3: Health Connector email to Appellant and Appellant's reply dated January 6, 2021.
- Exhibit 4: Health Connector Acknowledgment of Appeal dated December 28, 2020.
- Exhibit 5: Health Connector Hearing Notice dated January 11, 2021.
- Exhibit 6: MassHealth approval information data sheet dated February 1, 2021.
- Exhibit 7: Over 65 MassHealth Application provided to Applicant.
- Exhibit 8: Task Summary for MassHealth Over 65 Application dated January 6, 2021.
- Exhibit 9: Health Connector Keeper of Records Affidavit N. Stehfest.

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant was eligible for subsidized Connector Care with Advanced Premium Tax Credits in prior years. (Exhibits 2 and 3; Appellant Testimony).
2. Appellant became a permanent resident of the United States on October 10, 2015. (Appellant Testimony).
3. Appellant turned 74 in 2021. (Exhibits 7 and 8).
4. The Connector determined Appellant ineligible for purchasing health insurance through the Connector for 2021, based on Appellant's access to MEC in 2021. (Exhibits 1-2 and 6).
5. Appellant submitted a Hearing Request Form, received by the Connector on December 9, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined Appellant ineligible for purchasing health insurance through the Connector for 2021.

The Health Connector is a health insurance exchange created under state law. M.G.L. 176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care Act (ACA), a federal law governing access to health insurance. See M.G.L. 176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money, combined with these federal premium tax credits. To be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. See 956 C.M.R. 12.08.

Individuals are eligible for Advanced Premium Tax Credits ("APTC") if their household income is at or below 400% of the Federal Poverty Level ("FPL"). Applicants who qualify for APTC, who have projected yearly Modified Adjusted Gross Income ("MAGI") less than or equal to 300% FPL, qualify for additional state subsidies through the Connector Care program. 956 C.M.R. § 12.04. Individuals whose income is at or below 133% of the FPL are eligible for MassHealth, a wholly separate program from Connector Care.

As a preliminary matter, however, applicants seeking health insurance through the Health Connector, subsidized or otherwise, must meet certain requirements to be eligible for shopping on the exchange. These include, among other requirements, Massachusetts residency, having no access to MEC, and being lawfully present in the United States. See 45 C.F.R. 155.305; 45 U.S.C. § 1395ss(d)(3)(A)(i). As MassHealth qualifies as MEC, individuals with access to MassHealth are ineligible for shopping on the exchange.

At hearing, Appellant confirmed she is over age 65, her income is at or below 133% of the FPL, and she became a permanent resident of the United States on October 7, 2015. (Exhibit 8; Appellant Testimony). Individuals who are over age 65, whose income is at or below 133% of the FPL, and who have held lawful presence status in the United States for 5 years or more are eligible for MassHealth.

In prior years, Appellant was eligible for Connector Care with APTC, and is understandably confused why she is no longer eligible for shopping on the exchange, particularly after receiving conflicting guidance from the Connector. (Exhibits 1-3; Appellant Testimony).

The confusion and conflicting guidance likely stems from Appellant having reached the 5-year lawful presence period (“immigration bar”) in October of 2020, the same time that she would have been updating her application and the Connector would have been making eligibility determinations. Once Appellant reached the immigration bar, she qualified for MassHealth. Eligibility for MassHealth qualifies as access to MEC, whether enrolled or not, and access to MEC disqualifies an individual from purchasing health insurance through the Connector. This is based on federal and state anti-duplication rules. See 42 U.S.C. §1395ss(d)(3)(A)(i); 45 C.F.R. §§147.106(h)(2) and 148.122(b)(2).

Accordingly, based on Appellant’s access to MEC upon reaching the immigration bar, I conclude the Connector correctly found Appellant ineligible for purchasing health insurance through the Connector. The Connector’s 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, § 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: Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility for subsidized insurance based on access to Medicare

Hearing Date: February 16, 2021

Decision Date: March 23, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 9, 2020, the Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is 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

The Appellant appeared at the hearing, which was held by telephone, on February 16, 2021. The Appellant was 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 (1 page, undated)
Exhibit 2: Appellant's Appeal Request Form with correspondence (6 pages, received 12/9/2020)

Massachusetts Health Connector Appeals Unit



Exhibit 3:	Health Connector’s Acknowledgment of Appeal	(1 page, dated	12/28/ 2020)
Exhibit 4:	Health Connector’s Notice of Hearing	(3 pages, dated	1/28/2021)
Exhibit 5:	Health Connector’s Appeals Unit Staff Notes	(2 pages, dated	11/20/2020)
Exhibit 6:	Health Connector’s Eligibility Denial	(6 pages, dated	12/9/2020)
Exhibit 7:	Health Connector’s Application Summary	(3 pages, dated	12/9/2020)
Exhibit 8:	Health Connector’s Eligibility Results	(4 pages, dated	12/9/2020)
Exhibit 9:	Medicare Letter	(1 page , dated	12/28/2020)
Exhibit 10:	Medicaid Household Determination	(, dated	1/28/2021)

The record was left open until March 22, 2021 for submission of Medicare proof of coverage. The Appellant submitted the following:

Exhibit 11:	Social Security Benefit Verification Letter	(2 pages,	dated 3/14, 2021)
Exhibit 12:	Medicare Health Insurance Card	(1 page,)
Exhibit 13:	Notification of Application for Replacement Card	(1 page,	dated 12/17/2020)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on December 9, 2020, based on being eligible for Medicare. (Exhibit 1, Exhibits 6-10)
2. The Appellant testified she recently determined that she may be still enrolled in Medicare Part A, but that she lost Medicare Part B three (3) years ago when she began working. (Testimony, Exhibit 6,7,8, 11, and 12).
3. The Appellant testified she is 38 years old. (Appellant Testimony)
4. The Appellant testified that she is employed part time and not eligible for Employer Sponsored Insurance (“ESI”). (Appellant Testimony).
5. The Appellant has attempted to enroll in the Connectorcare but has been unsuccessful. (Appellant Testimony).
6. The Appellant purchased a private health insurance policy but cannot afford the monthly premium. (Appellant Testimony).
7. The Appellant was going to contact Medicare and request proof of coverage. (Appellant Testimony, Exhibits 11 and 12).
8. The Appellant testified she continues to be enrolled in Medicare Part A. (Appellant Testimony, Exhibits 11 and 12).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on her appeal request form that she would like to enroll in health insurance through the Health Connector.

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

When the Appellant's eligibility for 2021 coverage was determined on December 9, 2020, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that she is eligible and enrolled in Medicare Part A. (Testimony, Exhibits 11 and 12). Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore 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 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

Addendum

The Appellant is advised to look into the **S**erving the **H**ealth **I**nsurance **N**eeds of **E**veryone (SHINE) program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.

Massachusetts Health Connector Appeals Unit
Final Appeal Decision ACA 20-13270

Appeal Decision: Appeal Denied, Eligibility Determination Affirmed

Hearing Issue: Eligibility for Purchasing Health Insurance Through the Health Connector

Hearing Date: February 4, 2021

Decision Date: March 22, 2021

AUTHORITY

This hearing was conducted pursuant to § 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, and the rules and regulations promulgated thereunder.

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, § 155.500 et seq. and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, § 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, § 12.15.

ORIGINAL ACTION TAKEN BY HEALTH CONNECTOR

In a letter dated November 24, 2020, the Health Connector notified Appellant of her ineligibility for purchasing health insurance through the Health Connector, based on Appellant's citizenship status.

ISSUE

The issue addressed on appeal is whether the Health Connector correctly determined Appellant ineligible for purchasing health insurance through the Health Connector, based on Appellant's citizenship status.

HEARING RECORD

Appellant appeared at the hearing on February 4, 2021. The Health Connector provided Appellant with a Spanish-language interpreter pursuant to Appellant's request. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Application Summary dated November 24, 2020.
- Exhibit 2: HC 2021 Eligibility Results dated November 24, 2020.
- Exhibit 3: HC Eligibility Denial Notice dated November 24, 2020.
- Exhibit 4: Appeal Hearing Request Form Received by HC December 8, 2020.
- Exhibit 5: Health Connector Keeper of Records Affidavit - M. Lopez.
- Exhibit 6: HC Outreach Notes dated December 17, 2020 and January 4, 2021.
- Exhibit 7: HC Acknowledgment of Appeal dated December 17, 2020 (English and Spanish).

- Exhibit 8: HC Immigration Status Document Request dated December 17, 2020 (English and Spanish).
- Exhibit 9: HC Hearing Notice dated January 11, 2021 (English and Spanish).

FINDINGS OF FACT

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant submitted a Health Connector Application on November 24, 2020. (Exhibit 1).
2. Based on external data sources, and immigration documents submitted by Appellant, the Health Connector determined Appellant ineligible for purchasing Health Connector plans based on Appellant's immigration status. (Exhibit 2).
3. The Connector notified Appellant of the eligibility determination by letter dated November 24, 2020. (Exhibit 3).
4. Appellant submitted a Hearing Request Form and certain immigration documents, received by the Connector on December 8, 2020.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined that Appellant ineligible for purchasing health insurance through the Connector based on Appellant's unlawful presence status.

The Health Connector is a health insurance exchange created under state law. *See* M.G.L. c.176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care Act (ACA), a federal law governing access to health insurance. *See* M.G.L. c.176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which is health insurance subsidized with state money, combined with these federal premium tax credits. To be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. *See* 956 C.M.R. 12.08.

As a preliminary matter however, applicants seeking health insurance through the Health Connector, subsidized or otherwise, must meet certain requirements to be eligible to shop on the exchange. These include, among other requirements, Massachusetts residency, having no access to Minimum Essential Coverage ("MEC"), and being lawfully present in the United States. *See* 45 C.F.R. 155.305; 45 U.S.C. § 1395ss(d)(3)(A)(i). Lawful presence in the United States is shown via documentation including Certificates of Naturalization, Permanent Resident Cards and Employment Authorization Cards.

Appellant provided various immigration documents to the Connector upon request; however, none were sufficient for showing lawful presence in the United States. (Exhibit 4). Documentation submitted by Appellant included an expired Permanent Resident card for Appellant, and social security cards for

Appellant's minor children. (Exhibit 4). Appellant testified at hearing that while she submitted paperwork and fees to renew and/or obtain documents showing lawful presence, she does not currently have this documentation in her possession. (Appellant Testimony).

Accordingly, I find that the Connector correctly found Appellant ineligible to shop for Health Connector plans, based on Appellant's status as not lawfully present in the United States at the time of the Connector's determination. The Connector's 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, § 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.

ADDENDUM

Appellant is encouraged to contact MassHealth, as well as the Health Connector's Appeals Unit Customer Service Department, to determine her eligibility for MassHealth or other programs for which she may be eligible, and to update her status upon receipt of sufficient documentation.

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal allowed.

Hearing Issue: Eligibility for subsidized health insurance

Hearing Date: March 24, 2021

Decision Date: April 2, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on January 19, 2021 that he was not eligible for subsidies to reduce the cost of health insurance.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidies

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 24, 2021.

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

- Exhibit 1: Appeals Request Form (received 1/31/2021) (1 page)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Notice (1/19/21) (9 pages)

- Exhibit 4: Screen Shot of Eligibility Determination (1/21/21) (2 pages)
- Exhibit 5: Screen Shot of Application Summary (1/21/21) (3 pages)
- Exhibit 6: Notes from Appeals Database (1 page)
- Exhibit 7: 2020 1095A (6 pages)
- Exhibit 8: 2019 1095A (6 pages)
- Exhibit 9: Final Renewal Notice (10/10/20) (6 pages)
- Exhibit 10: Screen Shot of Application Summary (2/5/21) (3 pages)
- Exhibit 11: Screen Shot of Eligibility Summary (2/5/21) (2 pages)
- Exhibit 12: Hearing Notice (2/23/21) (3 pages)
- Exhibit 13: Notice of Resolution (2/23/21) (2 pages)

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 38-year-old man living in Franklin County.
2. Prior to 2021, Appellant had been enrolled in Connector Care, which is a program of subsidized health insurance administered by the Health Connector.
3. On January 19, 2021, Appellant received a notice from the Health Connector stating that he had been determined to be ineligible for financial assistance, meaning that he was not eligible for Connector Care. Exhibit 3.
4. In that notice, the Health Connector stated that his household income was determined to be 166% of the federal poverty level, which is within the range of income eligibility for Connector Care. Exhibit 3.
5. Appellant filed a timely appeal of that determination. Exhibit 1.
6. As a result of the loss of subsidies, the monthly premium that Appellant was required to pay for health insurance rose from \$40 to \$420, effective February 1. Appellant was unable to pay that amount and as a result, by the time of the hearing, he had accumulated several months of unpaid arrears.
7. Appellant was not eligible to receive health insurance coverage (referred to as minimum essential coverage or MEC) through employment or from any other government program, such as Medicare or Medicaid. See Exhibit 2.
8. Appellant filed federal income taxes annually. When Appellant filed his 2019 income taxes, he did not initially complete a Form 8962, which is a form used to report the amount of federal subsidies received for health insurance. However, he subsequently filed a Form 8962.
9. After receipt of the eligibility notice in January 2021, Appellant had several communications with Health Connector customer service staff.
10. As of February 5, 2021, Appellant's eligibility status had been re-determined and he was found eligible for Connector Care.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible to receive financial assistance from the government to help pay for health insurance.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These federal subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). The cutoff for eligibility is 400% of the FPL. Id. 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 addition to the APTCs, which are federal subsidies, the Health Connector determines eligibility for state subsidies. These subsidies are provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs and must have yearly projected household income of less than or equal to 300% FPL. 956 CMR § 12.04.

The notice denying Appellant eligibility stated that the reason was one of the following: (1) Appellant's income was too high; (2) Appellant had access to another form of coverage that meets "minimum essential coverage" standards" or (3) Appellant had not filed federal taxes. Exhibit 3. As explained below, none of these reasons was correct, and so the decision denying him eligibility was erroneous.

Appellant's income was below the eligibility levels for Connector Care. The Health Connector determined, based on information supplied by Appellant, that his household income was at 166% of FPL. Exhibit 3. Thus, based on income, he was eligible for Connector Care.

Additionally, in order to be eligible for APTCs, an individual cannot be eligible to receive health insurance meeting minimum essential coverage standards from another source. 26 U.S.C. §36B(c)(1). Such coverage includes coverage under another government plan, such as Medicare or Medicaid, or coverage through an employer-sponsored plan. 26 U.S.C. §5000A(f). However, Appellant was not eligible for any of these other forms of coverage. Exhibit 2.

Finally, in order to be eligible to receive APTCs, an individual who has received APTCs in a prior year must file federal taxes for that year and "reconcile" the APTCs received. "Reconciling" means that the federal government will annually determine whether the income an APTC-recipient has reported on their taxes in fact qualified them to receive the amount of APTCs that they got in the tax year. 26 U.S.C. § 36B(f). In order to implement this requirement, persons who received APTCs are required annually to file a Form 8962 with their federal income taxes on which they report the amount of APTCs that they got in the tax year. If an individual who has received APTCs in a prior year does not file the required Form 8962 for that year, then under federal law that person is no longer eligible to receive APTCs. 45 CFR 155.305(f)(4).

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Appellant did in fact file a Form 8962 for tax year 2019, which is the last year for which taxes were filed prior to the January 2021 eligibility determination. Thus, he should have been eligible for APTCs (and consequently, for Connector Care.) as of February 1.

Consequently, the determination in the January 19, 2021 was erroneous. Appellant should have been eligible for Connector Care as of February 1. He should not have been required to pay the higher premium from February onward because he was eligible for the subsidies through Connector Care during those months.

Accordingly I am allowing this appeal.

ORDER

The appeal is allowed.

OPTION FOR RETROACTIVE COVERAGE

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

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

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

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

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

Hearing Issue: Eligibility for ConnectorCare, based on income

Hearing Date: March 24, 2021

Decision Date: April 2, 2021

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Massachusetts Health Connector Authority (“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.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 2, 2020, Appellant was determined eligible for Connector Care, in Plan Type 3A, which meant that he received subsidies to pay for health insurance for calendar year 2021. The determination was based on information about Appellant’s income that he had provided to the Health Connector.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant’s plan type.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 24, 2021.

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

- Exhibit 1: Eligibility Approval Notice (12/2/20) (3 pages)
- Exhibit 2: Screen shot of eligibility status from Health Connector eligibility system (12/2/20) (3 pages)
- Exhibit 3: Screen shot of summary of application data in Health Connector eligibility system (4 pages)
- Exhibit 4: Notes from Health Connector Appeals Unit Database (1 page)
- Exhibit 5: Fenway Group, Earnings Statements (4 pages)

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 53-year-old man who lives in Suffolk County. Exhibit 3.
2. Appellant is divorced. He provides support to his son, who is a minor, and claims his son as a dependent when filing his taxes.
3. Appellant has been receiving Connector Care for several years. Connector Care is a program of health insurance that is subsidized by the federal and state governments and administered by the Health Connector.
4. In the fall of 2020, as part of the Health Connector's annual redetermination of eligibility, Appellant was asked to provide verification of his income.
5. Appellant submitted two earnings statements from the Fenway Group. These statements, which dated from November 2020, showed that Appellant was receiving gross pay of \$880 a week. Exhibit 5.
6. Further, the statements showed his earnings in 2020 as of November 27 were \$40,705. Exhibit 5. Assuming that the rate of pay was consistent for the remainder of the year, that would mean that Appellant's 2020 earnings were approximately \$44,000. This figure was used to determine his eligibility.
7. In determining the percentage of FPL, Appellant's son was included in his household, because the son was his tax dependent. Exhibits 2, 3. Thus, Appellant was considered to be in a household of two persons.
8. Based on the information provided, the Health Connector determined that Appellant's household income was between 200 and 250% of the federal poverty level. Exhibit 2. Based on that determination, Appellant was determined to be eligible for Connector Care Plan Type 3A, which is the plan type for individuals whose household income falls within that range. Exhibit 2.
9. Appellant was notified of this determination by letter sent by the Health Connector on December 2, 2020. Exhibit 1.

ANALYSIS AND CONCLUSIONS OF LAW

Appellant was found eligible to receive Connector Care in a plan type 3A in 2021 based on his income and household size. Based on the information of the pay stubs provided by Appellant, and his testimony at the hearing, I conclude that the Health Connector's determination was correct.

Connector Care is a Massachusetts program under which eligible persons can obtain federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). 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 cutoff for eligibility is 400 % of the FPL. *Id.* Thus, persons whose household income is

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under 400 % of FPL, who satisfy other eligibility requirements, are eligible to receive APTCs. Id. See also 26 CFR § 1.36B-2; 45 CFR § 155.305(f).

In addition to the APTCs, state subsidies are provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs and have projected yearly household income less than or equal to 300 % of FPL. 956 CMR § 12.04.

The amount of subsidy received through Connector Care is scaled based on income. Individuals in Connector Care are placed in one of three “plan types,” numbered one through three. See 956 CMR 12.04(3)(b). The plan type determines the amount of subsidy received. Plan Types 2 and 3 have subparts denoted as A and B. Plan Type 3A, which is the plan type for which Appellant was found eligible, is for individuals whose household income is between 200% and 250% of FPL. Id. The amount of subsidy decreases as the percentage of the FPL increases. 956 CMR 12.04(3)(c).

As stated above, the earnings statements provided by Appellant indicate that his 2020 earnings were approximately \$43,000. Exhibit 5. Appellant projected that his 2021 income will be consistent with that amount. Further, he was deemed to be in a household of two, because he took his minor son as a tax dependent.

The federal poverty level in 2020, which is used to determine eligibility for 2021 programs, for a household of two persons is \$17,240. See <https://www.healthcare.gov/glossary/federal-poverty-level-fpl>. Thus, the range for eligibility for Plan Type 3A would be between 200 and 250 % of that amount, or between \$34,480 and \$43,100. Appellant’s household income was determined to be within that range based on the earnings statements he provided. Appellant’s testimony is that his 2021 projected income will not be below that range.

Because the determination of Appellant’s eligibility for 2021 is consistent with the evidence he provided of his earnings and the testimony he provided at the hearing, I find that it was correct. Accordingly, I uphold the determination and deny 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 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

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Income amount used to determine eligibility for subsidized Health Connector plans

Hearing Date: March 24, 2021

Decision Date: April 2, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on December 7, 2020 that she was eligible for Connector Care plan type 2B based on income information that she had submitted to the Health Connector.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Care Plan Type 2B.

HEARING RECORD

Appellant and her husband (who will be referred to as Husband) appeared at the hearing, which was held by telephone, on March 24, 2021.

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

- Exhibit 1: Appeals Request Form (received 12/31/2020) (6 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)

- Exhibit 3: Letter from Appellant (attaching Mass Health eligibility notice dated 3/9/21) (6 pages)
- Exhibit 4: Notice of Dismissal of Appeal (no show) (2 pages)
- Exhibit 5: Eligibility Notice (12/2/20) (5 pages)
- Exhibit 6: Screen Shot of Eligibility Determination (12/7/20) (2 pages)
- Exhibit 7: Screen Shot of Application Summary (1/21/21)(3 pages)
- Exhibit 8: Documents submitted by Appellant (attaching letter from Appellant; notice from MassHealth; and copy of Appellant and Husband's 2019 federal tax return)
- Exhibit 9: Notes from Appeals Database (1 page)
- Exhibit 10: Screen Shot of Application Summary (12/8/20) (3 pages)
- Exhibit 11: Screen Shot of Eligibility Summary (12/8/20) (3 pages)
- Exhibit 12: Hearing Notice (1/28//20) (3 pages)

FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant or Husband, 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 appealing a notice sent by the Health Connector on December 7, 2020 stating that she was eligible for Connector Care Plan Type 2B. Exhibit 3.
2. In that letter, the Health Connector stated that Appellant's household income had been determined to be 174 % of the federal poverty level. Exhibit 3.
3. Appellant sent in an appeal request on December 20, 2020. Exhibit 1. In this request form, Appellant stated that she had no income because she doesn't work.
4. Appellant is 56-year-old woman living in Norfolk County. Exhibit 7.
5. Appellant lives with and files taxes with Husband, who is 66. Husband is not applying for Connector Care because he receives Medicare.
6. Appellant had been receiving Connector Care prior to the December 7 notice.
7. On October 23, 2020, Appellant was sent a notice requesting her to provide information verifying her income. Exhibit 8.
8. In response, on December 8, 2020, Appellant sent in a statement that she herself did not earn income. Exhibit 8.
9. Additionally, she attached a copy of the 2019 federal tax return filed jointly by herself and her husband. Exhibit 8.
10. In 2019, the couple's tax return reported modified adjusted gross income of \$54,208 derived from the Husband's employment,,rental property, and other sources. Exhibit 8.
11. As a result of that information, Appellant's eligibility was re-determined based on the new information she provided. That determination found that her household was 309% of the federal poverty level.

CONCLUSION OF LAW

The issue in this appeal is whether the Health Connector correctly determined Appellant's eligibility for Connector Care on December 7, 2020.

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The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). Eligibility to receive APTCs is based on household income expressed as a percentage of the federal poverty level (FPL). 26 U.S.C. § 36B(b)(3)(a)(i). 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 cutoff for eligibility is 400% of the FPL. Id.

In addition to the APTCs, which are federal subsidies, the Health Connector determines eligibility for state subsidies. These subsidies are provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs and must have yearly projected household income of less than or equal to 300% FPL. 956 CMR § 12.04.

Eligibility is based on household income as a percentage of FPL, and FPL is based on both household size and income. The FPL for a household of two persons is \$17,240. <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>. Thus, 300 % of that amount, which is the upper threshold for Connector Care, is \$51,720.

On December 7, 2020, the Health Connector determined that Appellant's income placed her at 174%, which would qualify her for Connector Care. This determination was based on information that Appellant had as of the date of the determination. Thus, the determination was correct as of the date that it was made.

On the following day, the Health Connector received from Appellant additional information, including the 2019 income tax return filed by Appellant and Husband. This tax return indicated that the couple's income for 2019 was in fact \$54,208. This income would place Appellant's household income above \$51,720, which is the upper threshold for Connector Care. As a result, a new determination of income was made. That new determination is not under appeal. However, I note that it is consistent with the information provided by Appellant about 2019 income.

Appellant complained in her appeal request that she earns no income. However, Appellant's eligibility is determined based on household income, as discussed above. Her household income includes her husband's earnings and the rental and other income reported on their joint tax return.

At the hearing, Husband claimed that the couple's income had decreased from that reflected in the 2019 tax return. If so, that change of income has not been reported to the Health Connector. If Appellant's income has changed, she should report the change to the Health Connector by updating her on-line application at www.mahealthconnector.org or by calling the Health Connector's customer service center at 877-623-6765.

Based on the facts regarding Appellant's household income available as of December 7, 2020, the time of the determination the Health Connector correctly determined Appellant's eligibility for Connector Care. Accordingly, I must deny the 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 Allowed.

Hearing Issue: Citizenship status of Appellant

Hearing Date: March 24, 2021

Decision Date: April 2, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on February 1, 2021 that she was not eligible for subsidies to purchase health insurance because she had not provided proof that she was a citizen or legal permanent resident of the United States.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for subsidies.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 24, 2021.

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

- Exhibit 1: Appeals Request Form (received 2/2/21) (7 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)

- Exhibit 3: Denial notice (2/1/21) (6 pages)
- Exhibit 4: Screen Shot of Application Summary (2/1/21) (5 pages)
- Exhibit 5: Screen Shot of Eligibility Summary (2/1/21) (2 pages)
- Exhibit 6: Appeals Database Notes (1 page)
- Exhibit 7: Note from Appellant with 3 page document from U.S.C.I.S.(4 pages)
- Exhibit 8: Notes of Eligibility Worker processing Exhibit 2 (2 pages)
- Exhibit 9: Request for Information (8/31/19) (3 pages)
- Exhibit 10: Hearing Notice (2/23/21) (3 pages)
- Exhibit 11: Acknowledgement of Appeal (2 pages)

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 39-year-old woman living in Norfolk County with her two minor children.
2. Appellant has been on Connector Care, which is a program of subsidized health insurance administered by the Health Connector, on and off since about 2017. Her two sons are covered through MassHealth, the state's Medicaid agency.
3. On August 31, 2019, Appellant was sent a request from the Health Connector asking her to submit proof that she was a citizen of the United States.
4. Appellant immigrated to the United States with her mother while she was still a minor. Her mother subsequently became a United States citizen in 1999 when Appellant was 13 years old. Exhibit 7.
5. As the minor child of a naturalized citizen, Appellant acquired citizenship as a matter of federal law. 8 U.S.C. § 1431; 8 C.F.R. § 320.2.
6. At some point in 2015, Appellant, not realizing that she was legally a U.S. citizen, applied for naturalization. She received a response to her application from the U.S. Citizenship and Immigration Service (U.S.C.I.S.) dated August 31, 2015, which states that "you automatically acquired citizenship through your mother on January 18, 2002." Exhibit 7.
7. This letter is proof that Appellant is a citizen of the United States.
8. Appellant faxed this letter from the U.S.C.I.S. to the Health Connector in response to the information request in January 2021. Exhibit 7.
9. Not recognizing this document, the employee responsible for reviewing the submission determined that this was not acceptable proof of citizenship. Exhibit 8.
10. Accordingly, Appellant was denied Connector Care because she had not submitted adequate proof of citizenship. Exhibits 3, 5.
11. Appellant was notified of that denial by notice from the Health Connector dated February 1, 2021. Exhibit 3.
12. Appellant filed a timely appeal of that notice. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant had failed to provide proof of citizenship and thus was ineligible for health insurance subsidies.

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. §36B. These subsidies are called Advance Premium Tax Credits (APTCs). The ACA provides that in order to be eligible to receive APTCs an individual must be either a citizen or a lawful permanent resident of the United States. 42 U.S.C. §§ 18032(f)(3), 18081(a)(1). In addition to the APTCs, which are federal subsidies, the Health Connector determines eligibility for state subsidies. These subsidies are provided through the Connector Care program. To be eligible for Connector Care, an individual must qualify for APTCs. 956 CMR § 12.04. Thus, in order to be eligible to obtain Connector Care, which combines APTCs and state subsidies, an individual must be a citizen or lawful permanent resident of the United States.

In order to implement that federal eligibility requirement, the Health Connector requested from Appellant proof of her citizenship status. Appellant submitted a letter from the U.S.C.I.S. stating that she was a citizen. I have found that this is sufficient proof of citizenship. It is consistent with the facts regarding the naturalization of Appellant's mother and with federal law, which confers citizenship on the minor child of a naturalized citizen. 8 U.S.C. § 1431; 8 C.F.R. § 320.2.

Accordingly, the Health Connector erred when it determined that Appellant had not provided sufficient proof of citizenship and denied her eligibility for Connector Care. I am therefore allowing this appeal.

ORDER

The appeal is allowed

OPTION FOR RETROACTIVE COVERAGE

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

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

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

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

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

CONNECTOR APPEALS UNIT



FINAL HEALTH CONNECTOR ELIGIBILITY DECISION COVER SHEET

Appellant Initials: S.H.

Appeal Number: ACA21-13273

Hearing Date: January 21, 2021

Hearing Officer: Kathleen Manning

Issue: Health Connector determined a household member eligible for Health Connector Plans with no financial assistance effective January 1, 2021

Ruling (Check One): **Overtaken** **Upheld**

Final Appeal Decision For Connector Records - (Check One):

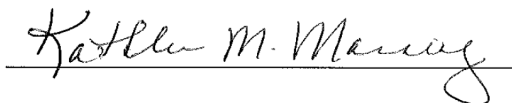
Approved

Denied

Approved in Part/Denied in Part

Other:

Transfer to BOH



Hearing Officer Signature

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13718

Appeal Decision: Appeal Denied.

Hearing Issues: Appellant's eligibility for Health Connector plans based on Medicare eligibility

Hearing Date: March 12, 2021

Decision Date: March 15, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 4, the Appellant was determined ineligible for Health Connector plans because the Appellant is eligible for Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 12, 2021. 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 as well as the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated February 16, 2021, with attachments.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Denial Notice dated January 4, 2021.

Exhibit 5: 2021 Eligibility Results with an Application Summary dated January 4, 2021.
Exhibit 7: The Appellant's Hearing Request Form dated January 31, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 4, 2021, the Appellant applied for health insurance coverage through the Health Connector. The Appellant reported income equal to 159.22% of the federal poverty level (Exhibit 5).
2. The Appellant is eligible for Medicare (Exhibit 5).
3. On January 4, 2021, the Health Connector determined that the Appellant is ineligible for Health Connector plans because the Appellant is eligible for Medicare (Exhibit 4).
4. The Appellant filed an appeal on January 31, 2021 (Exhibit 6).
5. The Appellant testified that they contacted MassHealth to apply for coverage as a working disabled person and then received the denial notice from the Health Connector (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for health insurance through the Health Connector on January 4, 2021 and reported income equal to 182.55% of the federal poverty level. The Health Connector verified that the Appellant is eligible for Medicare. The Appellant was notified on January 4, 2011 that they were not eligible for health insurance coverage through the Health Connector because they are eligible for Medicare.

The Appellant filed an appeal on January 31, 2021 to dispute the denial. The Appellant testified that they contacted MassHealth to apply for insurance coverage as a working disabled person and then received a denial notice from the Health Connector. The Appellant said that they do not believe they received a notice from MassHealth.

As explained at the hearing, MassHealth eligibility issues are not appealable under the Health Connector regulations. 956 CMR 12.02. The Appellant was given the contact information for MassHealth and was encouraged to telephone MassHealth Customer Service as soon as possible.

Generally, an individual may purchase a plan through the Health Connector if they satisfy the eligibility standards at 45 CFR § 155.305(a). However, for individuals who are eligible for Medicare, there is an additional legal standard that must be considered, specifically the "anti-duplication rule" found in the Social Security Act, 42 USC 1395ss(d)(3)(A)(i), and implemented in federal regulations at 45 CFR § 147.106 and 45 CFR § 148.122. This rule prohibits health insurance issuers from selling insurance to Medicare-eligible individuals if that insurance would duplicate the benefits provided by Medicare, including where the individual only has Medicare Part A. The Health Connector, as a seller of commercial individual market health insurance, only sells insurance that would be duplicative of benefits provided by Medicare. The Health Connector also must take precautions to ensure that the issuers whose coverage it sells are not put in the position of violating the anti-duplication rule.

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where the individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to perform (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their “same policy or contract of insurance.” See 45 CFR § 147.106 and 45 CFR § 148.122; and discussion generally at 81 FR 94068, December 22, 2016.

Since the Appellant is eligible for Medicare, in accordance with the regulation cited above, the Health Connector correctly determined on January 4, 2021 that the Appellant was not eligible for coverage through the Health Connector.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant may contact MassHealth Customer Service at 1-800-841-2900 to inquire about eligibility for MassHealth.

The Appellant may also contact the Serving the Health Information Needs of Elders (SHINE) program at 1-800-243-4636.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2112671

Appeal Decision: Appeal denied. The determination of the Connector is upheld.

Hearing Issue: Whether the Connector correctly determined that two of the appellants were eligible to purchase health insurance through the Connector without financial help because of the appellants' failure to submit acceptable proof of income on time and that one other appellant was ineligible to purchase coverage through the Connector because of a failure to submit proof of lawful presence.

Hearing Date: January 8, 2021

Decision Date: March 16, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 9 and 10, 2021, the Connector determined that two of the appellants were eligible to purchase health insurance through the Connector without financial help because of the appellants' failure to submit acceptable proof of income on time and that one other appellant was ineligible to purchase coverage through the Connector because of a failure to submit proof of lawful presence.

HEARING RECORD

Two of the appellants appeared at the hearing which was held by telephone on January 8, 2021. The procedures to be followed during the hearing were reviewed with the appellants who were then sworn in. Exhibits were also reviewed with the appellants, marked as exhibits, and admitted in evidence with no objection from the appellants.

The hearing record consists of the testimony of the appellants 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 December 16, 2020 addressed to Appellant for a hearing on January 8, 2021

Exhibit 2a: Connector Appeals Unit Notice of Hearing dated November 18, 2020 addressed to Appellant for a hearing on December 14, 2020

Exhibit 3: Connector Appeals Unit letter dated November 2, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Connector Appeals Unit Staff Notes dated November 2, 2020

Exhibit 3b: Connector Appeals Unit email to Appellant dated November 2, 2020

Exhibit 3c: Connector Appeals Unit letter to Appellant requesting proof of income dated January 5, 2021
Exhibit 4: Hearing Request Form submitted by Appellants on October 28, 2020
Exhibit 5: Connector final renewal letter to Appellant dated October 10, 2020 regarding eligibility for a Health Connector plan without an advance premium tax credit for two household members
Exhibit 5a: Connector letter dated October 9, 2020 to Appellant, Head of Household, regarding eligibility denial because of no proof of lawful presence
Exhibit 5b: Connector letter to Appellant dated January 23, 2020 requesting proof of income by April 22, 2020
Exhibit 6: Summary and results of Appellants' application for Connector plan dated October 9, 2020
Exhibit 7: Appellant's Medicaid application summary of responses

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated January 23, 2020, the Connector notified the Head of Household appellant that Appellant needed to provide proof of income by April 22, 2020. The Connector notified the appellants that if Appellants already had coverage through the Connector, the coverage was temporary and might be decreased or ended if the required proof was not submitted. A list of acceptable forms of proof was included in the letter (Exhibit 5b).
2. The appellant did not send in proof of income by the April 22nd deadline (Exhibit 6).
3. In a letter dated October 9, 2020, the Connector notified the Head of Household appellant that he was ineligible for any health insurance coverage through the Connector because he was not lawfully present in the United States. Appellant had sent in a document to establish lawful presence, but he sent in the wrong document. After receiving the October 9th letter, Appellant sent in another form (Exhibit 5a Testimony of Appellant).
5. In a letter dated October 10, 2020, the Connector notified the appellant that his two adult children who were part of Appellant's tax household were eligible for Health Connector plans without an advance premium tax credit (Exhibit 5).
6. Appellants filed a request for an appeal of the Connector's determinations. This request was received on October 28, 2020 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 9, 2020 that the Head of Household appellant was ineligible for any coverage through the Connector because Appellant was not lawfully present, and whether the Connector correctly determined on October 10, 2020 that two of the appellants, two adult children living with the Head of Household appellant, were eligible to enroll in a Health Connector plan without financial assistance because the Head of Household appellant had not submitted acceptable proof of income by the required deadline. Appellants appealed the determinations on October 28, 2020. See Exhibits 4, 5, 5a, 5b, 6.

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 a household's projected income is between 100% and 400% of the Federal Poverty Level, the household members may be entitled to an advance premium tax credit to help cover the cost of health insurance

premiums. If the tax household's income is less than 100% or greater than 400% of the Federal Poverty Level, the members of the household may be eligible for a plan without an advance premium tax credit. If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources and eligibility to enroll in a plan may be terminated. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR155.305(a)(1).

In a letter dated January 23, 2020, the Connector notified the Head of Household appellant that Appellant needed to provide proof of income by April 22, 2020. The Connector notified the appellants that if Appellants already had coverage through the Connector, the coverage was temporary and might be decreased or ended if the required proof was not submitted. A list of acceptable forms of proof was included in the letter. The appellant did not send in proof of income by the April 22nd deadline. See Exhibit 5b and Exhibit 6. In a letter dated October 10, 2020, the Connector informed two of the appellants, the adult children, that they were only eligible for a Connector Health Plan without an advance premium tax credit. See Exhibit 5.

In a letter dated October 9, 2020, the Connector notified the Head of Household appellant that he was ineligible for any health insurance coverage through the Connector because he was not lawfully present in the United States. Appellant had sent in a document to establish lawful presence, but he sent in the wrong document. After receiving the October 9th letter, Appellant sent in the another form. Exhibit 5a and the testimony of Appellant which I find to be credible.

What is at issue here is whether the determinations made by the Connector were correct on the dates they were made.

Under the Affordable Care Act (see cites above) in order to obtain coverage through the Connector, an applicant, among other things, must be lawfully present in the United States. Appellant testified that when he sent in proof of lawful presence, he sent in the wrong document. Given that the appellant did not send in acceptable proof of lawful presence, the Connector correctly determined on October 9, 2020 that the head of household appellant was not eligible to obtain coverage through the Connector.

Under the Affordable Care Act and Massachusetts state law (Chapter 111M, Section 2) in order to obtain coverage through the Connector, an applicant, among other things, supply proof of income when requested. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility. In this matter, though the head of household appellant received a request to provide proof of income, the appellant did not send in proof of income. See Exhibits 5b and 6. Based upon these facts, I find that the Connector correctly determined that two of the appellants were only eligible for a Connector Health plan without financial assistance. See Exhibit 5.

ORDER: Appellants' 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

Hearing Officer

Addendum: Appellants may send in proof of income and lawful presence at this time, if they have not already done so.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2112958

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans, income

Hearing Date: January 27, 2021

Decision Date: March 15, 2021

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 November 12, 2020, the Appellant was determined eligible for Health Connector plans with Advance Premium Tax Credit.

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 January 27, 2021. 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 (12-29-20) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (12-16-20) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (11-12-20) (6 pages);
- Exhibit 6: Eligibility Approval letter (11-12-20) (5 pages);

- Exhibit 7: Eligibility detail printout and application summary printout (5 pages);
Exhibit 8: Request for information (11-12-20) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in November 2020. (Testimony, Exhibit 7).
2. The Health Connector determined that Appellant was eligible for Health Connector plans with Advance Premium Tax Credits based on Appellant's income resulting in a Federal Poverty Level of 390%. (Exhibits 6, and 7).
3. Appellant was requested to provide additional information regarding income (Exhibit 8).
4. Appellant did not provide the additional information, but did appeal the determination. (Exhibit 5).
5. Appellant indicated that there were additional people in the household for whom he provided support, but did not include in the tax household as Appellant did not claim them on the taxes (Testimony, Exhibit 5).
6. Appellant appealed. (Exhibit 5, Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was deemed eligible for Health Connector plans with Advance Premium Tax Credits based on income reported and verified from other sources. 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, the Health Connector will consider the information not verified and issue a new eligibility determination.

In November 2020, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits based on information in Appellant's application, but Appellant was requested to provide proof of income. Appellant did not provide proof of income but did file an appeal. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for Health Connector plans with Advance Premium Tax Credits on November 12, 2020, 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

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: ACA2113107

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

Hearing Issue:

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

Hearing Date: January 8, 2021

Decision Date: March 12, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 15, 2020, the Connector determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit based upon information supplied by the appellant to the Connector.

ISSUE

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 8, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, and income verification, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 16, 2020 addressed to Appellant for January 8, 2021 hearing
- Exhibit 3: Connector Appeals Unit letter dated December 2, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated December 2, 2020
- Exhibit 3b: Email to Appellant from Connector Appeals Unit dated December 2, 2020
- Exhibit 3c: MassHealth Member Benefits print-out regarding Appellant's past benefits

Exhibit 4: Hearing Request Form from Appellant received by the Connector on November 20, 2020

Exhibit 5: Connector letter dated October 15, 2020 to Appellant regarding eligibility approval for Connector Health Plan with no financial assistance

Exhibit 6: Summary and results of Appellant's application for Connector health plan for 2021 dated October 15, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had MassHealth coverage until February 29, 2020 (Testimony of Appellant).
2. Appellant thought he had a religious exemption since he had asked for one. Despite asking for one, Appellant was assessed a tax penalty because he had not had coverage all year (Testimony of Appellant).
3. Appellant has tried to get a religious exemption by calling MassHealth, the Connector, and the Department of Revenue. At some point, an application for Connector coverage for the appellant was generated. On the application, there is no information about Appellant's income (Exhibit 6, Testimony of Appellant).
4. Based upon the information on Appellant's application, the Connector determined that the appellant was eligible for a Health Connector Plan without an advance premium tax credit (Exhibit 5).
5. On November 20, 2020, Appellant submitted a request for an appeal of the Connector's determination. Appellant appealed because he still wants a religious exemption. Appellant does not want health insurance (Exhibit 4, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 15, 2020 that the appellant was eligible to purchase a Connector Health plan without an advance premium tax credit.

See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. One requirement, among others, for an advance premium tax credit concerns tax filer status. Individuals must intend to file a tax return and married couples are required to file jointly in order to be eligible for the tax credit. See 26 CFR 1.36B-2(2)(i). The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the appellant was found to be eligible for a Health Connector plan without an advance premium tax credit. According to the notice sent to the appellant and dated October 15, 2020, Appellant was not eligible for a tax credit because Appellant had income that was too high or too low, had access to health insurance through another source which met minimum essential coverage standards, or had attested that he did not intend to file a tax return or had failed to reconcile earlier tax returns. In fact, the appellant had not supplied any information about projected income on his application. See Exhibits 5 and 6.

Based upon the lack of information about income on the appellant's application, the Connector correctly determined the appellant's eligibility for a Connector Health plan without an advance premium tax credit. As noted above, if an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. If the projected income is less than 100%, or over 400%, the individual is not eligible for a tax credit, though the applicant may purchase a Connector Health plan. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. See Exhibit 6.

The determination of the Connector is, therefore, affirmed.

I note that the appellant made it very clear during the hearing that he has no interest in having health insurance coverage. Appellant wants a religious exemption so that in the future, he will not be assessed a tax penalty for failure to have coverage. See Massachusetts General Laws, Chapter 111M, Section 2. I reviewed with the appellant the instructions for claiming a religious exemption in the Schedule HC.

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

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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: ACA21-13179

Appeal Decision: Appeal Dismissed

Hearing Issue: Appellants were not seeking a review of eligibility for insurance through the Health Connector

Hearing Date: March 8, 2021

Decision Date: March 23, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 13, 2020, Appellants were determined eligible for Health Connector plans without subsidies.

ISSUE

At the hearing, Appellants stated that they were not interested in eligibility for a Health Connector plan for 2021. Appellants stated that they filed the appeal seeking to overturn the decision made by the IRS regarding reconciliation of Advance Premium Tax Credits for 2019.

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone, on March 8, 2021. Also present was a duly sworn interpreter. The hearing record consists of the Testimony of Appellants and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form dated November 27, 2020
- Exhibit 2: Eligibility results and Summary dated October 13, 2020
- Exhibit 3: Appeals Unit outreach
- Exhibit 4: None
- Exhibit 5: Recent Eligibility Results and Summary NONE
- Exhibit 6: Correspondence from Health Connector dated February 11, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants applied for a subsidized Health Insurance plan in October 2020 (Exhibit 2).
2. Appellants were found eligible for Health Connector Plans without subsidies in October 2020 (Exhibit 2).
3. On November 27, 2020, Appellants filed a Hearing Request Form based on income (Exhibit 1).
4. On November 27, 2020, Appellants also submitted a statement that they wanted relief from the IRS decision regarding the reconciliation of Advance Premium Tax Credits for 2019 (Exhibit 1).
5. Appellants did not want to appeal the eligibility determination of October 2020 and did not want to enroll in health insurance through the Health Connector (Testimony of Appellants).

ANALYSIS AND CONCLUSIONS OF LAW

Appellants did not want to appeal their 2021 eligibility for any type of Health Connector Plan. They did not want to enroll in a Health Connector Plan for 2021. The Appellants have the right to have any eligibility determination or redetermination contained in a notice issued in accordance with 45 Code of Federal Regulations Section 155.500 reviewed by an appeals entity. Also see 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. Appellants are not seeking a review of an eligibility determination or redetermination. Therefore this Appeal is dismissed.

ORDER

The Appeal is dismissed.

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

The reconciliation of Advanced Premium Tax Credits (APTC) is a process administered by the Internal Revenue Service (IRS). APTCs must be reconciled when filing federal income taxes. If you have questions about the reconciliation of APTCs, please contact a tax professional or the IRS. As described in the Health Connector's eligibility notices to you, you must report any changes to your household, including income changes and access to other health insurance within 30 days. See 45 CFR § 155.330(b).

Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13257

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare plans based on income.

Hearing Date: February 9, 2021

Decision Date: March 18, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellants submitted an application for subsidized health insurance on November 18, 2020. The Health Connector determined the Appellant to be eligible for Health Connector plans.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellants were eligible for Health Connector plans.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 9, 2021. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated January 19, 2021)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (6 pages dated December 7, 2020)
- Exhibit 6: Notice of Eligibility Determination (4 pages, dated November 18, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (9 pages, dated November 18, 2020)
- Exhibit 8: Historical Notices & Printouts (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 40 year old single female with three children (Exhibit 7)
2. The Appellant has a household of four. (Exhibit 7)
3. On her application, dated November 18, 2020 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) of \$11,794.00. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place them at 45.02% of the 2021 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL. However, Appellant did not send in proof of income even though requested by the Health Connector on December 29, 2020. (Exhibit 8). In addition, Appellant did not send in information to MassHealth regarding her income, even though requested to by the Health Connector on November 18, 2020. (Exhibit 6)

5. Appellant then filed her appeal on December 7, 2020.

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. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected income of greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1)(ii)). The Appellant's expected income is only 45.02% of the federal poverty level. 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 modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In addition, the individual must be eligible for the federal Advance Premium Tax Credit pursuant to 45 CFR sec. 155.305 (f). Since the Appellant is not eligible for the federal Advance Premium Tax Credit, she is not eligible to enroll in ConnectorCare.

Appellant also failed to provide the Health Connector the required income documents requested to prove her income.

This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied. The determination by the Connector 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

ADDENDUM

Appellant is urged to contact MassHealth and provide the information requested by MassHealth to determine whether she is eligible for MassHealth.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13294

Appeal Decision: Appeal denied

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

Hearing Date: March 1, 2021

Decision Date: March 9, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 12, 2020, the appellant was advised that she was eligible for a Health Connector Plan with no financial help beginning on January 1, 2021. (Exs. 1,2) The appellant filed an appeal dated December 10, 2020 (Ex. 5) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex. 10)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help on November 12, 2020 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant and her daughter appeared at the hearing which was held by telephone on March 1, 2021, and testified under oath. The hearing record consists of their 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 November 12, 2020 (2 pages)
- Ex.2—Health Connector's Notice of Eligibility Approval dated November 12, 2020 (9 pages)
- Ex. 3—Health Connector's Review of Application (3 pages)
- Ex. 4—Medicaid Household Determination information (6 pages)
- Ex. 5—Online Appeal Request received on December 10, 2020 (6 pages)
- Ex. 6—Acknowledgment of Appeal dated December 28, 2020 (1 page)

- Ex. 7—Appeals Unit case notes (1 page)
- Ex. 8—Application for Healthcare for Seniors (42 pages)
- Ex. 9—Health Connector email dated December 28, 2020 (1 page)
- Ex. 10—Notice of Hearing (3 pages)
- Ex. 11—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 77-years-old. She is not eligible for Medicare. (Testimony)
2. The appellant became a permanent resident of the U.S. in June, 2015. (Testimony, Ex. 4)
3. The appellant had subsidized health insurance through the Health Connector for the past few years. In 2020, she was enrolled in a plan for which she paid \$217.00/month. (Testimony)
4. The appellant's eligibility for subsidized insurance was redetermined in the fall of 2020. By notice dated November 12, 2020, she was determined eligible for Health Connector Plans with no financial help beginning on January 1, 2021. The notice stated that her household income was determined to be 0.00% of the Federal Poverty Level (FPL) based on information provided in her application or obtained from federal data sources. The notice further stated that the appellant did not qualify for a ConnectorCare plan or an Advanced Premium Tax Credit (APTC) for one of a number of reasons including that her annual income was either above 400% of the FPL or below 100% of the FPL. (Exs. 1,2)
5. The appellant filed an appeal of the November 12, 2020 determination on December 10, 2020 and stated in part that her income is zero and has been zero in the past few years. (Ex. 5)
6. The appellant enrolled in an unsubsidized insurance plan for a monthly premium of \$482.00 effective January 1, 2021. (Testimony)
7. The appellant does not currently have any income. (Testimony, Ex. 3)
8. The appellant submitted an Application for Healthcare for Seniors to the Health Connector in December, 2020. (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.

Although the appellant is over the age of 65, she is not eligible for Medicare Part A without a premium. The Health Connector regulations do not address individuals who are over age 65, but not eligible for Medicare. ¹

¹ Individuals who are enrolled in Medicare or eligible for Medicare are not eligible for premium tax credits regardless of income. 45 CFR section 155.305(f).

Under federal law, individuals with income at or below 100% of the FPL are not eligible for premium tax credits, and only individuals eligible for premium tax credits are eligible for ConnectorCare. 45 CFR section 155.305(f)(1)(i) and 26 CFR section 1.36B-2(a) and (b). This rule affects adults over the age of 65 who are not eligible for Medicare, and who have income up to 100% of the FPL but do not qualify for MassHealth. The 956 CMR 12.04(3)(a)/ 45 CFR 155.305 (f)(2) APTC eligibility exception for non-citizens who are lawfully present and have income less than 100% FPL is only available if that individual is otherwise ineligible for Medicaid due to his/her immigration status. Since the appellant has been a U.S. permanent resident for more than five years, she no longer meets the special criteria for non-Medicaid eligible lawfully present individuals to received APTCs. If the FPL threshold of 100% did not apply, she would be eligible for ConnectorCare (which has no asset test). However, the result of the application of these rules blocks the appellant's eligibility for subsidized health insurance.²

Based on the evidence in the record, it is concluded that the Connector's determination on November 12, 2020 regarding the appellant's eligibility for Health Connector Plans with no financial help was correct at the time of her application, 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

² The appellant testified that she submitted an Application for HealthCare for Seniors to the Health Connector in December, 2020. At the conclusion of the hearing, she was advised to follow up on the status of that application with MassHealth.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13370

Appeal Decision: Appeal denied

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

Hearing Date: March 1, 2021

Decision Date: March 13, 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 8, 2020, the appellant was advised that he was not eligible for Health Connector Plans because he had another active application in the system indicating that he is eligible for help. (Exs. 1,2) The appellant filed an appeal which was received on December 16, 2020 (Ex. 8). The matter was referred to a hearing after receipt of the appeal. (Ex. 11)

ISSUE

Was the Connector's decision regarding the appellant's ineligibility for subsidized Health Connector Plans with Advanced Premium Tax Credit (APTC) on December 8, 2020 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 March 1, 2021, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for December 8, 2020 (2 pages)
- Ex. 2—Health Connector's Notice of Eligibility Denial dated December 8, 2020 (6 pages)
- Ex. 3—Health Connector's Review of Application (3 pages)
- Ex. 4—Medicaid Household Determination Information (5 pages)

- Ex. 5-- Health Connector's Eligibility Determination Results showing a program determination for February 24, 2021 (2 pages)
- Ex. 6—Health Connector's Review of Application (3 pages)
- Ex. 7—Health Connector's Administrative Closing History (1 page)
- Ex. 8—Online Appeal Form received on December 16, 2020 (6 pages)
- Ex. 9—Acknowledgment of Appeal dated January 11, 2021 (1 page)
- 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 is 40 years-old and has a tax household size of one. (Testimony, Exs. 3,6)
2. The appellant has been separated from his wife since February, 2019. He is in the process of filing for a divorce, but things have been delayed due to the pandemic. He hopes to finalize the divorce before the end of 2021. (Testimony)
3. The appellant believes that he last had health insurance in 2019 through his wife's employer. (Testimony)
4. The appellant thinks he filed an application for health insurance through the Connector wherein he attested to being married. He believes that he may have filed a second application after he separated from his wife wherein he attested to being married and filing his tax returns separately. (Testimony, Exs. 3,6)
5. By notice dated December 8, 2020, the appellant was advised that he was not eligible for health insurance because he had more than one active application in the system. He was further advised that his current application was being closed because he had already been deemed eligible for help paying for coverage in his other active application. (Testimony, Ex. 2)
6. The appellant appealed the Connector's December 8, 2020, determination on December 16, 2020 and stated in part that he could not find the first application, and that after contacting the Connector, he was advised by a representative that dual applications could not be located and the matter would be referred to a specialist. (Testimony, Ex. 8)
7. The appellant contacted the Connector on December 29, 2020, and was advised by a customer service representative that she located "an account in HIX". The representative educated him on his status and advised him that he had to do a "renewal". (Testimony, Ex. 10)
8. By notice dated February 24, 2021, the Connector advised the appellant that he was eligible for Health Connector Plans and Health Safety Net Partial based on having a household income within 266.46% of the Federal Poverty Level (FPL). (Ex. 5)
9. According to the information summarized in the Medicaid Household Determination, the appellant indicated that he is head of household, married and filing separately. (Ex. 4)

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. In addition to the income requirements, married persons seeking an APTC must attest that they will file a joint tax return in order to claim the APTC, even if only one spouse is seeking coverage. 26 CFR section 1.36B-2T(b)(2)(i). Exceptions to the joint filing requirement for married persons are recognized for cases of domestic abuse or spousal abandonment, neither of which is claimed in this case. 26 C.F.R. sections 1.36B-2T(b)(ii) and (iii). A third exception applies to married persons who are not considered married for tax purposes because they are living apart and meet the requirements for filing separately as a head of household. 26 U.S.C. section 1.7703-1; 26 C.F.R. sections 1.2-2(b) and 1.36B-4T(b)(5). 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. An applicant seeking an APTC by claiming head of household status must attest that s/he will file taxes as head of household.

Although the appellant did not have a recollection of filing two applications for insurance, it appears that he filed the first one while he was married and the second after he was separated. On the latter, according to the information in the Medicaid Household Determination document, he attested to being head of household, and to being married and filing separately. He testified that he is in the process of getting divorced, and hopes to finalize the matter by the end of the year. Since the appellant is still technically married, he is required to file a joint tax return in order to qualify for insurance subsidies. 26 CFR section 1.36B-2T(b)(2)(i) He may however be eligible for the third exception identified in the foregoing paragraph whereby he can file separately as head of household if he has not lived with his spouse during the last six months of the tax year. 26 U.S.C. section 1.7703-1; 26 C.F.R. sections 1.2-2(b) and 1.36B-4T(b)(5) He was advised at the conclusion of the hearing to consult with his tax preparer regarding the appropriate filing status, and to update his application with the relevant information.

Based on the evidence in the record, it is concluded that the Connector's determination on December 8, 2020 regarding the appellant's eligibility for subsidized health insurance 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: ACA21-13472

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: February 9, 2021

Decision Date: March 30, 2021

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.13.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on December 17, 2020. The Health Connector determined the Appellant to be eligible for Connector Plan 3A.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Connector Plan 3A.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 9, 2021. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection

from the Appellant. The record was kept open for the Health Connector to provide documents regarding what the Appellant sent the Connector concerning his proof of income:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated January 19, 2021)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (7 pages dated September 18, 2020)
- Exhibit 6: Notice of Eligibility Determination (6 pages, dated December 17, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated December 17, 2020)
- Exhibit 8: Historical Notices & Printouts (1 page)
- Exhibit 9: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 41 year old single male (Exhibit 7 & 8)
2. The Appellant has a household of one. (Exhibit 7 & 8)
3. On his application, dated December 17, 2020 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) of \$31,041.61. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place him at 243.27% of the 2020 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

5. The Health Connector provided documents that indicated that when the Appellant sent in documents regarding his income, that these documents were not adequate to prove Appellant's income and that the health Connector sent out letters to the Appellant informing the Appellant what he needed to send in to prove his income. Appellant failed to send in the proof needed to verify his income until late December 2020, which was past the time of appeal for the previous documents sent.
6. Appellant then filed his appeal on December 30, 2020 because he wanted a rebate of his premium that he was paying previously for an unsubsidized plan.
7. The Appellant testified that his income was correct when he filed his application on December 17, 2020.

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).

Appellant's application stated his projected MAGI was \$31,041.61, which for a household of one, puts the Appellant at approximately 243.27% of the 2020 Federal Poverty Level. The Health Connector correctly found The Appellant eligible for subsidized Connector Care Plan 3A. The Appellant then appealed. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied. The determination by the Connector 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

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13569

Appeal Decision: Appeal Dismissed

Hearing Issue: Appellant was not seeking a review of eligibility for insurance through the Health Connector

Hearing Date: March 8, 2021

Decision Date: March 30, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 11, 2020, Appellant was determined eligible for Health Connector plans without subsidies.

ISSUE

At the hearing, Appellant stated Appellant was not interested in eligibility for a Health Connector plan for 2021, since Appellant had access to other insurance. Appellant stated that the Appeal was filed to make sure that the record of the Health Connector was correct.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 8, 2021. Also present was a duly sworn interpreter. The hearing record consists of the Testimony of Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form dated January 12, 2021
- Exhibit 2: Eligibility results and Summary dated December 11, 2021
- Exhibit 3: Appeals Unit outreach
- Exhibit 4: Prior Eligibility Results
- Exhibit 5: Recent Eligibility Results and Summary NONE
- Exhibit 6: Correspondence from Health Connector dated February 11, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant's family applied for subsidized Health Insurance plans on December 11, 2020 (Exhibit 2).
2. Appellant was found eligible for Health Connector Plans without subsidies on December 11, 2020 (Exhibit 2).
3. On January 12, 2021, Appellant filed a Hearing Request Form based on income, lawful presence and wrong information (Exhibit 1).
4. Appellant did not want to appeal the December 11, 2020 eligibility determinations of the other family members (Testimony of Appellant).
5. Appellant did not want to appeal Appellant's eligibility determination of December 11, 2020 and did not want to enroll in health insurance through the Health Connector (Testimony of Appellant).
6. Appellant was covered by other health insurance, and filed the appeal since Appellant thought that it contained wrong information (Exhibit 1 and Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant did not want to appeal the 2021 eligibility determinations for other family members. Appellant also did not want to appeal the eligibility determination for Appellant. Appellant was covered by health insurance and did not want to enroll in a Health Connector Plan for 2021. The Appellant has the right to have any eligibility determination or redetermination contained in a notice issued in accordance with 45 Code of Federal Regulations Section 155.500 reviewed by an appeals entity. Also see 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. Appellant is not seeking a review of an eligibility determination or redetermination. Therefore this Appeal is dismissed.

ORDER

The Appeal is dismissed.

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 filed the appeal to update/correct information in the application. Appellant may call the Health Connector at 1 877 623-6765 to review any information in the family's application.

Connector Appeals Unit

FINAL APPEAL DECISION: ACA21-13654

Appeal Decision: Appeal Denied

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

Hearing Date: March 4, 2021

Decision Date: March 29, 2021

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.13.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on December 18, 2020. The Health Connector determined the Appellant to be eligible for Health Connector plans.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 4, 2021. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection

from the Appellant. The record was kept open for the Health Connector to provide documents regarding what the Appellant sent the Connector concerning his proof of income:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (3 pages, dated February 5, 2021)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (8 pages dated January 20, 2021)
- Exhibit 6: Notice of Eligibility Determination (9 pages, dated December 18, 2020)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated December 18, 2020)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 60 year old married male who does not live with his wife. (Exhibit 7)
2. The Appellant has a household of one. (Exhibit 7 & 8)
3. On his application, dated December 18, 2020 the Appellant stated that he was married and would not file a joint tax return with his wife and testified to that fact as well. (Exhibit 5 & Appellant's testimony)
4. The Health Connector found that the Appellant was eligible for Health Connector plans without subsidies because the Appellant stated he was married but would not file a joint income tax return with his wife. *Exhibit 5 & Appellant's testimony)
5. The Appellant's projected tax household income was \$29,000.00, which places him at 227.27 % of the Federal Poverty Level. (Exhibit 7)
6. The Appellant does not intend to file a joint tax return for the tax year 2020.

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit 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 2015 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 2020 taxes as head of household.

The Appellant stated on his application that he is married and does not intend to file a joint tax return. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, despite meeting the income threshold required for that program. The Appellant will not file a joint tax return, and further does not fall into any of the exceptions for the requirement to file a joint tax return in order to get APTC. Therefore the Health Connector correctly found that the Appellant was not eligible for APTC or ConnectorCare, but is only eligible for an unsubsidized Health Connector Plan.

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

ADDENDUM

Your appeal request has been denied based on your attestation that you will not file taxes jointly with your spouse. However, if you do end up filing a joint tax return with your spouse, and so long as your household income is at or below 400% of the Federal Poverty Level, you may be able to claim a Premium Tax Credit for the months in which you were enrolled in a Health Connector Plan when you file your taxes for 2020. This tax credit is fully refundable. You should speak with a tax professional to see whether filing a joint tax return is in your best interest.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2113021

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

Hearing Issue:

Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector Plan without an advance premium tax credit. in 2021

Hearing Date: December 30, 2020

Decision Date: March 29, 2021

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 9, 2020, the Connector determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit in 2021.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health Connector without an advance premium tax credit in 2021.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 30, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open to give the appellant and the Connector time to submit additional evidence. A document was received from the Connector on January 19, 2021. Documents were received from the appellant on February 12, 2021 and made available to this hearing officer on February 18th. These documents have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 8, 2020 addressed to Appellant for December 30, 2020 hearing

Exhibit 3: Connector Appeals Unit letter dated November 20, 2020 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit staff outreach notes and email to Appellant from Appeals Unit dated November 20, 2020 with list of acceptable proof of income documents

Exhibit 3b: Appeals Unit letter to Appellant dated December 27, 2020 requesting proof of income

Exhibit 4: Hearing Request Form from Appellant received by the Connector on November 13, 2020

Exhibit 5: Connector letter dated October 9, 2020 to Appellant regarding eligibility approval for Connector Health Plan with no financial assistance for 2021

Exhibit 6: Summary and results of Appellant's application for Connector health plan for 2021 dated October 8, 2020

Exhibit 7: Summary and results of Appellant's application for Connector health plan for 2021 dated November 18, 2020

Exhibit 8: Appellant's Medicaid Household determination, November 18, 2020

Exhibit 9: February 3, 2021 letter from Appellant received by Connector on February 12, 2021 regarding open record request for documents

Exhibit 10: Appellant's 2019 Federal income tax return

Exhibit 11: March 9, 2020 affidavit signed by Appellant regarding 2020 projected income

Exhibit 12: Connector letter to Appellant dated March 16, 2020 regarding eligibility for ConnectorCare coverage

Exhibit 13: Connector letter to Appellant dated October 9, 2020 regarding eligibility for ConnectorCare coverage for 2020

Exhibit 14: Affidavit by Appellant dated November 15, 2020 regarding 2020 projected income

Exhibit 15: Connector print-out showing Appellant's enrollment and payment history in 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had ConnectorCare coverage in 2020 from January through the end of November (Testimony of Appellant, Exhibit 15).
2. In March, 2020, the appellant submitted proof of income to the Connector including his 2019 Federal tax return which showed Appellant earned over \$80,000 for the year. He also informed the Connector that his income would be significantly lower in 2020. The appellant attested to the Connector that he would have a projected annual income of \$27,000 which equaled 243% of the Federal Poverty Level. The Connector determined that the appellant was eligible for a ConnectorCare plan (Testimony of Appellant, Exhibits 9, 10, 12).
3. The Connector notified Appellant in a letter dated October 9, 2020, the Appellant was eligible for a Connector Health plan coverage without an advance premium tax credit in 2021. Appellant was not eligible for a tax credit because Appellant had income that was too high, had access to health insurance through another source which met minimum essential coverage standards, had attested that he did not intend to file a tax return or had failed to reconcile earlier tax returns, or Appellant had not updated information about projected income and the Connector was unable to verify income (Exhibits 5 and 6).
4. On November 15, 2020, the appellant sent the Connector a letter about his projected income. His new projected income was lower, equaling 39% of the Federal Poverty Level. A decision regarding MassHealth eligibility was pending (Exhibits 7 and 14).
5. Appellant submitted a request for an appeal of the Connector's determination for 2021 on November

13, 2021 (Exhibit 4).

6. Since Appellant requested a hearing, Appellant has been found to be eligible for MassHealth and has coverage (Exhibit 9).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on October 9, 2020 that the appellant was eligible to purchase a Connector Health plan without an advance premium tax credit in 2021. Appellant submitted a request for an appeal of the Connector's determination on November 13, 2020. See Exhibits 4 and 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. One requirement, among others, for an advance premium tax credit concerns tax filer status. Individuals must intend to file a tax return and married couples are required to file jointly in order to be eligible for the tax credit. See 26 CFR 1.36B-2(2)(i). 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. Another requirement is that the individual has no access to other health insurance which meets Federal standards.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. An individual with projected income below 100% or above 400% is not eligible for an advance premium tax credit.

In March, 2020, the appellant submitted proof of income to the Connector including his 2019 Federal tax return which showed Appellant earned over \$80,000 for the year. He also informed the Connector that his income would be significantly lower in 2020. The appellant attested to the Connector that he would have a projected annual income of \$27,000 which equaled 243% of the Federal Poverty Level. The Connector determined that the appellant was eligible for a ConnectorCare plan. See the testimony of Appellant which I find to be credible and Exhibits 9, 10, 12. As of October, 2020, Appellant still had the coverage. According to a Connector summary of Appellant's application dated October 9th, his projected income remained the same.

The Connector notified Appellant in a letter dated October 9, 2020 that, the Appellant was eligible for a Connector Health plan coverage without an advance premium tax credit in 2021. Appellant was not eligible for a tax credit because Appellant had income that was too high, had access to health insurance through another source which met minimum essential coverage standards, had attested that he did not intend to file a tax return or had failed to reconcile earlier tax returns, or Appellant had not updated information about projected income and the Connector was unable to verify income. See Exhibits 5 and 6.

Appellant had submitted his most recent tax return in March, 2020 (his 2019 return). See Exhibits 9 and 10. Appellant's projected income equaled 243% of the Federal Poverty Level, (See Exhibit 6), and there was no evidence in the record to show that Appellant had access to other coverage at the time of the determination. From the record, it appears that the appellant had not recently updated information about his projected income by October 9th, the date of the determination under consideration. After the determina-

tion was made, the appellant spent in a letter concerning his projected income. Based upon the new information, Appellant's income was found to equal 39% of the Federal Poverty Level and MassHealth eligibility was pending. See Exhibits 7 and 14.

Based upon the information available to the Connector on October 9, 2020, I find that the Connector correctly determined the appellant's eligibility for a Connector Health plan without an advance premium tax credit. Appellant had not updated his projected income and sent in proof of income. Once Appellant did, after October 9th, he was found eligible for MassHealth. By the time Appellant submitted additional evidence to the Connector in February, 2021, Appellant had MassHealth coverage. See Exhibit 9.

The determination of the Connector is, therefore, affirmed.

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

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

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Cc: Connector Appeals Unit

Hearing Officer