

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: January 19, 2022

Decision Date: March 18, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 15, 2021, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2022.

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

- Exhibit 1: Affidavit of Records (1 page).
- Exhibit 2: Notice of Hearing (12-28-21) (3 pages).
- Exhibit 3: Acknowledgement of Appeal (12-13-21) (1 page).
- Exhibit 4: Outreach notes and email (3 pages).
- Exhibit 5: Hearing Request (12-1-21) (6 pages).
- Exhibit 6: Application Results and summary print outs (5 pages).

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- Exhibit 7: Eligibility Denial letter (11-15-21) (7 pages).
Exhibit 8: Medicaid Household Determination (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on November 15, 2021, after failing to establish that the Appellant is lawfully present to the Health Connector. (Exhibit 6, Exhibit 7)
2. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 6)
3. Appellant has applied for lawful presence status but it is pending. (Appellant's testimony; Exhibit 5).
4. Appellant has some health problems and needs to get health care and health insurance (Appellant's testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

On November 15, 2021, the Appellant applied for health insurance through the Health Connector, but did not attest to being lawfully present and was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

While the Appellant has taken steps to establish lawful presence, and the process may be taking longer than expected, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans on November 15, 2021, based on the Appellant's attestation, and that determination is upheld.

ORDER

The appeal is denied.

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

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

Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2016 from the federal government will be reconciled when you file your 2016 federal income tax return (usually in the spring of 2017). 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 2016 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2016 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

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

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

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Denial of eligibility based on lack of citizenship or legal permanent resident status.

Hearing Date: March 3, 2022

Decision Date: March 14, 2022

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth 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 14, 2021 that he was not eligible for Connector Care because he did not provide proof of citizenship or legal permanent resident status.

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on March 3, 2022. At the hearing, Appellant was assisted by a Spanish-language interpreter. The hearing record consists of Appellant's testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form with Appellant's statement (1/10/2022) (7 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Notice (12/14/21) (7 pages)
- Exhibit 4: Screen Shot of Application Summary (3 pages)

- Exhibit 5: Screen Shot of Eligibility Summary (2 pages)
- Exhibit 6: Summary of Medicaid eligibility (5 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Hearing Notice (2/7/22) (3 pages)
- Exhibit 9: Hearing Notice (Spanish) (2/7/2022) (3 pages)
- Exhibit 10: Acknowledgement of Appeal (1 page)
- Exhibit 11: Acknowledgement of Appeal (Spanish) (1 page)
- Exhibit 12: Request for Proof of Immigration Status (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 single individual living in Suffolk County. Exhibit 1.
2. In December 2021, Appellant applied for state-subsidized health benefits. Exhibit 4.
3. In that application, Appellant reported that he was not a citizen and that he did not have a documented legal permanent resident status in the United States. Exhibit 4.
4. At the hearing, Appellant testified that he was an undocumented alien.
5. On December 21, 2021, the Health Connector notified Appellant that he was not eligible for Connector Care or Advance Premium Tax Credits because of his lack of a documented legal resident status. Exhibit 3.
6. 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 was not eligible for Connector Care or Advance Premium Tax Credits based on his lack of citizenship or documented legal permanent resident status.

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.

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In this case, Appellant is an undocumented alien. He is not a citizen and does not have legal permanent resident status in the United States. He stated those facts in his application for benefits and he confirmed it at the hearing. The Health Connector is required to determine eligibility in accordance with governing federal law. In this case, that law clearly establishes that Appellant is not eligible to receive APTCs, because of his lack of documented legal resident status. Further, because he was not eligible to receive APTCs, he was not eligible for Connector Care, under the governing regulation.

Because the Health Connector correctly determined that Appellant was not eligible to receive APTCs or Connector Care, I am denying 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15737

Appeal Decision Appeal Denied

Hearing Issue: Eligibility for subsidized Health Connector plans based upon income

Hearing Date: February 23, 2022

Decision Date: March 21, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 23, 2021, Appellant was determined eligible for Health Connector Plans without subsidies based upon Appellant's income

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plans without subsidies, based upon Appellant's income information

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 23, 2022.

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

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request form statement, dated January 18, 2022
- Exhibit 2: Eligibility Results and Summary dated December 23, 2021
- Exhibit 3: Appeals Unit outreach
- Exhibit 4: None
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector dated January 24, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. On December 23, 2021, Appellant applied for a Health Connector Plan with subsidies (Exhibit 1A)
2. On December 23, 2021, Appellant was found eligible for a Health Connector Plan with no financial help (Exhibit 2 and Testimony of Appellant).
3. On December 23, 2021, Appellant's household income was determined to be 82.67% of the Federal Poverty level (Exhibit 2).
4. Appellant was considered to be in a different household than the rest of the family members on the application (Exhibit 2).
5. Appellant had notified MassHealth in 2020 that Appellant was not part of the household, as Appellant was not living with the other family members (Exhibit 3 and Testimony of Appellant).
6. MassHealth administratively closed Appellant's case on August 11, 2020 (Exhibits 2 and 3).
7. Appellant moved back into the household in 2021, but had not taken any steps to remove the MassHealth administrative closure (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 IRC § 1.36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if they are eligible for a Qualified Health Plan and have a projected modified adjusted gross household income between 100% and 400% of the Federal Poverty Level. As a result of the federal American Rescue Plan, for Plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCS. For 2021 and 2022 only, any individual who purchases coverage through the Health Connector may receive APTCs even if their income is greater than 400% FPL so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. (See Section 9661 of the American Rescue Plan Act of 2021). The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on a projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On December 23, 2021, Appellant was found eligible for a Health Connector Plan without subsidies. This was the proper determination for a person whose income is below 100%, as that person is not eligible for a premium tax credit. Appellant was not eligible for MassHealth since Appellant's MassHealth case was administratively closed in 2020 when Appellant notified MassHealth that Appellant was no longer a part of the household. See Exhibits 2, 3, 5 and Testimony of Appellant, which I find to be credible.

The Health Connector made the correct determination of eligibility for a Health Connector Plan with no subsidies.

ORDER

The appeal is denied.

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

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

reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

ADDENDUM

Appellant can contact MassHealth to update the Application and remove the Administrative Closure. Appellant should send them any requested information.

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Denial of eligibility based on household income.

Hearing Date: March 3, 2022

Decision Date: March 14, 2022

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth 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 14, 2022 that she was not eligible for Connector Care because her household income was below the federal poverty line.

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on March 3, 2022. At the hearing, Appellant was assisted by her daughter who also testified. The hearing record consists of testimony of Appellant and her daughter and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form with Appellant's statement (1/30/2022) (2 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Notice (1/14/22) (7 pages)
- Exhibit 4: Screen Shot of Application Summary (3 pages)

- Exhibit 5: Screen Shot of Eligibility Summary (2 pages)
- Exhibit 6: Summary of Medicaid eligibility (5 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Email from Health Connector to Appellant (2/2/22) (1 page)
- Exhibit 9: Printout of back office Health Connector transactions (19 pages)
- Exhibit 10: Request for Proof of Residency (1/10/22) (2 pages)
- Exhibit 11: Notice of Appeal Hearing (2/7/22) (3 pages)
- Exhibit 12: Acknowledgement of Appeal (1 page)

FINDINGS OF FACT

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

The record shows, and I so find:

1. Appellant is a single individual living in Essex County. Exhibit 1.
2. Appellant is 66 years old. Exhibit 1.
3. In January 2022, Appellant applied for state-subsidized health benefits. Exhibit 4.
4. In that application, Appellant stated that she did not have any income. Exhibit 4.
5. At the hearing, Appellant's daughter confirmed that Appellant had no income. Exhibit 4.
6. On January 14, 2022, the Health Connector notified Appellant that she was not eligible for Connector Care or Advance Premium Tax Credits because her income was below the federal poverty limit. Exhibit 3.
7. 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 was not eligible for Connector Care or Advance Premium Tax Credits because her income was below the federal poverty limit.

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 APTCs are available to "applicable taxpayers." 26 U.S.C. § 36B(a). The phrase "applicable taxpayer" is defined in the statute to mean a taxpayer "whose household income for the taxable year equals or exceeds 100 percent but does not exceed 400 percent of an amount equal to the poverty line for a family of the size involved." *Id.* § 36B(c)(1)(a). The FPL is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. *See* 42 U.S.C. § 9902(2). In 2022, the federal poverty limit for a household of one person, like Appellant's, is \$13,590. *See* Federal Poverty Level Chart (available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>).

Massachusetts Health Connector Appeals Unit



As a consequence of these federal statutes, persons with incomes below \$13,590 or 100 percent of the FPL are not eligible for APTCs. See also 45 C.F.R. § 155.305(f)(1)(i) (federal eligibility regulation stating that an individual will be determined eligible for APTCs if that individual's income is above 100 percent of FPL).

The Health Connector also determines eligibility for Connector Care, which is a program in which state subsidies are added to the APTCs in order to further reduce the cost of health insurance. To be eligible for Connector Care, an individual must qualify for APTCs. 956 CMR § 12.04.

In this case, Appellant is not eligible for APTCs because her income is below the federal poverty line. This fact is established by her statement in her application that she has no income and by the testimony of her daughter that Appellant has no income. The Health Connector is constrained by federal law in determining eligibility to receive APTCs, which is a federally-funded benefit. Thus, the Health Connector was required to deny Appellant eligibility based on the clear requirements of the ACA and the undisputed fact that Appellant's income was below the federal poverty limit. Further, because Appellant was not eligible for APTCs, she was not eligible to receive Connector Care either, under the governing regulation.

It may seem anomalous that having no income disqualifies a person from receiving subsidies. However, the ACA, which establishes this requirement, anticipated that persons with incomes below the FPL would qualify for Medicaid, a joint federal-state program of free health care coverage for low-income persons.

Because the Health Connector correctly determined that Appellant was not eligible to receive APTCs or Connector Care, I am denying 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA2215661

Appeal Decision Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for subsidized health insurance plans, based on failure to verify income

Hearing Date: February 23, 2022

Decision Date: March 28, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 22, 2021, Appellant was determined eligible for Health Connector plans with no subsidies. The Appellant's determination came after Appellant's failure to verify income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no subsidies on December 22, 2021, based on Appellant's failure to verify income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 23, 2022. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector
- Exhibit 1A: Hearing Request Form, dated January 4, 2022
- Exhibit 2: Eligibility results and Summary dated December 22, 2021
- Exhibit 3: Appeals Unit outreach
- Exhibit 4: Prior Eligibility Notices, dated April 28, 2021
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector dated January 24, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was covered by MassHealth in 2020 (Testimony of Appellant).
2. On April 28, 2021, Appellant was found eligible for a Connector Care 3A plan, but Appellant did not enroll in the plan (Exhibit 4 and Testimony of Appellant).
3. On November 1, 2021 MassHealth sent a notice informing Appellant that Appellant was required to complete an annual eligibility renewal, which included the requirement that Appellant provide income information (Exhibit 4).
4. Appellant did not complete the eligibility application or provide income information (Testimony of Appellant).
5. On December 22, 2021, Appellant was notified that the Health Connector did not have enough recent information about Appellant's household income to qualify for lower cost coverage (Exhibit 2).
6. On December 22, 2021, Appellant was sent a notice that beginning on January 1, 2022, Appellant was eligible for a Health Connector Plan with no subsidies (Exhibit 2).
7. Appellant's determination was based upon Appellant's failure to provide current income information (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. The American Rescue Plan Act has increased some of the Federal Poverty Level thresholds for eligibility for APTC subsidies for 2021 and 2022. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

Appellant had been enrolled in MassHealth in 2020. On April 28, 2021, Appellant was found eligible for a Connector Care plan 3A, but Appellant did not enroll in the plan. On November 1, 2021 MassHealth sent a notice informing Appellant that Appellant was required to complete an annual eligibility renewal, which included the requirement that Appellant provide income information. Appellant did not complete the renewal or provide income information. As a result, the Health Connector determined that Appellant was eligible for a Health Connector Plan with no subsidies. This is the correct determination for a person who does not provide verifying income information. See 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D) and Exhibits 2, 3, 4, and Testimony of Appellant which I find to be credible.

ORDER

The appeal is denied.

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

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

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

ADDENDUM:

Appellant was given the number for MassHealth (1 800 841-2900) so that Appellant could update the application. Appellant was encouraged to provide any information requested as soon as possible.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15748

Appeal Decision: The Connector's denial of Appellant's application for the purchase of subsidized health insurance is affirmed.

Hearing Issue: Appellant's eligibility for subsidized insurance based on tax filing status

Hearing Date: February 23, 2022

Decision Date: March 15, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on December 22, 2021. The Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on February 23, 2022. Also present was Appellant's adult child and a duly sworn interpreter.

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

- Exhibit 1: Affidavit of record of the Health Connector
- Exhibit 1A: Hearing Request form, dated January 19, 2022
- Exhibit 2: Eligibility Results and Summary dated December 22, 2021
- Exhibit 3: Appeals Unit Outreach
- Exhibit 4: None
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector, dated January 24, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for subsidized health insurance on December 22, 2021 (Exhibit 2).
2. On December 22, 2022 the Health Connector found that the Appellant was eligible for Health Connector plans but was not eligible for subsidies, because the Appellant did not plan to file a joint tax return with Appellant's spouse (Exhibit 2).
3. Appellant filed an appeal on January 19, 2022 stating that Appellant could not afford the health insurance plan (Exhibit 1A).
4. Appellant is married and Appellant's spouse lives outside of the country (Exhibit 2 and Testimony of Appellant).
5. Appellant is not able to file a tax return as married filing jointly (Testimony of Appellant).

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. Lawfully present resident aliens with MAGI under 100% who are ineligible for Medicaid because of their immigration status may also be eligible for tax credits, assuming they meet other eligibility criteria. 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 2022 taxes in accordance with the required certification, which appears on Form 8962.

Appellant applied for subsidized health insurance on December 22, 2022. At the time of the application, a review of the Health Connector's database showed that Appellant was married but was not planning to file a joint tax return. Appellant's spouse lives outside of the United States and Appellant is unable to file jointly with the spouse. 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 subsidies. The Health Connector correctly found that the Appellant was not eligible for APTC or ConnectorCare, and 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.

ADDENDUM

Appellant was given the telephone number for Harvard University Legal Aid at 617 522-3303 for assistance with Appellant's tax situation. Appellant was also given the phone number for Healthcare for All (800 272-4232) for further information.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15817

Appeal Decision: Appeal Denied.

Hearing Issue: Eligibility for ConnectorCare based on failure to verify residency.

Hearing Date: February 25, 2022

Decision Date: March 2, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On annuary 5, 2022 the Appellant was determined ineligible for health insurance coverage through the Health Connector. The Appellant's determination came after the Appellant failed to verify their residency and an Administrative Closing was placed on the Appellant's case by MassHealth.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant is ineligible for health insurance through the Health Connector based on the Appellant's failure to verify residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 25, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 28, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Denial Notice dated January 5, 2022.
- Exhibit 5: 2022 Eligibility Results with an application summary dated January 5, 2022.
- Exhibit 6: Medicaid Household Determination Printout dated January 5, 2022.
- Exhibit 7: The Appellant's Online Appeal Request dated January 25, 2022.

Exhibit 8: A copy of a MassHealth Termination Notice dated June 27, 2019.

Exhibit 9: Health Connector Appeals Unit Outreach Email send to the Appellant on January 28, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 5, 2022 the Appellant applied for subsidized health insurance for their household of one. The Appellant reported having no income (Exhibit 5).
2. On June 27, 2019 MassHealth took action to terminate the Appellant's MassHealth benefits because MassHealth determined the Appellant was not a Massachusetts (MA) resident. An administrative hold was placed on the Appellant's case (Exhibits 3, 8).
3. On January 5, 2022 Health Connector denied the Appellant's application because records available to the Health Connector indicate the Appellant is not a MA resident (Exhibit 4).
4. On January 25, 2022 the Appellant filed an appeal to dispute the determination (Exhibit 7).
5. On January 28, 2022 the Health Connector Appeals Unit sent the Appellant an E-mail letter advising the Appellant to call MassHealth to report and verify their residency. Contact information was given (Exhibit 9).
6. The Appellant testified that they are a MA resident. The Appellant acknowledged that they have not contacted MassHealth since their case was closed in June 2019 because they did not need the coverage at that time (Appellant Testimony).

ANALYSIS AND CONCLUSION OF LAW

The Appellant applied for subsidized health insurance on January 5, 2022 for their household of one. The Appellant reported having no income. The Appellant received MassHealth prior to June 27, 2019 when MassHealth terminated the Appellant's assistance because MassHealth determined that the Appellant was not a Massachusetts resident. An administrative hold was placed on the Appellant's case. On January 5, 2022 the Health Connector denied the Appellant's application because records available indicate the Appellant is not a MA resident. The Appellant filed an appeal to dispute the determination.

Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The only information available to the Health Connector regarding the Appellant's residency was provided by MassHealth. In addition, based on the Appellant's having reported having no income, but for the Appellant's failure to verify their residency, the Appellant is otherwise eligible for MassHealth. To be eligible for the ConnectorCare program through the Health Connector, individuals must not have access minimum essential coverage through other government subsidized programs such as MassHealth. 45 CFR § 155.305(f)(1)(ii).

As explained at the Hearing, MassHealth eligibility determinations may not be reviewed by the Health Connector. 956 CMR 12.02, 12.12. The Appellant acknowledged that they did not contact MassHealth since their case was

closed in June 2019. The Appellant has not provided updated proof of MA residency. Based on the evidence in the record, Health Connector correctly denied the Appellant's application on January 5, 2022.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded to contact MassHealth Customer Service at 1-800-841-2900 for assistance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15914

Appeal Decision: Appeal Denied.

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

Hearing Date: March 18, 2022

Decision Date: March 24, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 4, 2022, the Appellant was determined ineligible for ConnectorCare because the Appellant is receiving Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 18, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony 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 11, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Denial Notice dated January 4, 2022.

- Exhibit 5: 2022 Eligibility Results with an Application Summary dated January 4, 2022.
Exhibit 6: Medicaid Household Determination Printout dated January 4, 2022
Exhibit 7: The Appellant's Hearing Request Form dated February 7, 2022.
Exhibit 8: Health Connector Appeals Unit Medicare information letter dated February 9, 2022.
Exhibit 9: Eligibility Printout dated January 28, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 4, 2022 the Appellant applied for health insurance coverage through the Health Connector. The Appellant reported having income equal to 86.15% of the federal poverty level (Exhibit 5).
2. The Appellant is receiving Medicare (Exhibits 5, 6 and Testimony).
3. On January 4, 2022, the Health Connector determined that the Appellant is ineligible for ConnectorCare because the Appellant is eligible for Medicare (Exhibits 4, 5, 6).
4. The Appellant filed an appeal on February 7, 2022. The Appellant requested MassHealth (Exhibit 7).
5. On January 28, 2022 the Appellant was determined eligible for MassHealth Standard and Medicare (Exhibit 9).
6. The Appellant testified that they received the MassHealth letter the same day as the Notice of Hearing issued by Health Connector and wanted to be sure they were eligible for MassHealth (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on January 4, 2022 and reported income equal to 86.15% of the federal poverty level. The Health Connector verified that the Appellant is receiving Medicare. The Appellant was notified on January 4, 2022 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 February 2, 2022 to dispute the denial.

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, 2022 that the Appellant was not eligible for coverage through the Health Connector.

The Appellant mentioned MassHealth eligibility on their appeal request. MassHealth eligibility is not subject for appeal at the Health Connector. 956 CMR 12.12. As it turns out, the Appellant was determined eligible for MassHealth on January 28, 2022. The Appellant was advised to contact MassHealth for any eligibility issues.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION ACA22-16004

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for subsidized insurance through the Health Connector, based on reported change in income

Hearing Date: March 18, 2022

Decision Date: March 24, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 29, 2021, Appellant was determined to be no longer eligible for subsidized insurance through the Health Connector, based on a preliminary determination of eligibility for benefits through the Massachusetts Medicaid agency, MassHealth. The Appellant was found eligible for unsubsidized Health Connector plans during the period the Appellant was preliminarily eligible for MassHealth coverage. The Appellant's determination was a result of the Appellant reporting a change in income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was no longer eligible for subsidized insurance through the Health Connector and only eligible for unsubsidized Health Connector plans while the Appellant was preliminarily eligible for coverage through MassHealth, based on the Appellant's reported change in income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 18, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Affidavit of Hearing Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated March 1, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: 2022 Eligibility Results with an Application Summary dated November 29, 2022.
- Exhibit 5: Medicaid Household Determination Printout dated January 4, 2022
- Exhibit 6: The Appellant's Online Hearing Request dated February 20, 2022.
- Exhibit 7: The Appellant's letter with additional documents submitted to the Appeals Unit on March 9, 2022.
- Exhibit 8: Health Connector 2021 Enrollment Details Printout.
- Exhibit 9: Health Connector Request for Information dated June 15, 2021.
- Exhibit 10: Health Connector Preliminary Eligibility Notice for 2022 dated September 6, 2021.
- Exhibit 11: Health Connector Final Renewal Notice for 2022 dated October 8, 2021, with Eligibility Results and an Application Summary.
- Exhibit 12: My Workspace Printout of Documents received on December 14, 2021.
- Exhibit 13: My Workspace Printout of Documents received on January 14, 2021.
- Exhibit 14: Health Connector Unacceptable Proof Notice dated December 29, 2021.
- Exhibit 15: Health Connector Customer Service Notes dated January 28, 2022.
- Exhibit 16: Additional Health Connector Customer Service Notes dated January 28, 2022.
- Exhibit 17: Health Connector Customer Service Notes dated January 14, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. On June 15, 2021 the Appellant was determined eligible for ConnectorCare with Advance Premium Tax Credits. The Appellant had reported weekly unemployment compensation income of \$823 for their household of one. The Appellant was enrolled in ConnectorCare for the period of July 1, 2021 through December 31, 2021 (Exhibits 8, 11).
2. On June 15, 2021 Health Connector issued a Request for Information. The Appellant was instructed to submit proof of income and residency by September 13, 2021. The Notice contained lists of acceptable documents to be used to verify income and residency (Exhibit 9).
3. On September 6, 2021 Health Connector issued a Preliminary Eligibility Notice for 2022. The Appellant was advised to review their income and report any changes. The notice indicated the Appellant's income was unknown (Exhibit 10).
4. On October 8, 2021 Health Connector issued a Final Renewal Notice for 2022 with 2022 Eligibility Results and an Application Summary dated October 8, 2021. The Eligibility Results noted the Appellant's unemployment compensation income. The Appellant's income and residency had not been verified. The notice indicated the Appellant would be eligible for Health Connector Plans (Exhibit 11).
5. On November 29, 2021 the Appellant updated their application. The Appellant reported monthly capital gains income of \$175 and annual interest, dividends, or other investment income of \$7,300. Health Connector determined the Appellant's attested income to be equal to 72.98% of the federal poverty level for their household of one. The Appellant was determined eligible for Health Connector Plans because the Appellant's income was below 100 % of the federal poverty level and eligibility for MassHealth was

pending. The Appellant had not submitted proof of residency or income as of November 29, 2021 but was otherwise eligible for Medicaid (Exhibits 4, 5, 6).

6. On December 14, 2021 the Appellant sent a letter to the Health Connector stating that their expected wages would be \$0 for tax year 2022 until such time as the Appellant found employment. The Appellant wrote that they had estimated capital gains and dividend income which was disclosed on their application. The Appellant noted that they used their 2021 Federal Income Tax return to estimate the amounts. The Appellant did not submit a copy of the tax return (Exhibit 12).
7. December 29, 2021 Health Connector issued an Unacceptable Proof Notice to the Appellant. Health Connector dropped a digit from the Appellant's Street address by mistake and the notice was not received by the Appellant (Exhibits 14, 17 and Appellant Testimony).
8. On January 14, 2022 the Appellant submitted documentation of unearned income from dividends, interest and capital gains totaling \$13,287.99 (Exhibit 13).
9. On January 28, 2022 the Appellant contacted Customer Service to report that they were starting a new job and would have employer sponsored health insurance (Exhibit 16).
10. On February 20, 2022 the Appellant filed an appeal (Exhibit 7).
11. On March 9, 2022 the Appellant submitted a letter and copies of communications with the Ombudsman Team (Exhibit 7).
12. At the Hearing, the Appellant testified that they did not send in the documents requested on June 15, 2021 because they did not think it was necessary. The Appellant expressed their frustration at having made multiple attempts to resolve eligibility issues with Customer Service and the Ombudsman team. The Appellant was asked if they wanted retroactive coverage for the months of January and/or February 2022 and the Appellant testified that they did not (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on June 15, 2021. The Appellant reported having weekly unemployment compensation income of \$823. Health Connector determined this income equal to 453.39% of the federal poverty level for the Appellant's household of one.

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

Connector's ConnectorCare program. 956 CMR § 12.04. For Plan year 2021 only, for tax filers who received or were approved to receive unemployment compensation for any week of 2021 and who met certain other non-income eligibility requirements, Health Connector did not consider income in excess of 133% of the federal poverty level for their household size when determining eligibility for Health Connector programs and the amount of APTCs. (See Health Connector Policy NG-2 effective 6/1/21).

Since the Appellant attested to having unemployment compensation income, on June 15, 2021 Health Connector determined the Appellant eligible for ConnectorCare 2A with APTC. The Appellant received ConnectorCare 2A with APTC for the period of July 1, 2021 through December 31, 2021. On June 15, 2021 Health Connector issued a Request for Information to the Appellant. The Appellant was advised that they were required to submit proof of their income and residency to the Health Connector on or before September 13, 2021. Lists of acceptable proofs were detailed in the notice. It is undisputed that the Appellant did not submit the requested proof of income and residency by September 13, 2021.

In accordance with the Annual Review Process for tax year 2022 a Preliminary Eligibility Notice was issued on September 6, 2021. The notice indicated that the Appellant's income was unknown, and the Appellant therefore would be eligible for Health Connector Plans with no financial help. The notice advised the Appellant to update their application. On October 8, 2021 Health Connector issued a Final Renewal Notice. The notice indicated that the Appellant's proof of income and residency had not been submitted and that the Appellant would be eligible for Health Connector Plans with no financial help effective January 1, 2022. This process complied with federal law at 45 CFR §§ 155.335.

Health Connector Applicants and Enrollees have certain responsibilities to provide the information necessary to establish and maintain eligibility. 956 CMR 12.09(1). As of November 29, 2021 when the Appellant updated their application to report a change in income, the Appellant had not submitted proof of income and residency. At the Hearing, the Appellant testified that they did not send in the documents requested on June 15, 2021 because they did not think it necessary. The Appellant was mistaken. The Appellant attested to their income and residency but did not submit proof of either as required under Health Connector policy.

On November 29, 2021 the Appellant reported a substantial change in income. The Appellant disclosed monthly capital gains income of \$175 and annual interest, dividends, or other investment income of \$7,300. Health Connector determined the Appellant's attested income to be equal to 72.98% of the federal poverty level for their household of one. The Appellant was determined eligible for Health Connector Plans because the Appellant's income was below 100 % of the federal poverty level and eligibility for MassHealth was pending.

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is between 100 - 400% of the Federal Poverty Level.¹ Individuals whose income falls below 100% of the Federal Poverty Level are not eligible for APTC, unless they are denied Medicaid eligibility based on their lawful presence status. 45 CFR § 155.305(f)(2).

The Appellant does not dispute that they reported income less than 100% of the federal poverty level on November 29, 2021. The Appellant's MassHealth status was pending. Verification of income and residency remained outstanding as of this date. To be eligible for the ConnectorCare program through the Health

¹ As noted, as a result of the federal American Rescue plan for tax years 2021 and 2022 the upper limit of 400% is not in effect.

Connector, individuals must not have access to minimum essential coverage through other government subsidized programs such as MassHealth. 45 CFR § 155.305(f)(1)(ii). As explained at the Hearing, MassHealth eligibility determinations may not be reviewed by the Health Connector. 956 CMR 12.02, 12.12.

Under the eligibility rules for APTC and ConnectorCare, since the Appellant attested to income less than 100% of the federal poverty limit, the Health Connector correctly determined on November 29, 2021 that the Appellant would not be eligible for APTC and ConnectorCare. 45 CFR § 155.305(f) and 956 CMR 12.04(3)(c).

The Appellant expressed their frustration with their multiple attempts to resolve their 2022 eligibility. As of the date of the Hearing, March 18, 2022 the Appellant testified that they are employed, have employer sponsored health insurance and were not seeking retroactive coverage for January and/or February 2022. The Appellant requested assurance that APTC would not be issued on their behalf because they do not want to pay back any benefit issued that they are not eligible for. The Appellant was advised that their concern would be forwarded to the appropriate Health Connector personnel.

ORDER

The appeal is denied.

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

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

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA22-15866

Appeal Decision: Appeal Denied

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

Hearing Date: March 18, 2022

Decision Date: March 22, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTIONS TAKEN BY THE HEALTH CONNECTOR

On December 23, 2021 Health Connector determined the Appellant to be eligible for Health Connector plans without subsidies.

On January 18, 2022 Health Connector denied the Appellant's request for a premium waiver or reduction.

ISSUES

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

The second issue addressed is whether Health Connector correctly determined that the Appellant is not eligible for a premium waiver or reduction.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 18, 2022. Interpreter services were provided at the Appellant's request. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Affidavit of Hearing Record.

Exhibit 2: Health Connector Appeals Unit Notices of Hearing dated February 11, 2022 and March 3, 2022.

- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
Exhibit 4: Health Connector Premium Hardship Waiver or Reduction denial notice dated January 18, 2022.
Exhibit 5: 2022 Eligibility Results with an Application Summary dated December 23, 2021.
Exhibit 6: Medicaid Household Determination Printout dated December 23, 2021.
Exhibit 7: The Appellant's Hearing Request Form dated February 2, 2022.
Exhibit 8: 2021 Eligibility Results with an Application Summary dated March 29, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for ConnectorCare on March 29, 2021. The Appellant had reported that they were single, planned to file taxes and had income equal to 158.14% of the federal poverty level for their household of one (Exhibit 5).
2. The Appellant updated their application on December 23, 2021 for tax year 2022. The Appellant reported they are a household of one with no income (Exhibit 5).
3. The Medicaid Household Determination Printout dated December 23, 2021 verified that the Appellant's marital status had changed to married (Exhibit 6).
4. The Appellant did not attest on their December 23, 2021 application that they were married and would file a joint income tax return with their spouse in tax year 2022 (Exhibit 5).
5. On December 23, 2021, the Health Connector determined that the Appellant was eligible for Health Connector plans without subsidies, because the Appellant is married but did not attest that they would file a joint income tax return with their spouse (Exhibits 5, 6).
6. Prior to January 18, 2022 the Appellant requested a Premium Waiver or Reduction due to hardship (Exhibit 4 and Appellant Testimony).
7. On January 18, 2022 Health Connector denied the Appellant's request for a premium waiver or reduction because the Appellant is not receiving ConnectorCare (Exhibit 4).
8. The Appellant filed an appeal on February 2, 2022 (Exhibit 7).
9. The Appellant testified that they were married on May 17, 2021. The Appellant said that their spouse does not live with them and is currently living in another state. The Appellant said that they are willing to file their tax return as a single person. The Appellant said that they cannot afford to pay the Health Connector Plan monthly premium (Appellant Testimony).
10. The Appellant was advised that to be eligible for ConnectorCare they would have to update their application and attest to their intention to file a joint tax return with their spouse. The Appellant was given contact information for Greater Boston Legal Services.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was determined eligible for ConnectorCare on March 29, 2021. At that time the Appellant was a single person with income equal to 158.14% of the federal poverty level. The Appellant indicated that they would file taxes as a single person.

On December 23, 2021 the Appellant updated their income information for tax year 2022. The Appellant reported being a household of one with zero income. Health Connector verified that the Appellant's marital status had changed. As of December 23, 2021 the Appellant was married but did not attest on their application that they would file a joint income tax return for tax year 2022.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Tax households eligible for APTC who are at or below 300% of the Federal Poverty Level are also eligible to enroll in ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. 956 CMR § 12.04. One requirement to be eligible for APTC applies to married couples. In general, married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). There are exceptions to this rule, but no evidence was submitted at the Hearing to demonstrate that they are applicable in this case.

The Appellant testified that they were married on May 17, 2021. The Appellant said that their spouse is not living with them and is living out of state. The Appellant said that they can file their own tax return but are unsure if they can file a joint return with their spouse given their living arrangements. The Appellant said that they cannot afford to pay the monthly premium for a Health Connector Plan.

On December 23, 2021 the Appellant was correctly determined eligible for Health Connector Plans with no financial assistance because the Appellant is married and did not attest that they planned to file a joint tax return with their spouse as required under the regulations cited above. The Appellant was advised that they could update their application and report that they plan to file a joint income tax return with their spouse for tax year 2022.

The Appellant requested a Premium Waiver or Reduction citing financial hardship. On January 18, 2022 Health Connector denied the waiver request. The Appellant filed an appeal on February 2, 2022.

As explained at the Hearing, the opportunity to apply for a waiver or reduction of a monthly premium is only available to individuals or families who are enrolled in a ConnectorCare plan. (See Health Connector Policy NG-17). As of January 2022, the Appellant is not enrolled in a ConnectorCare plan and therefore is not eligible for a premium waiver. Health Connector correctly denied the Appellant's request on January 18, 2022.

ORDER

The appeal is denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant may contact Health Connector Customer Service at 1-877-623-6765 to report any changes including their intent to file a joint income tax return with their spouse for tax year 2022.

The Appellant may contact Greater Boston Legal Services, 197 Friend Street, Boston. Tel: 617-371-1234 for legal and/or tax advice.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 22-15906

Appeal Decision: Approved

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

Hearing Date: March 18, 2022

Decision Date: March 25, 2022

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 3, 2022 Health Connector determined that the Appellant was not eligible for a Special Enrollment Period because the Appellant had failed to verify that they had a qualifying life event.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 18, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated February 11, 2022.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Special Enrollment Period (SEP) Decision Denial dated February 3, 2022.
- Exhibit 5: 2022 Eligibility Results with an Application Summary dated February 3, 2022.
- Exhibit 6: Health Connector Notice of Termination For Unpaid Premium dated January 30, 2022.
- Exhibit 7: The Appellant's Online Appeal Request dated February 4, 2022.

Exhibit 8: Health Connector Appeals Unit Outreach Email dated March 10, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. On January 30, 2022 Health Connector terminated the Appellant's health coverage effective December 31, 2021. Health Connector determined that the Appellant had failed to pay their monthly premium (Exhibit 6).
2. The Appellant applied for health insurance coverage on February 3, 2022. The Appellant did not request financial assistance to pay for their insurance (Exhibit 5)
3. On February 3, 2022 Health Connector determined that the Appellant was eligible for Health Connector Plans but was not eligible for an SEP because the Appellant failed to verify that they had experienced a Qualifying Life Event (Exhibits 4, 5).
4. The Appellant filed an Appeal on February 4, 2022 (Exhibit 7).
5. On March 10, 2022 the Health Connector Appeals Unit notified the Appellant that the Appellant was eligible for an SEP. The Appellant was advised to contact Health Connector Customer Service to enroll in a plan and resolve any payment and billing issues (Exhibit 8).
6. The Appellant testified that they did not receive the March 10, 2022 Email granting the SEP. The Appellant said that the real issue is the termination of assistance. The Appellant indicated that they have proof that they paid all premiums on time. The Appellant explained that they have had multiple conversations with Customer Service and was told it was a systems issue. The Appellant said that they were paid through January 31, 2022 and when they tried to make the payment for February the system would not accept their payment. The Appellant testified that on March 17, 2022 they received a refund for \$467.37 from the Health Connector. The Appellant said that they need their health insurance reinstated but so far have been unsuccessful making this happen (Appellant Testimony).
7. The Appellant was advised that payment and billing issues are not appealable under the regulations but that the Appellant's case would be referred to the appropriate unit that handles payment and billing issues.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for health insurance through the Health Connector on February 3, 2022. The Appellant did not ask for help paying for insurance was determined eligible for Health Connector Plans. Although the Appellant met eligibility criteria, Health Connector determined on February 3, 2022 that the Appellant was not eligible for a special enrollment period to enroll in a plan because the Appellant had failed to verify that they experienced a qualifying life event in the sixty-day period preceding their application. The Appellant filed an appeal to dispute that determination.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health

Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG-5. Qualifying life events include marriage, birth or adoption of a child, loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances.

Prior to the Hearing held on March 18, 2022 Health Connector had granted the Appellant an SEP on March 10, 2022. The Health Connector Appeals Unit had sent the Appellant an outreach E-Mail advising the Appellant to contact Customer Service to enroll in a plan and resolve any billing and payment issues. The Appellant testified that they did not receive this E-mail. During the Hearing the Appellant found the Appeals Unit contact, but the Appellant stated it was blank.

The Appellant testified at length regarding the January 30, 2022 termination of their Health Connector plan for nonpayment of their premium. The Appellant explained that they have proof that all payments were made through January 31, 2022 and that when they tried to pay their premium for February 2022 the payment was not accepted. The Appellant said that they were told this was a systems problem and would be corrected but this has not happened. The Appellant questioned why Health Connector issued a refund in the amount of \$467.37 on March 17, 2022.

The Appellant was advised that billing and payment issues are not appealable under Health Connector regulations found at 956 CMR 12.08. The Appellant's frustration is certainly understandable. The Appellant was advised that their case would be referred to the appropriate unit that handles billing and payment for resolution.

ORDER

The Appeal is Approved. No further action is needed since on the SEP issue Health Connector has granted the Appellant an SEP to enroll in a Health Connector Plan.

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Cc: Connector Appeals Unit