

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-17742

**Appeal Decision:** Appeal denied

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

**Hearing Date:** March 8, 2023

**Decision Date:** March 15, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 15, 2022, the Appellant was advised determined eligible for ConnectorCare with Advanced Premium Tax Credits (“APTC’s). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan with APTC’s based on the income used in the Health Connector’s verification process.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 8, 2023, and testified under oath. The Appellant’s had an Interpreter at the hearing who was sworn in. The hearing record consists of testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 P,	undated )
Exhibit 2:	Appellant’s Appeal Request Form with Appellant’s	( 6PP, received	10/25/2022)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 P, dated	10 /26/ 2023)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	( 1 P, dated	2/13/ 2023 )
Exhibit 5:	Health Connector’s Application Summary	(3 PP, dated	10/15/ 2022 )

Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated	10/15/2022)
Exhibit 7:	Health Connector's Notice	(8 PP, dated	10/15/2022)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	10/15/ 2022)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	2/13/ 2023)
Exhibit 10:	Change in Income	(1 P, dated	10/27 /2022)
Exhibit 11:	Health Connector's Application Summary	(3 PP, dated	4/11/ 2022)
Exhibit 12:	Health Connector's Eligibility Results	(3 PP, dated	4/11/2022)
Exhibit 13:	Premium Waiver Application Notice	( 1 P, dated	2/9/2023)
Exhibit 14:	Premium Waiver Application Instructions	( 5 PP, dated	1/30/2023)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant testified she updated her information about her new job and income. (Testimony, Exhibits 1 and 2.)
2. The Appellant testified that she reported her salary without deductions which increased a little from before but was the same after taxes were deducted. (Testimony, Exhibits 1 and 2).
3. The Appellant is now eligible for but not enrolled in Connectcare Plan Type 3B. (Exhibits 1 and 9).
4. At one time the Appellant was enrolled in Connectorecare Plan Type 3A.
5. The Appellant's income was verified on October 15, 2022. (Testimony, Exhibits 1,5, and 7).
6. On October 15, 2022, the Health Connector's determination was based on a manual verification of income documents and a determination of an income equivalent to 314.96 % of the Federal Poverty Level("FPL"). (Exhibits 1, 5-6, and 10-11).
7. This determination was based on manual annual verified income of \$40,566.24 and attested income of \$3,380.54 per month. (Testimony, Exs. 1, 5-10).
8. The Appellant's testified that the income that was attested to in October 2022 was accurate which was used to make the determination. (Testimony, Exhibits 1, 6, and 10).
9. The Appellant is unable to afford the increased premium and is no longer enrolled as of January, 2023. (Testimony, Exhibits 1 and 9).
10. The Appellant testified she had requested a premium waiver application but advised this was a separate process through the Connector and that this was not part of this appeal. (Testimony, Exhibits 1, 5-10).
11. The Appellant was advised to call Customer Service and the Appeals Unit to report any changes in income or any other information on her application.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant is eligible for Connectcare Plan Type 3B but is unable to afford the premium. (Exhibits 1,7, and 9, Testimony). At one time the Appellant was enrolled in Connectorecare Plan Type 3A with a lesser premium compared to the premium for Plan Type 3B. (Testimony, Exhibits 1 and 9). The Appellant's income was verified on October 15, 2022, wherein the Appellant attested to of \$3,380.52 per month. (Testimony, Exhibis 1, 6,7, and 10.) The Appellant asserts that this determination is incorrect and that based on her income the premium should not have increased and thus become unaffordable. (Testimony). The Appellant determination the Appellant's income of 314.96 % of the Federal Poverty Level("FPL") (Testimony, Exhibits 1,5-7, 9-10).

The Appellant's asserts that this premium is incorrect and she should not have to pay same where her income only slightly. (Testimony, Exhibits 1 and 2). The Appellant was found eligible for ConnectorCare with subsidies beginning in November 2022 based on the Health Connector's determination that used an income and family size equivalent based on manual verified income of \$40,566.24 annually and attested income of \$3,380.52 per month. (Testimony, Exhibits 1, 5-8).

The Connector's notice to the Appellant on October 15, 2022, asked the Appellant to review this information and report any changes within 30 days if it was incorrect. The Appellant did not report any changes after receiving the eligibility notice. This is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that her manual verified income of 40,566.24 annually. (Exhibits 1,5-7). This was used to determine a household income equivalent to 314.96 % of the Federal Poverty Level. (Exhibits 1, 5-6). 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. I find the Appellant's income was properly verified according to the above regulations.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 15, 2022, regarding the Appellant's eligibility for Health Connector Plans with subsidies was correct. The Appellant was advised to call Customer Service and the Appeals Unit to report any changes in income or any other information on her application.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 22-17902

**Appeal Decision:** Appeal denied

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

**Hearing Date:** March 8, 2023

**Decision Date:** March 15, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 17, 2022, the Appellant was advised determined eligible for ConnectorCare with Advanced Premium Tax Credits ("APTC's). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan with APTC's based on the income used in the Health Connector's verification process.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 8, 2023, and testified under oath. The hearing record consists of testimony and the following documents which were admitted into evidence without objection:

### FINDINGS OF FACT

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 P, undated )
Exhibit 2:	Appellant's Appeal Request Form With On Line Statement	( 7 PP, received 11/15/2022 )

Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 P, dated	11 /22/ 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 P, dated	2/13/ 2023)
Exhibit 5:	Health Connector's Application Summary	(3 PP, dated	10/17/ 2022)
Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated	10/17/2022)
Exhibit 7	Health Connector's Notice Eligibility Appeal	(8 PP, dated	10/17/2022)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	10/17/ 2022)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	2/13/ 2023)
Exhibit 10:	Health Connector's Eligibility Results	(3 PP, dated	1/12/2023)
Exhibit 11:	Health Connector's Eligibility Results	(3 PP, dated	10/17/2022)
Exhibit 12:	Health Connector's Application Summary	(3 pages, dated	1/12/ 2023)
Exhibit 13:	Health Connector's Eligibility Results	(3 pages, dated	10/17/2023)

The record shows, and I so find:

1. The Appellant's income was verified on October 17, 2022. (Testimony, Exhibits 1,5, and 7).
2. The Appellant testified that because of this verification her premium increased substantially and is unaffordable with the cost of paying for basic household expenses. (Testimony, Exhibits 1 and 2.)
3. At one time the Appellant was enrolled in Connectorecare Plan Type 3A. (Exhibits 1 and 9).
4. The Appellant is now eligible for and enrolled in Connectcare Plan Type 3B. (Exhibits 1 and 9).
5. On October 17, 2022, the Health Connector's determination was based on a manual verification of income documents and determined an income equivalent to 300.25 % of the Federal Poverty Level("FPL"). (Exhibits 1, 5-6, and 10-11).
6. This determination was based on manual annual verified income of \$38,672.45 and attested income of \$3,222.71 per month. (Testimony, Exhibits 1, 5-10).
7. The Appellant's testified that the Appellant the income that was attested to in October 2022 was accurate and used to make the determination. (Testimony, Exhibits 1, 6, and 10).
8. The Appellant was advised to call Customer Service and the Appeals Unit to report any changes in income or any other information on her application.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant is eligible for and enrolled Connectcare Plan Type 3B. (Exhibits 1,7, and 9, Testimony). At one time the Appellant was enrolled in Connectorecare Plan Type 3A in a different plan with a lesser cost for the premium compared to the premium for Plan Type 3B. The Appellant's income was verified on October 17, 2022, wherein the Appellant attested to of \$3,222.71 per month. (Testimony, Exhibits 1, 6,7, and 10.) The Appellant asserts that this determination and the premium increase was not in proportion to her increase in income. (Testimony, Exhibits 1,2 and 9). The Appellant determination is based on the Appellant's income at 300.25 % of the Federal Poverty Level("FPL") (Testimony, Exhibits 1,5-7, 9-10).

The Appellant was found eligible for ConnectorCare with subsidies in November, 2022 based on the Health Connector's determination that used an income and family size equivalent based on manual verified income of \$38,672.54 annually and attested income of \$3,222.71 per month. (Testimony, Exhibits 1, 5-8).

The Connector's notice to the Appellant on October 17, 2022, asked the Appellant to review this information and report any changes within 30 days if it was incorrect. This is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that her manual verified income of \$38,672.54 annually. (Exhibits 1,5-7). This was used to determine a household income equivalent to 300.25 % of the Federal Poverty Level. (Exhibits 1, 5-6). 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. I find the Appellant's income was properly verified according to the above regulations.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 17, 2022, regarding the Appellant's eligibility for Health Connector Plans with APTC'S was correct. The Appellant was advised to call Customer Service and the Appeals Unit to report any changes in income or any other information on her application.

#### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

#### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.



**FINAL APPEAL DECISION**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellant’s eligibility for subsidized insurance based on access to employer sponsored health insurance

**Hearing Date:** February 28, 2023

**Decision Date:** March 6, 2023

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On November 10, 2022, the Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant stated she had access to affordable employer sponsored insurance that met minimum value standards.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant’s access to Employer Sponsored Insurance (“ESI”).

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 28, 2023.

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 P, undated )

## Massachusetts Health Connector Appeals Unit



Exhibit 2:	Appellant's Appeal Request Form	(9 PP, received	12/8/2022, 2/17/23)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 P, dated	11 /18/ 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 P, dated	1/18/ 2023)
Exhibit 5:	Health Connector's Application Summary	(3 PP, dated	11/10/ 2022)
Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated	11/10/2022)
Exhibit 7:	Health Connector's Notice of Eligibility	(8 PP, dated	11/10/2022)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	11/10/ 2022)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	12/19/ 2023)
Exhibit 10:	Email from Connectorcare to Appellant	(1 P, dated	12/9 /2022)
Exhibit 11:	Secure Email from Connectorcare to Appellant	(1 P, dated	2/16 /2023)
Exhibit 12:	Health Connector's Notice of Eligibility	(8 PP, dated	11/22/2022)
Exhibit 13:	Health Connector's Application Summary	(3 PP, dated	11/22/ 2022)
Exhibit 14:	Health Connector's Eligibility Results	(3 PP, dated	11/22/2023)
Exhibit 15:	Medicaid Household Determination	(8 PP, dated	11/22/2022)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies on November 10, 2022. (Exhibit 1, Exhibit 5, Exhibit 6, Exhibit 7).
2. The Appellant's lost the Advanced Premium Tax Credits ("APTCs") and subsidies effective December 1, 2022 and her premium increased to \$744.34 despite her income not changing. (Appellant Testimony, Exhibits 1, 2, and 7).
3. The Appellant was not found eligible for subsidized health insurance through the Health Connector because she attested that she has access to employer-sponsored health insurance("ESI") that is affordable and meets minimum value standards. (Exhibit 1, Exhibit 5, Exhibit 6, Exhibit 7, and Exhibit 9).
4. The Appellant testified she did not have access to employer sponsored coverage and the Appellant's current employer does not offer health insurance. (Appellant testimony, Exs. 1 and 2).
5. The Appellant testified she did not submit a paper application but spoke with the Connectorcare in November regarding her plan. (Appellant Testimony, Exs. 1, 5, and 6).
6. The Appellant testified she spoke with the Connector in late November and corrected the application to reflect that she was not eligible for ESI. (Appellant Testimony, Exs. 1, 9, 12-15).
7. The Appellant testified she paid the increased premium for December 2022 and was requesting a refund for the increased premium. (Appellant Testimony, Exs. 1, 2, 5-7).
8. The Appellant was eligible for and is enrolled in a Connectcare Plan with subsidies and APTC's in January, 2023. (Appellant Testimony, Exs. 1, 9, 12-15).
9. The Appellant was encouraged to contact customer service regarding a refund of the increased premium.

### ANALYSIS AND CONCLUSIONS OF LAW

## Massachusetts Health Connector Appeals Unit



The Appellant stated on her appeal request form that she was requesting a refund for the increase in premiums in December 2022 that she paid but were incorrect because her income had not changed, and she was not eligible for ESI. (Appellant Testimony).

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 health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. *See* 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2023 if the employee's required contribution for self-only coverage is 9.12 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

The Appellant attested on her application that she has access to affordable employer sponsored insurance that meets minimum value standards. (Exs. 1, 5,6, 7, and 9). Because of this, the Health Connector determined that the Appellant was not eligible to receive subsidies and APTC, which was the correct determination. The Appellant's appeal is therefore denied.

The Appellant testified at hearing that she informed the Connectcare in late November, 2022 she did not have access to employer sponsored coverage. (Exs. 1, 5,7, and 9.) The Appellant, after updating her application with the Health Connector regarding her access to employer sponsored health insurance, was again found eligible for Connectorcare plans in January 2023. (Exs. 1, 9, 12-15).

### **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

# Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA23-17981

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** February 28, 2023

**Decision Date:** March 13, 2023

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On November 8, 2022, Appellant was denied coverage for Health Connector plans with coverage ending on July 31, 2022, due to failure to verify residency.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on February 28, 2023.

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 P, undated )
Exhibit 2:	Appellant's Appeal Request Form	( 1 PP, received )
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 P, dated 12 /2/ 2022)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 P, dated 1/18/ 2023)
Exhibit 5:	Health Connector's Application Summary	( 3 PP, dated 11/8/ 2022)
Exhibit 6:	Health Connector's Eligibility Results	( 3 PP, dated 11/8/2022)
Exhibit 7:	Health Connector's Eligibility Denial	( 6 PP, dated 11/8/2022)
Exhibit 8:	Medicaid Household Determination	( 8 PP, dated 11/8/ 2022)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated 12/2/22 and 2/16/ 2023)

Exhibit 10:	Secure Email from Connectorcare to Appellant	(1 P, dated 2/16 /2023)
Exhibit 11:	Verification Residence and Income Documents submitted by the Appellant and Connector Index-Summary	( dated 11/8,14, and 30/22)
Exhibit 12	License and Financial Documents submitted by Appellant	(dated 11/8,14, and 30/22)
Exhibit 13:	Health Connector's Application Summary	(3 pages, dated 11/29/ 2023)
Exhibit 14:	Health Connector's Eligibility Results	(3 pages, dated 11/29/2023)
Exhibit 15	Request for Information from Connector	( 5PP, dated 3/9/22022)
Exhibit 16	Document Reminder Notice	( 4 PP, dated 5/8/22022)
Exhibit 17:	Health Connector's Application Summary	(3 pages, dated 11/29/ 2023)
Exhibit 18:	Health Connector's Eligibility Results	(3 pages, dated 11/29/2023)

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant testified was denied eligibility for a Connectorcare by notice on November 8, 2022 effective July 31,2022 for failure to provide proof residence. (Appellant's Testimony, Exhibits 1, 7, 9, 15, and 16).
2. Appellant testified she received the Request for Information("RFI") for residency and income dated March 9, 2022, with a June 7, 2022, deadline. (Exhibits 1, 15, Appellant's Testimony).
3. Appellant testified she received the Document Reminder Notice dated May 8, 2022, 2022 with a June 7, 2022, deadline. (Exhibits 1, 16, Appellant's Testimony).
4. Both the RFI and Reminder Notice referenced that coverage could be lost if the documents were not submitted by the June 7, 2022, deadline. (Exhibits 1, 15, and 16).
5. Appellant testified she did not submit any requested documents by the June 7, 2022, deadline. (Appellant's Testimony).
6. Appellant testified she received the RFI and Reminder Notices but was unable to produce the requested documents by the due date. (Appellant's Testimony).
7. Appellant testified she did not realize that she would become ineligible for coverage if she did not submit the documents by the deadline. (Appellant's Testimony).
8. Appellant testified she has been living at the current address where she received the Request for Information and Document Reminder Notices. (Appellant's Testimony, Exs. 1, 15 and 16).
9. I credit the Appellant testimony that she mailed requested proof of residency documents including a license and bank statements to the Connector in November 2022. (Appellant's Testimony, Exhibits 1, 11 and 12).
10. Appellant testified she never received notice that she was terminated from Connectorcare and did not know that she no longer had coverage until she had attempted to obtain a covered service in July 2022. (Appellant's Testimony).
11. Appellant testified she received the Denial Notice dated November 8, 2022, at the same address which was mailed to the same address as the Request for Information and Document Reminder Notices. (Appellant's Testimony).
12. Appellant testified she should have received notice from the Connector prior to her learning that she was no longer covered on 7/31/2022. (Appellant's Testimony).

13. Appellant testified that she was not able to obtain coverage until January 2023 after she had submitted Residency documents. (Appellant's Testimony).
14. Appellant testified that she had out of pocket co pays and needed services for which she did not have coverage. (Appellant's Testimony).
15. Appellant testified that she will be penalized with her taxes for not having insurance as a result of her not receiving notification. (Appellant's Testimony, Exhibits 1 and 9).
16. Appellant submitted residency documents on November 8 and 14, 2022 that were not acceptable for proof and submitted additional documents on November 29, 2022 that were proof of residency. (Exhibits 1, 9, 11, 12, 16 and 17).
17. Appellant became eligible for a Connectcare Plan with Advanced Premium Tax Credits ("APTC's") and Appellant is enrolled in January 2023. (Appellant's Testimony, Exs. 1, 9,17, and 18).

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

The Appellant was found ineligible for Health Connector Plans based on failing to verify residency. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d). Where the Health Connector cannot verify applicants' residency electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

The Appellant was determined ineligible for Health Connector plans effective July 31, 2022, because the Appellant failed to submit residence verifications pursuant to a request for information she received on March 9, 2022 and a document reminder notice dated May 8, 2022, with the documents due by June 7, 2022. The Appellant testified she did not send any documents in by the June 7, 2022 deadline. (Appellant's testimony, Exs. 15 and 16). The Connector determined that the Appellant failed to send in documents verifying her residency and was determined ineligible for Health Connector plans on July 31, 2022. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f) and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

Given the above, therefore, based upon the totality of the evidence in the record, it is concluded that the Connector's determination on November 8, 2022, regarding the appellants' eligibility for Health Connector Plan was correct and 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 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

**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 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 23-18017

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit (APTC's).

**Hearing Date:** March 3, 2023

**Decision Date:** March 28, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 28, 2022, the Appellant was advised that he was determined eligible for ConnectorCare with subsidies and Advanced Premium Tax Credits ("APTC's"). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan with subsidies and APTC's based on the income used in the Health Connector's verification process.

### HEARING RECORD

The Appellant and the Appellant's authorized representative appeared at the hearing, which was held by telephone on March 3, 2023, and testified under oath. The Appellant's authorized representative testified at the hearing. The hearing record consists of testimony and the following documents which were admitted into evidence without objection:

### FINDINGS OF FACT

The record shows, and I so find:

Exhibit 1:	Health Connector’s Hearing Record Affidavit	( 1 P, undated )
Exhibit 2:	Appellant’s Appeal Request Form	(6 PP, received 12/9/2022)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 P, dated 1/12/ 2023)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	( 1 P, dated 2/10/ 2023)
Exhibit 5:	Health Connector’s Application Summary	(3 PP, dated 10/28/ 2022)
Exhibit 6:	Health Connector’s Eligibility Results	(3 PP, dated 10/28/2022)
Exhibit 7:	Health Connector’s Notice	(9 PP, dated 10/28/2022)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated 10/28/ 2022)
Exhibit 9:	Health Connector’s Appeals Unit Staff Notes	(1 P, dated 2/13/ 2023)
Exhibit 10:	Authorization Representative Form and 2020 Tax Returns	(35 PP, dated 10/25/2022)
Exhibit 11:	Connector Manual Verified Income	(4 PP, dated 10/25 /2022)
Exhibit 12:	NPP Warning Non-Payment	(2 PP, dated 10/29 /2022)
Exhibit 13:	Health Connector’s Application Summary	(3 PP, dated 3/31/ 2022)
Exhibit 14:	Health Connector’s Eligibility Results	(3 pages, dated 3/31/2022)
Exhibit 15:	Health Connector’s Application Summary	(3 pages, dated 11/26/ 2022)
Exhibit 16:	Health Connector’s Eligibility Results	(3 pages, dated 11/26/2022)
Exhibit 17:	Medicaid Household Determination	(8 PP, dated 11/26/ 2022)
Exhibit 18:	Notice of Late Appeal	(1P, dated 12/9/2022)
Exhibit 19:	Notice of Late Appeal	(1P, dated 12/9/2022)
Exhibit 20:	Notice of Dismissal Late Appeal	(1P, dated 12/29/2022)

The record was left open until April 3, 2023, for the Appellant to submit 2019-2022 tax returns. The Appellant submitted 2019-2021 tax returns marked as Exhibits 21-23.

Exhibit 21:	2019 Tax Returns	(36 PP, dated 3/8/2023)
Exhibit 22:	2020 Tax Returns	(34 PP, dated 3/8/2023)** <sup>1</sup>
Exhibit 23:	2021 Tax Returns	(34 PP, dated 3/8/2022)

1. The Appellant is eligible for and enrolled in Connectcare Plan Type 3B since October 1, 2022. (Exhibits 1 and 9).
2. At one time the Appellant was enrolled in Connectorecare Plan Type 2B and the premium was \$2.48 per month. (Testimony, Exhibits 1,5-9).
3. The Appellant’s income was verified on October 28, 2022. (Testimony, Exhibits 1,9).
4. On October 28, 2022, the Health Connector’s verification determination was based on a manual verification of income documents including tax returns submitted by the Appellant which determined an income equivalent to 279.03 % of the Federal Poverty Level(“FPL”). (Exhibits 1, 5-6, and 10-11).
5. This determination was based on manual verified income of \$3,735.25 per month and attested income of \$3,207.42 per month. (Testimony, Exhibits 1, 5-8).

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<sup>1</sup> Appellant had submitted the 2020 tax returns on October 25, 2022 which is referenced as Exhibit 10 of the Record.

6. The Appellant's representative testified that the Appellant did not know the amount of the income that was attested to in October 2022 and used to make the determination. (Testimony, Exhibits 1, 6, and 13).
7. The Appellant's representative testified that the Appellant does not have any of the 2022 income where the tax returns have not been completed. (Testimony).
8. The Appellant's representative testified that the Appellant did not know the amount of his 2022 income (Testimony, Exhibits 1 and 2).
9. The Appellant's representative testified she had submitted to the Connector several documents including 2019-2021 tax returns approximately one week prior to the hearing at a Health Connector walk in location on Portland Street in Boston. (Testimony).
10. The Appellant's representative requested that she be able to submit additional prior tax returns and the record was left open for her to submit those returns. (Testimony, Exhibits 1,9, 10, 12, 13 and 21-23).
11. Any documents that were submitted by the by the Appellant one week prior to the Appeal and documents and those documents submitted by the Appellant after the hearing are not part of this appeal because the only issue to be decided was whether the Connector's income determination on October 28, 2022, was correct and properly verified. (Exhibits 1, 6,7, 10, and 21-23).
12. This appeal only addresses the issue of the Connector's eligibility determination on October 28, 2022, including only those documents that were submitted by the Appellant on October 25, 2022, as well as the attestation in manually verifying the Appellant's income. (Exhibits 1, 6, and 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant is eligible for and enrolled in Connectcare Plan Type 3B since October 1, 2022. (Exhibits 1 and 9). At one time the Appellant was enrolled in Connectorecare Plan Type 2B and the premium was \$2.48 per month. (Testimony). The Appellant's income was verified on October 28, 2022 wherein the Appellant attested to \$3,207.42 per month. (Testimony, Exhibits 1 and 5). The Appellant asserts that this determination is incorrect and that based on his 2019-2021 income the premium should not have increased from the \$2.48 per month (Testimony). The Appellant sent in 2020 tax returns on October 25, 2022, which were used in the Connector's manual determination of an 279.03 % of the Federal Poverty Level("FPL") (Testimony, Exhibits 1,5-7, 9-13).

The Appellant's representative asserts that this increased premium is incorrect and the Appellant should not have to pay same where his income only slightly changed from 2019 and she sent in these documents three 3 times. (Testimony, Exhibits. 1 and 2). The Appellant was found eligible for ConnectorCare with subsidies beginning in October 2022 based on the Health Connector's determination that used an income and family size based on manual verified income of \$3,735 per month and attested income of \$3,207.42 per month. (Testimony, Exhibits 1, 5-8).

The Connector's notice on October 28, 2022, asked the Appellant to review this information and report any changes within 30 days if it was incorrect. (Exhibit The Appellant did not report any changes after receiving the eligibility notice. This is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that his manual verified income. (Exhibits 1,5-7). This was used to determine a household income equivalent to 279.03 % of the Federal

Poverty Level. (Exhibits 1, 5-6). 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. I find the Appellant's income was properly verified according to the above regulations.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 28, 2022, regarding the Appellant's eligibility for Health Connector Plans with subsidies was correct. The Appellant was advised to call Customer Service and the Appeals Unit to report any changes in income or any other information on her application.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 23-18052

**Appeal Decision:** Appeal denied

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

**Hearing Date:** March 8, 2023

**Decision Date:** March 15, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated October 11, 2022, the Appellant was advised determined eligible for ConnectorCare with Advanced Premium Tax Credits ("APTC's). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7)

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan with subsidies based on the income used in the Health Connector's verification process.

### HEARING RECORD

The Appellant and his mother, an authorized representative, appeared at the hearing, which was held by telephone on March 8, 2023, and testified under oath. The Appellant testified at the hearing. The hearing record consists of testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 P, undated )
Exhibit 2:	Appellant's Appeal Request Form	( 6 PP, received 12/12/2022)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 P, dated 2 /4/ 2023)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 P, dated 2/13/ 2023)
Exhibit 5:	Health Connector's Application Summary	( 3 PP, dated 10/11/ 2022)

Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated	10/11/2022)
Exhibit 7	Health Connector's Final Renewal Notice	(8 PP, dated	10/11/2022)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	10/11/ 2022)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	2/4/ 2023)
Exhibit 10:	Email from Connectorcare to Appellant	(1 P, dated	12/14 /2022)
Exhibit 11:	Secure Email from Connectorcare to Appellant	(1 P, dated	2/4 /2023)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant had been enrolled with ConnectorCare Plan Type 2 in 2022, but his plan was changed in January 2023 for a Health Connector Plan Type 2B due to unknown income. (Testimony, Exs. 1, 5-8).
2. The Appellant testified that his income had not changed other than an hourly increase due to an increase in the minimum wage. (Appellant's Testimony, Exhibits 1 and 6).
3. The Appellant testified that the income that was attested to on the application summary was substantially more than his actual income at the time of the renewal in October 2022. (Testimony).
4. The Health Connector's determination was based on an income equivalent to 174.33 % of the Federal Poverty Level("FPL"). (Exhibits 1, 5-6).
5. The Appellant testified he received the final renewal notice which also instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. (Exhibits 1 and 7).
6. The Appellant testified he did not contact the Connectorcare after he received the renewal notice regarding the new plan until the appeal. (Appellant's Testimony).
7. The Appellant was encouraged to call Connectorcare and report any changes in income.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans with subsidies but his plan changed effective January 1, 2023. The Appellant asserts that his income did not change other than an increase in his hourly pay as a result of the minimum wage increase. (Testimony). The Appellant testified that although his premium for the new plan did not increase the plan should not have changed because his plan because income effectively stayed the same. (Testimony The Appellant testified he did not speak with the Connectorcare after receiving the renewal notice. The Appellant also did not report a change to his income after receiving the final renewal notice and has been paying the new premium for the new plan for which he is enrolled. (Testimony, Exs. 1,5-7).

The Appellant asserts that this renewal eligibility determination and assignment in the new plan is incorrect where his income did not effectively change. The Appellant was found eligible for ConnectorCare with subsidies beginning in January 2023 based on the Health Connector's determination that used an income and family size equivalent to 174.33 % of the Federal Poverty Level.

The Connector's determination on October 11, 2022, asked the Appellant to review this information and report any changes within 30 days if it was incorrect. The Appellant did not report any changes after receiving the eligibility notice. This is consistent with rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on the Appellant's attestation on the application that his manual verified income. (Exhibits 1,5-7, and Testimony). This was used to determine a household income equivalent to 174.33 % of the Federal Poverty Level. (Exhibits 1, 5-6). 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. I find the Appellant's income was properly verified according to the above regulations.

Based upon the totality of the evidence, it is concluded that the Connector's determination on October 11, 2022, regarding the Appellant's eligibility for Health Connector Plans without subsidies was correct. The Appellant was advised to call Customer Service and to report any changes to her income or any other information on his application.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2023 from the federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023

(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 2023 (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 2023 will be paid to you when you file your 2023 federal income tax return.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA22-17595

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** February 9, 2023

**Decision Date:** March 29, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated April 12, 2022, the appellant was advised that he no longer qualified for a ConnectorCare Plan and Advanced Premium Tax Credit (APTC) effective on April 30, 2022. (Ex. 11) The appellant filed an appeal which was received on October 3, 2022. (Ex. 13) The matter was referred to a hearing after receipt of the appeal. (Ex. 23)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for ConnectorCare Plans with APTC on April 12, 2022, correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 9, 2023, and testified under oath. He was represented by an attorney. 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 July 25, 2022 (2 pages)
- Ex. 2-- Health Connector's Review of Application (3 pages)
- Ex. 3—Health Connector's Notice of Eligibility Termination dated July 25, 2022 (6 pages)
- Ex. 4—Medicaid Household Determination Document (6 pages)
- Ex. 5—Health Connector's Eligibility Determination Results showing a program determination date of February 12, 2022 (2 pages)

- Ex. 6—Health Connector’s Review of Application (3 pages)
- Ex. 7—Health Connector’s Request for Information dated November 8, 2021 (5 pages)
- Ex. 8—Health Connector’s Reminder Notice dated February 16, 2022 (3 pages)
- Ex. 9—Health Connector’s Eligibility Determination Results based on a program determination date of April 12, 2022 (2 pages)
- Ex. 10—Health Connector’s Review of Application (3 pages)
- Ex. 11—Health Connector’s Notice of Eligibility Termination dated April 12, 2022 (6 pages)
- Ex. 12—Health Connector’s Notice of Unacceptable Proof dated May 2, 2022 (7 pages)
- Ex. 13—Online Appeal Form received on October 3, 2022 (6 pages)
- Ex. 14—Acknowledgment of Appeal dated November 1, 2022 (1 page)
- Ex. 15—Health Connector’s Notice of Dismissal of Appeal dated October 6, 2022 (1 page)
- Ex. 16—Appellant’s Appeal of Health Connector’s Dismissal dated October 17, 2022 (9 pages)
- Ex. 17—Health Connector’s Notice of Invalid Appeal dated October 27, 2022 (1 page) <sup>1</sup>
- Ex. 18—Authorized Designated Representative Form dated February 1, 2023 (1 page)
- Ex. 19—My Workspace Document dated July 1, 2022 (2 pages)
- Ex. 20—My Workspace Document dated May 2, 2022 (2 pages)
- Ex. 21—Affidavit of Residence received on July 1, 2022 (2 pages)
- Ex. 22-- Appeals Unit case notes (1 page)
- Ex. 23—Notice of Hearing (3 pages)
- Ex. 24—Affidavit of Connector representative (1 page)

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

- Ex. 25—Health Connector customer service log of communications with the appellant for the period of 5/4/2022-6/23/2022 (15 pages)
- Ex. 26—Log of communications with MassHealth customer service and the appellant for the period of April 29, 2022-May 24, 2022 (1 page)
- Ex. 27—Health Connector Response to Open Record Request undated (1 page)
- Ex. 28—Appellant’s Post-Hearing Memorandum dated March 6, 2023 (18 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 65-years-old, is single, and has a tax household size of one. (Testimony, Exs. 2,6,10)
2. The appellant moved to Massachusetts in October, 2021, and enrolled in health insurance with MassHealth at some point thereafter. (Testimony)
3. By notice dated November 8, 2021, the Health Connector advised the appellant that it needed more information to verify that he qualified for insurance coverage. He was further advised to submit proof of residence and proof of income by February 6, 2022. The notice contained a list of acceptable documents including a notarized affidavit supporting residency in the category of residence proof. (Ex. 7)
4. It is not known whether the appellant received the November 8, 2021, notice. (Testimony)

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<sup>1</sup> The exhibits on the Hearing Attendance Sheet were misnumbered beginning with Exhibit 17.

5. By notice dated February 12, 2022, the appellant was advised that he was determined eligible for ConnectorCare Plan Type 2B with an APTC of \$625.00/month effective March 1, 2022. The appellant enrolled in a plan effective on March 1, 2022. (Testimony, Ex. 5)
6. By notice dated February 16, 2022, the Health Connector notified the appellant that proof of residency was due on March 18, 2022, and that failure to submit the requested information could result in the end of his health plan or loss of financial help with his insurance. The notice contained a list of acceptable documents including an affidavit of residency signed under the penalties of perjury which did not have to be notarized. (Ex. 8)
7. The appellant did not respond to the notice of February 16, 2022. (Testimony)
8. By notice dated April 12, 2022, the Health Connector advised the appellant that that he did not qualify for ConnectorCare Plan Type 2B with APTC as of April 30, 2022, because it did not receive the proof of residence it requested to verify his eligibility to purchase insurance pursuant to 45 CFR 155.315(f). The notice further advised the appellant that if he submitted the requested documentation on or before May 17, 2022, and it was approved, he could request retroactive reinstatement of his plan. (Testimony, Exs. 9,11)
9. The November 8, 2021, February 16, 2022 and April 12, 2022, Connector notices were sent to the same address. (Exs. 7,8,11)
10. On April 29, 2022, the appellant contacted MassHealth customer service about his termination notice and was advised how to submit paperwork and also "self attest". (Testimony, Ex. 26)
11. The appellant uploaded a copy of his car insurance and a bank statement to his application which was received and processed by the Connector on May 2, 2022. On that same date, the Connector determined that the documentation was unacceptable. (Testimony, Ex. 12)
12. On May 4, 2022, the Connector advised the appellant that the documentation he submitted was unacceptable and referred him to SOP 45 for "acceptable documents of address". (Exs. 25,27)
13. On May 10, 2022, the appellant contacted MassHealth customer service about the proof of residence that was rejected by the Connector, and was "educated" on acceptable documentation of residence. (Ex. 26)
14. The appellant uploaded residence documentation (car insurance and bank statement) to his application a second time. (Testimony)
15. On May 13, 2022, the appellant contacted MassHealth customer service and was advised that his residence documents could not be located. He was further advised that he could submit a self-attested letter of residence. (Ex. 26)
16. On May 17, 2022, the appellant contacted MassHealth customer service and was advised that it had not received a "self attestation form for address". He was provided with a mailing address to submit his documentation. (Ex. 26)
17. On June 23, 2022, the appellant contacted customer service at the Health Connector and was advised that no new residence documents had been received. The appellant indicated that he planned to submit acceptable documents and was provided with a mailing address. (Ex. 25)

18. On July 1, 2022, the Connector received a notarized statement of residence from the appellant. (Exs. 19,21)
19. By notice dated July 25, 2022, the Health Connector advised the appellant that he did not qualify for health insurance coverage through the Connector because he either had access to or was enrolled in Medicare. (Ex. 3)
20. The appellant appealed the Connector's April 12, 2022, determination on October 3, 2022, and stated in part that he had submitted adequate proof of residence which was rejected. (Ex. 13)
21. By letter dated October 6, 2022, the Connector advised the appellant that his appeal was not accepted because it was submitted late. The letter further stated that appeals must be filed within 30 days of receipt of the notice on appeal. (Ex. 15)
22. The appellant filed an appeal of the October 6, 2022, determination which was received by the Connector on October 26, 2022. The appellant stated in part that he submitted several proofs of residence, all of which were not accepted except for the last. He stated that after his last submission, he was advised to remit \$60.32 and his insurance for the month of May would be reinstated. He stated that customer service should have verified his address over the phone pursuant to "pandemic protocol". He stated that he started calling to rectify the situation after he was notified of the April 12, 2022, decision, and was advised that he did not have to appeal because he was actively trying to rectify the issue. Finally, he stated that the October 3, 2022, appeal was a "farce" because he never "received a copy". He requested that he be reimbursed for payment of two medical bills he incurred in May, 2022, in the amounts of \$79.00 and \$647.84. (Ex. 16)
23. By letter dated October 27, 2022, the Health Connector notified the appellant that his appeal was dismissed because it was not filed within 30 days of the date of the notice of his eligibility determination pursuant to 45 CFR section 555.505(b). (Ex. 17)
24. At some point thereafter, the Connector vacated the dismissal and scheduled the appeal for a hearing. (Ex. 23)

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

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

The Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by the applicant, including the applicant's income, in accordance with 45 CFR 155.320(d). When the Connector cannot verify an applicant's information electronically, it requests verifying information, in accordance with 45 CFR 155.315(f). If an applicant does not provide verifying information, the Health Connector will revert to electronic data sources, and issue a new eligibility determination, in accordance with 45 CFR 155.315(f).

According to the appellant's testimony, he initially had health insurance with MassHealth after he moved to Massachusetts in October, 2021. Subsequently, by letter dated November 8, 2021, the Health Connector advised him that it needed more information, specifically proof of residence and income, in order to determine if he was qualified for insurance coverage. The letter stated that the proof was due on or before February 6, 2022, and contained a list of acceptable documents in the category of residence proof, including a notarized affidavit of residency. The appellant testified that he did not receive the November 8<sup>th</sup> letter and did not submit the requested proof. On February 12, 2022, the appellant was determined eligible for ConnectorCare Plan Type 2B with APTC effective March 1, 2022. By letter dated February 16, 2022, the Health Connector notified the appellant that proof of residence was due on or before March 18, 2022, and that failure to submit the requested documentation could result in the end of his coverage. The letter contained a list of acceptable documents in the category of residence proof including an affidavit of residency which did not have to be notarized. The appellant testified that he did not respond to the notice. By notice dated April 12, 2022, the Connector advised the appellant that he no longer qualified for ConnectorCare insurance as of April 30, 2022, because he had not submitted the requested proof of residence needed to verify his eligibility to purchase insurance. The notice further advised the appellant that if he submitted the requested information on or before May 17, 2022, and it was accepted, he could request retroactive reinstatement of his plan. Beginning on April 29, 2022, and continuing through June 23, 2022, the appellant made several calls to customer service at the Health Connector and MassHealth regarding the termination notice and submission of residence proof. On two occasions in May, 2022, he uploaded a copy of his bank statement and car insurance to his application which was rejected on the grounds that it was unacceptable proof. On July 1, 2022, he submitted a notarized statement of residence. On July 25, 2022, the Health Connector advised the appellant that he was not eligible for health insurance because he either had access to or was enrolled in Medicare.

The first issue to consider is the appellant's knowledge of the Connector notices regarding proof of residence. He testified that he did not receive the November 8<sup>th</sup> notice and did not respond to the February 16<sup>th</sup> notice. There is no dispute that he received the April 12<sup>th</sup> notice regarding the termination of his insurance inasmuch as he began a series of telephone inquiries on April 29<sup>th</sup> to determine what type of documentation was required for proof of residence. The appellant's credibility regarding the November 8<sup>th</sup> notice was weakened by the fact that he received the April 12<sup>th</sup> notice and seemed to imply that he also received the February 16<sup>th</sup> notice, and simply chose to ignore it. All of the notices were sent to the same address, and it is curious that the appellant selectively acknowledged some, but not all, of them. Accordingly, it is concluded that the evidence demonstrates that the appellant received both the notices in question and the Connector's decision to terminate his insurance on April 30, 2022, based on an absence of required documentation, was correct.

The second issue concerns the type of documentation the Connector requested from the appellant as proof of residence. The appellant argues in his post-hearing memorandum that Eligibility Operations Memo 21-17, dated November 2021, permitted the Connector to accept self-attestation of certain eligibility factors including residence. The memo in question pertains to MassHealth and its ongoing response to Covid 19, and indicates that MassHealth could continue to accept self-attestation of residence if verification was not available through electronic data sources or if the individual could not produce documentation due to the pandemic emergency. While MassHealth and the Health Connector are often confused and used interchangeably, they are two separate agencies with separate rules and policies that serve different population groups. The Health Connector was not bound by the cited memo in that it was promulgated only for MassHealth. The Health Connector's requirements for proof of residence were clearly set forth in the list of acceptable documents attached to the November 8<sup>th</sup> and February 16<sup>th</sup> notices. It is noted that the November 8<sup>th</sup> notice lists a notarized affidavit of residence as an option and the February 16<sup>th</sup> notice lists an affidavit of residence which did not have to be notarized as an option. It is not known why the requirement for notarization was dropped between the two notices, but the appellant is estopped

from claiming that notarization was still required by the time his insurance was terminated. Furthermore, there is no provision on the list for an insurance or credit card statement. Nonetheless, the appellant submitted copies of those documents to the Connector on two occasions in his initial response to the termination of his insurance, and they were deemed unacceptable.

The appellant maintains that he self-attested to his residence in a phone conversation with a MassHealth customer service representative on April 29, 2022, and that no further requests for proof of residence should have been made. Once again, the appellant fails to distinguish between MassHealth and the Health Connector and has mistaken MassHealth requirements for those of the Health Connector. The logs of communications that were produced in response to the Open Record Request indicate that the appellant was communicating with both MassHealth and the Health Connector subsequent to the loss of his insurance. (He had a separate appeal with the MassHealth Board of Hearings which was heard on October 3, 2022 relative to the Medicare determination.) While some confusion is understandable given the parallel conversations, there is no evidence in any of the conversations with the Health Connector customer service representatives that he was advised that he could self-attest to his residence. Au contraire, on May 4<sup>th</sup>, the Health Connector referred the appellant to SOP 45 for an acceptable list of proof. It was not until July 1<sup>st</sup> that the appellant submitted a notarized affidavit of residence to the Connector, a form of proof that he chose but was not required. At that point, he was well beyond the May 17<sup>th</sup> date for receipt of acceptable documentation and a possible reinstatement of his plan.

The appellant had multiple opportunities to avoid the termination of his insurance and to have it reinstated. The Health Connector provided substantial and credible evidence which established that on each occasion, he either ignored the Connector's notices or its guidelines for submission of acceptable proof of residence. Had he read the February 16<sup>th</sup> notice, he could have submitted an affidavit of residence that did not require notarization and retained his insurance. Likewise, he could have done the same to have it restored.

Based upon the totality of the evidence, it is concluded that since the appellant failed to submit the requested residence information by the required date, the Connector relied on other data it had available from other sources to issue its determination. Accordingly, the Connector's determination on April 12, 2022, regarding the appellant's lack of eligibility for a ConnectorCare Plan with APTC 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

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Denial of eligibility based on household income.

**Hearing Date:** March 23, 2023

**Decision Date:** March 29, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set 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 17, 2023, that he was not eligible for financial assistance to purchase health insurance plans through the Health Connector because his reported 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 financial assistance to purchase health insurance plans through the Health Connector.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on March 23, 2023. The hearing was conducted with the assistance of an interpreter. The hearing record consists of testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (1/21/23) (5 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Denial Notice (1/17/23) (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 (6 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Email from Health Connector to Appellant (1/21/23) (1 page)
- Exhibit 9: Email exchange with Appellant (2 pages)
- Exhibit 10: Screen shot of eligibility determination (9/10/21) (2 pages)
- Exhibit 11: Screen shot of application summary (9/10/21) (3 pages)
- Exhibit 12: Notice of Appeal Hearing (2/15/23) (3 pages)
- Exhibit 13: Transmittal of senior MassHealth application (1 page)
- Exhibit 14: Senior MassHealth application (42 pages)
- Exhibit 15: Acknowledgement of Appeal (1 page)

## FINDINGS OF FACT

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

The record shows, and I so find:

1. Appellant is a single individual living in Suffolk County. Exhibit 1.
2. Appellant is 66 years old. Exhibit 1.
3. Appellant is a green card holder, which means he has legal permanent resident status in the United States. Exhibit 4. He obtained that green card in 2017.
4. Appellant applied for subsidized health insurance in August 2021. Exhibit 10. At that time, he reported that he had no income. Exhibit 11. Based on the information in his application, he was determined eligible for Connector Care, which is a program of state-subsidized health insurance for low-income individuals. Exhibit 10.
5. In January 2023, Appellant's eligibility was re-determined. At that time, he was determined not to be eligible for subsidized health insurance. Exhibits 4,5.
6. Appellant was notified of that determination by notice sent on January 17, 2023. Exhibit 3. The notice gave, as a reason for the eligibility denial, the fact that Appellant's reported income was below the federal poverty line. Exhibit 3.
7. Appellant filed a timely appeal of that determination. Exhibit 1.
8. At the hearing, Appellant stated that he is a single individual with no tax dependents.
9. He further stated that he made no income.

## CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible for financial assistance to purchase health insurance plans through the Health Connector because his income was below the federal poverty limit.

## Massachusetts Health Connector Appeals Unit



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 federal poverty line 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 2023, the federal poverty line for a household of one person, like Appellant’s, is \$14,580. *See* Federal Poverty Level Chart (available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.)

As a consequence of these federal statutes, persons with incomes below \$14,580 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 the income he reported in his application is zero, which of course is below the federal poverty line. He confirmed at the hearing that he did not earn income. The Health Connector is governed 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 reported income was below the federal poverty line. Further, because Appellant was not eligible for APTCs, he 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 federal poverty line would qualify for Medicaid, a joint federal-state program of free health care coverage for low-income persons.

Appellant may be eligible to receive MassHealth, which is the Medicaid program in Massachusetts. Persons over 65 may apply for MassHealth by submitting a written application detailing their income and assets. The Health Connector notified Appellant of this fact and sent him a copy of the MassHealth application, which he acknowledged receiving. Exhibits 8, 9, 13, 14. Appellant may also obtain a copy of the application at this website: [download \(mass.gov\)](https://www.mass.gov). If Appellant needs assistance in completing the application, he can seek the help of an enrollment assister, who has been certified by MassHealth to provide assistance in applying for that program. A list of enrollment assisters can be found at this website: [Enrollment Assister Search – Massachusetts Health Connector \(mahealthconnector.org\)](https://www.mass.gov). Finally, Appellant can seek assistance from SHINE (“Serving the Health Insurance Needs of Everyone”), a program available to assist seniors in obtaining health insurance. The number to call SHINE is 1-800-243-4636.

I note that, when Appellant first applied for subsidized health insurance in September 2021, he was determined eligible for Connector Care. Exhibit 11. The reason he was eligible for Connector Care in September 2021 but not

eligible for it in January 2023 has to do with his green card status. Under federal Medicaid law, an individual is not eligible for Medicaid if that person has had legal permanent resident status in the United States, e.g., a green card, for fewer than five years. 8 U.S.C. § 1613. As a result, the ACA provides that individuals who have been legal permanent residents for fewer than five years *are* eligible for APTCs under the ACA even if they have income below the federal poverty line, because they cannot get Medicaid. See 26 U.S.C § 36B(c)(1)(B). At the time Appellant applied for subsidized health insurance in September 2021, he had been a green card holder for fewer than five years; thus, he was not eligible for Medicaid and could, under the ACA, receive APTCs (and consequently could receive Connector Care.) However, as of January 2023, he had held his green card for longer than five years. Thus, at that point, his immigration status permitted him to receive Medicaid and so, under the ACA, he was no longer eligible to receive APTCs.

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: ACA23-18181

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** March 6, 2023

**Decision Date:** March 22, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated December 2, 2022, the appellants (husband and wife) were advised that they were eligible for a ConnectorCare Plan with an Advanced Premium Tax Credit (APTC) effective on January 1, 2023. (Exs. 1,3) The appellants filed an appeal dated December 19, 2022. (Ex. 11) The matter was referred to a hearing after receipt of the appeal. (Ex. 18)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for a ConnectorCare Plan with an APTC on December 2, 2022, correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant husband appeared at the hearing which was held by telephone on March 6, 2023, 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 2, 2022 (4 pages)
- Ex. 2—Health Connector's Review of Application (6 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated December 2, 2022 (8 pages)
- Ex. 4—Medicaid Household Determination Document (8 pages)

- Ex. 5—Health Connector’s Eligibility Determination Results based on a program determination date of August 26, 2022 (4 pages)
- Ex. 6—Health Connector’s Review of Application (5 pages)
- Ex. 7—Health Connector’s Request for Information dated August 26, 2022 (6 pages)
- Ex. 8—Health Connector’s Reminder of Documents Needed dated October 25, 2022 (4 pages)
- Ex. 9—Health Connector’s Eligibility Determination Results based on a program determination date of October 29, 2022 (4 pages)
- Ex. 10—Health Connector’s Review of Application (5 pages)
- Ex. 11—Hearing Request Form dated December 19, 2022 (2 pages)
- Ex. 12—Acknowledgment of Appeal dated January 3, 2023 (1 page)
- Ex. 13—Appellant husband’s 2022 Quarterly Income and Expenses (1 page)
- Ex. 14—Income detail for Appellant wife (3 pages)
- Ex. 15—Income detail for Appellant husband (4 pages)
- Ex. 16—Health Connector’s email dated January 3, 2023 (1 page)
- Ex. 17-- Appeals Unit case notes (1 page)
- Ex. 18—Notice of Hearing (3 pages)
- Ex. 19—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant husband and wife are both 43-years-old and have one minor child. They have a tax household size of three. (Testimony, Exs. 2,6,10)
2. By notice dated August 26, 2022, the appellants were determined eligible for ConnectorCare Plan Type 3B with an APTC of \$717.00/month effective October 1, 2022. By letter of the same date, the Connector advised the appellants that it needed proof of income by November 24, 2022, and attached a list of acceptable income documents. One of the items listed under the category of proof of self-employment documents is a signed and dated most recent quarterly or year-to-date profit and loss statement. (Testimony, Exs. 5,7)
3. By letter dated October 25, 2022, the Connector reminded the appellants that their proof of income was due on November 24, 2022. (Ex. 8)
4. By notice dated October 29, 2022, the appellants were determined eligible for ConnectorCare Plan Type 2B with an APTC of \$771.00/month effective January 1, 2023. They were advised of an active request to submit proof of income. (Ex. 9)
5. On the application on which the October 29<sup>th</sup> determination was based, the appellant husband projected his annual income from self-employment to be \$12,000.00 and the appellant wife projected her annual income to be \$32,086.00. (Testimony, Ex. 10)
6. On November 30, 2022, the Connector received a Pre-tax Quarterly Income and Expenses Statement from the appellant husband which indicated an annual income of approximately \$24,003.00 and annual expenses of approximately \$5974.00. (Ex. 13)
7. The Connector verified the appellant husband’s annual income to be \$24,038.00 and verified the appellant wife’s annual income to be \$34,237.00. (Exs. 14,15)

8. By notice dated December 2, 2022, the appellants were determined eligible for ConnectorCare Plan Type 3B with an APTC of \$631.00/month effective January 1, 2023. They enrolled in a plan beginning on January 1<sup>st</sup> and are paying a monthly premium of \$205.48. (Testimony, Ex. 3)

9. The appellants appealed the Connector's December 2, 2022, determination on December 19, 2022, based on income and a premium waiver/reduction. They stated in part that although their income had not changed, their premium was significantly increased and their APTC was reduced, making the increase unsubstantiated. (Testimony, Ex. 11)

10. The appellant husband believes that the Connector did not use the correct number from his Income and Expenses Statement to calculate his annual income, particularly since the number provided did not take income taxes into consideration. He maintained that his monthly income after taxes is approximately \$1583.00. He also indicated that his wife's 2022 W-2 Wage and Tax Statement reflects that her income was \$28,546.00. (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. As a result of the federal American Rescue Plan, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

The appellants maintain that the Connector did not use the correct financial information to reach its December 2<sup>nd</sup> eligibility determination. They argue that in the case of the husband, the information provided on his quarterly income and expenses statement is an incomplete picture of his annual income since tax information is not included in that number. They further argue that in the case of the wife, her 2022 income reported on her W-2 statement is lower than the annual income number of \$34,237.00 used by the Connector to calculate her annual income.

The Connector used the financial information submitted by the appellants on or before December 2, 2022, to reach its determination. It is unfortunate that those submissions were insufficient to prove their qualification to enroll in the plan for which they were approved on October 29, 2022, and resulted in a redetermination of their eligibility. However, based upon the totality of the evidence, it is concluded that the Connector's determination on December 2, 2022, regarding the appellants' eligibility for ConnectorCare Plan Type 3B with APTC of \$631.00/month 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 or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line at 1-877-369-0130. The mailing address is: Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellants were advised to update their application with current income information and/or to contact customer service at 1-877-623-6765 for assistance.

The appellants are further advised to consult the Health Connector regulation at 956 CMR 12.12(7) for information on the premium waiver/reduction process and whether they qualify to file an application.

## Massachusetts Health Connector Appeals Unit

### FINAL APPEAL DECISION: ACA2318223

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income

**Hearing Date:** March 8, 2023

**Decision Date:** March 13, 2023

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#### AUTHORITY

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

#### JURISDICTION

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

#### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 7, 2022, the Appellant was determined eligible for Health Connector plans with Advanced Premium Tax Credit (APTC) based on a household income equivalent to 302% of the Federal Poverty Level.

#### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans with Advanced Premium Tax Credit (APTC), based on the information provided on the application.

#### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 8, 2023.



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

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (2-14-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (1-9-23) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (1-6-23) (2 pages);
- Exhibit 6: Eligibility approval letter (12-7-22) (8 pages);
- Exhibit 7: Eligibility detail printouts and application summary printouts (14 pages); and
- Exhibit 8: Medicaid Household Determination (7 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant applied for subsidized health insurance through the Health Connector on December 7, 2022. (Exhibit 6, Exhibit 7)
2. The appellant has a tax household size of two. (Exhibit 6)
3. On the application, the appellant entered the income for both appellant and appellant's spouse, as required. (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 approximately 302% of the 2023 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidies under the ACA are available to individuals whose household income is below 400% FPL but would not be eligible for additional subsidized coverage through the state's ConnectorCare program, because subsidized coverage through the state's ConnectorCare program is available only to individuals whose household income is below 300% FPL. (Exhibit 6, Exhibit 7)
5. The Health Connector correctly found that the Appellant was ineligible for subsidized health insurance because the appellant's self-attested projected income placed his household at greater eligible for Health Connector Plans with Advance Premium Tax Credits. (Exhibit 6, Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. 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 the application, the Appellant stated that projected income that equated to approximately 302% of the FPL. This means the Appellant qualified for federal APTC but did not qualify for additional state subsidies.

# Massachusetts Health Connector Appeals Unit



The Health Connector correctly found that the Appellant was eligible for Health Connector plans with APTC on December 7, 2022, 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 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.

Cc: Connector Appeals Unit

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## ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

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

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

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

## Massachusetts Health Connector Appeals Unit

### FINAL APPEAL DECISION: ACA2318246

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, non-tax filer; Medicare

**Hearing Date:** March 8, 2023

**Decision Date:** March 13, 2023

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#### AUTHORITY

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

#### JURISDICTION

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

#### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on January 25, 2015. The Health Connector determined the Appellant to be eligible for Health Connector plans with no financial assistance based on Appellant stating on application that they were a non-tax filer. Appellant's spouse was determined to be ineligible for Health Connector insurance based on being eligible for Medicare.

#### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the appellant's tax filing status information provided on the application. The Appellant indicated that Appellant's spouse did not intend to apply for coverage.

#### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 8, 2023.

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

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (2-14-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (1-12-23) (1 page);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (1-6-23) (2 pages);
- Exhibit 6: Eligibility approval letter (1-5-23) (7 pages);
- Exhibit 7: Eligibility detail printouts and application summary printouts (7 pages); and
- Exhibit 8: Medicaid Household Determination (6 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant applied for subsidized health insurance through the Health Connector on January 5, 2023. (Exhibit 6, Exhibit 7).
2. The appellant is married and appellant's spouse also applied. (Exhibit 6, Exhibit 7, Appellant Testimony).
3. On the application, the Appellant and Appellant's spouse stated that they were not tax filers. (Exhibit 7).
4. Appellant stated during the hearing that they did file a joint tax return for 2022. Appellant also stated that Appellant's spouse did receive Medicare and was not applying for coverage through the Health Connector. (Appellant's Testimony).
5. The Health Connector found that the Appellant was eligible for Health Connector plans without subsidies, because the Appellant stated they were not tax filers. (Exhibit 6, Exhibit 7).
6. Appellant's household income equated to 96% of the Federal Poverty Level.
7. Appellant can update the application to reflect that the tax return was filed and that Appellant's spouse is not applying for coverage.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant was deemed eligible only for Health Connector plans with no financial assistance based on stating in the application that they were not a tax filer.

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).

The Appellant stated on the application that Appellant and Appellant's spouse are married but also indicated that they were not tax filers. 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 testified at hearing that they did file a joint tax return for 2022, and also that Appellant's spouse is not seeking coverage. The application can be updated with that information by Appellant contacting customer service. The Health Connector correctly found that the Appellant was not eligible for APTC or ConnectorCare, based on the information in the application.

## **ORDER**

The appeal is denied.

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

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

Cc: Connector Appeals Unit

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## **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2217710

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

### Hearing Issue:

Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Health Connector because the appellant failed to establish lawful presence.

**Hearing Date:** February 22, 2023

**Decision Date:** March 18, 2023

### 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 August 9, 2022, the Connector determined that the appellant was ineligible to purchase a Health Connector plan because of the appellant's failure to establish lawful presence in the United States.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 22, 2022. 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. Appellant testified.

The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence with no objection by the appellant:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 19, 2023 for February 22, 2023 hearing addressed to Appellant
- Exhibit 3: Appeals Unit letter to Appellant dated October 25, 2022: invalid appeal warning
- Exhibit 3a: Connector Appeals Unit letter dated November 17, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3b: Appeals Unit staff outreach notes dated October 25 2022, November 17, 2022 and November 18, 2022
- Exhibit 3c: Appeals Unit email to Appellant dated 10/25/22
- Exhibit 4: Hearing Request letters from Appellant dated October 6, 2022 and November 7, 2022
- Exhibit 5: Connector letter to Appellant dated August 9, 2022 regarding denial of eligibility

- Exhibit 5a: Connector letter to Appellant dated November 17, 2022 dismissing appeal  
Exhibit 5b: Connector letter to Appellant dated November 18, 2022 requesting immigration documents  
Exhibit 6: Summary and results of Appellant's application for Connector health plan dated August 9, 2022  
Exhibit 7: Medicaid household determination print-out, August 9, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant arrived in the United States on July 1, 2022 from her country of origin. Appellant entered the U. S. on a visitation visa. The visa is good for three years from the date of entry (Testimony of Appellant).
2. Appellant became ill shortly after arriving in the United States. She needed medical treatment and went to a hospital. While she was there, someone helped her to apply for health insurance through the Connector. The application was dated August 9, 2022 and was filled out by the person helping her. According to her application, Appellant was not a citizen of the United States and she had no document showing that she was lawfully present in the United States (Exhibit 6, Testimony of Appellant).
3. The Connector determined and notified Appellant of the determination in a letter dated August 9, 2022 that Appellant was ineligible to obtain health insurance through the Connector because the Connector had no information showing that Appellant was lawfully present in the United States. In the letter, the appellant was informed that if the information about Appellant's status was incorrect, Appellant could submit additional proof. As of the date of this hearing, no documentation was submitted to the Connector (Exhibits 5, 6, and Testimony of Appellant).
4. Appellant submitted a request for an appeal of the Connector's determination on October 6, 2022 (Exhibit 4)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on August 9, 2022 that the appellant was ineligible to purchase health insurance through the Connector. See Exhibit 5. According to her application, Appellant was not a citizen of the United States, and she had no document which would establish that she was lawfully present. See Exhibit 6 and the testimony of the appellant which I find credible.

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).

The Connector's determination denying Appellant eligibility to obtain health insurance through the Connector is affirmed. As noted above, an applicant must be lawfully present to be eligible for coverage. According to her application, Appellant was not lawfully present. Using the information supplied by the appellant to the Connector, the Connector correctly denied eligibility at the time the determination was made.

I note that according to the testimony of the appellant, the appellant actually is lawfully present. Appellant was informed that if Appellant amended her application and supplied proof of legal status, Appellant may have her eligibility redetermined. She may also have to indicate her intent to file a tax return even if Appellant has no income.

**ORDER:** The determination by the Connector regarding Appellant's ineligibility to purchase a Health Connector plan is affirmed.

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

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

Cc: Connector Appeals Unit

Hearing Officer



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2217713

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

### Hearing Issue:

Whether the Connector correctly determined that Appellant's ConnectorCare coverage should be terminated because Appellant did not submit timely proof of residency.

**Hearing Date:** February 22, 2023

**Decision Date:** March 20, 2023

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 1, 2022, the Connector determined that the appellant's ConnectorCare coverage should be terminated as of April 30, 2022 because of Appellant's failure to submit proof of residency.

### HEARING RECORD

The appellant's representative, his father, appeared at the hearing which was held by telephone on February 22, 2023. The appellant was not present. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were reviewed with the representative, marked as exhibits, and admitted in evidence with no objection. The representative testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals Files, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 19, 2023 for a February 22, 2023 Hearing, addressed to Appellant

Exhibit 3: Appeals Unit letter to Appellant dated October 24, 2022 regarding untimely appeal

Exhibit 3a: Connector Appeals Unit letter dated November 17, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3b: Appeals Unit staff outreach notes dated October 24<sup>th</sup>, November 3<sup>rd</sup>, and November 17<sup>th</sup>, 2022

Exhibit 3c: Appeals Unit letter to Appellant dated November 17, 2022 dismissing appeal

Exhibit 4: Hearing Request from Appellant dated October 20, 2022

Exhibit 4a: Letter to Appeals Unit dated November 4, 2022 from Appellant's representative

- Exhibit 5: Connector letter dated April 1, 2022 to Appellant: notification of termination of coverage as of April 30, 2022
- Exhibit 5a: Connector letter dated December 21, 2021 to Appellant requesting proof of residency with list of acceptable forms of proof attached
- Exhibit 5b: Connector letter dated February 18, 2022 to Appellant: reminder of deadline for proof
- Exhibit 6: Summary and results of Appellants' application for Connector health plan dated April 1, 2022
- Exhibit 6a: Summary and results of Appellants' application for Connector health plan dated March 26, 2022
- Exhibit 7: MassHealth Member Benefits print-out determination, March 26, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance coverage through the Connector in 2022. In a letter dated April 1, 2022, the Connector notified the appellant that Appellant needed to send in proof of residency by March 21, 2022. The letter included a list of acceptable forms of proof (Exhibit 5a, Testimony of Representative).
2. The appellant was then sent a letter reminding him that he needed to submit proof of residency by March 21, 2022. The appellant failed to send in proof of residency by March 21, 2022.
3. In a letter from the Connector dated April 1, 2022, Appellant was informed that his coverage would be terminated on April 30, 2022 because of his failure to submit proof of residency. In the termination letter, Appellant was informed that if he sent in the required proof, the Connector would redetermine his eligibility (Testimony of Representative, Exhibit 5, 5a, and 5b).
4. Appellant took no action to send in proof after he received his termination notice (Exhibit 3b, Testimony of Representative).
5. Appellant's coverage was terminated as of April 30, 2022. In September, 2022, the appellant had a medical emergency and was admitted to the hospital. The insurance company declined to pay any bills; that was when the appellant and his family realized that Appellant did not have coverage. When appellant had coverage, his parents paid the premium under an automatic withdrawal arrangement with the Connector. They had not noticed that funds were not being withdrawn from their account for coverage after the termination (Testimony of Representative, Exhibits 3b, 5).
6. Appellants submitted a request for an appeal of the Connector's determination on October 20, 2022 (Exhibit 4, Testimony of Representative).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on April 1, 2022 that the appellant were no longer eligible to be enrolled in a health insurance plan through the Connector because of his failure to submit proof of residency in a timely fashion. Appellant appealed the determination. 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. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) which sets out eligibility standards for purchase of coverage through state

exchanges. These requirements include, among other things, residency in the state where the state exchange is located. See 45 CFR 155.305. Pursuant to 45 CFR 155.320 the Connector may verify information obtained from the applicant by checking with other data sources.

In this matter, Appellant had health insurance coverage through the Connector in 2022. In a letter dated April 1, 2022, the Connector notified the appellant that Appellant needed to send in proof of residency by March 21, 2022. The letter included a list of acceptable forms of proof (Exhibit 5a, Testimony of Representative). The appellant was then sent a letter reminding him that he needed to submit proof of residency by March 21, 2022. In a letter from the Connector dated April 1, 2022, Appellant was informed that his coverage would be terminated on April 30, 2022 because of his failure to submit proof of residency. In the termination letter, Appellant was informed that if he sent in the required proof, the Connector would redetermine his eligibility. See the testimony of Representative which I find to be credible and Exhibits 5, 5a, and 5b.

The appellant failed to send in proof of residency by March 21, 2022. He took no action to send in proof after he received his termination notice. Appellant's coverage was terminated as of April 30, 2022. In September, 2022, the appellant had a medical emergency and was admitted to the hospital. The insurance company which had previously covered the appellant declined to pay any bills; that was when the appellant and his family realized that Appellant did not have coverage. When appellant had coverage, his parents paid the insurance premium under an automatic withdrawal arrangement with the Connector. They did not notice that funds were not being withdrawn from their account for coverage. See the testimony of the representative which I find to be credible and Exhibits 3b and 5.

The April 1, 2022 determination was correct at the time it was made based upon Appellant's failure to send in an acceptable form of proof of residency. Without proof of residency, the appellant was no longer eligible for coverage through the Connector. See 45 Code of Federal Regulations 155.305(a)(1 through 3). Residency in the exchange's state is a requirement for eligibility. The determination of the Connector is, therefore, affirmed.

**ORDER:** The determination by the Connector terminating Appellant's coverage through 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.

Cc: Connector Appeals Unit

Hearing Officer



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2217891

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

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

**Hearing Date:** February 15, 2023

**Decision Date:** March 15, 2023

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 8, 2022, the Connector determined Appellant to be eligible to purchase and to enroll in a Connector health insurance plan during the next open enrollment period or when the appellant had a qualifying life event.

### HEARING RECORD

The appellant and his representative appeared at the hearing which was held by telephone on February 15, 2022. The procedures to be followed during the hearing were reviewed with the appellant and his representative who were then sworn in. Exhibits were also reviewed with Appellant and his representative, marked as exhibits, and admitted in evidence with no objection. The representative testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 18, 2023 addressed to Appellant for February 15, 2023 hearing
- Exhibit 3: Connector Appeals Unit letter dated November 18, 2022 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated November 18, 2022 and February 6, 2023
- Exhibit 3b: Appeals Unit emails to Appellant dated November 18, 2022 and February 6, 2023
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on November 14, 2022
- Exhibit 5: Connector letter dated November 8, 2022 to Appellant denying a Special Enrollment Period

- Exhibit 5a: Connector letter dated January 30, 2022 to Appellant regarding the termination of Appellant's coverage
- Exhibit 5b: Connector letter dated February 28, 2022 to Appellant regarding the termination of Appellant's coverage
- Exhibit 5c: Connector letter dated February 28, 2022 to Appellant regarding the termination of Appellant's coverage
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated December 25, 2021
- Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated November 18, 2022: Special Enrollment Period granted
- Exhibit 6b: Summary and results of Appellant's application for Connector health plan dated November 28, 2022: Appellant eligible for MassHealth

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through the Connector until his coverage was terminated as January 31, 2022 because Appellant failed to pay his premium (Testimony of Representative; Exhibit 5a, 5b, and 5c).
2. The appellant did not understand the letters he received from the Connector because of medical conditions he had; he did not realize that his coverage had been terminated. He found out that he had no coverage when he was hospitalized in November, 2022 (Testimony of the Representative).
3. When Appellant realized he had no coverage, he reapplied for coverage (Testimony of Representative).
4. In a letter from the Connector dated November 8, 2022, the Connector informed the appellant that he was not eligible to enroll in a plan until the next open enrollment period or until the appellant had a qualifying event based upon information the appellant gave to the Connector (Exhibits 5, 6).
5. Appellant did not have any qualifying life events which would allow him to purchase and enroll in a health insurance plan through the Connector outside of the Connector's open enrollment period. While he had lost his health insurance coverage, a qualifying life event, on the date he applied for coverage, more than 60 days had gone by since that event took place. Appellant had not moved, gotten married, or had a child or added a dependent to his family in the 60 day prior to November 8th. Appellant was not a Native American or an Alaska indigenous person. There was no change in Appellant's immigration status (Testimony of Representative).
6. On November 14, 2022, Appellant appealed the determination by the Connector which denied him a special open enrollment period (Exhibit 4).
7. On November 18, 2022, Appellant was granted a Special Enrollment Period. He enrolled in a ConnectorCare plan as of December 1, 2022. Shortly after this, Appellant was found to be eligible for MassHealth (Exhibits 6a ,6b, Testimony of Representative).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on November 8, 2022 that the appellant was eligible for health insurance through the Connector, but was not eligible to enroll until the next open enrollment period or until Appellant had a qualifying life event. The appellant has appealed this determination. See 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. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. See also 45 CFR Section 155. 420 which provides for special enrollment periods and for eligibility requirements for enrolling outside of an open enrollment period. If an individual has had a qualifying life event within 60 days of applying for health insurance and enrolling in a plan, the individual may enroll in a plan outside of an open enrollment period, if otherwise eligible. According to 45 Code of Federal Regulations Section 155.420 (c)(1) and 155.420 (d)(1)(i), the loss of health insurance coverage is a qualifying life event.

In this matter, Appellant lost his health insurance as of January 31, 2022. Appellant did not reapply for health insurance through the Connector until November 8, 2022 when he first realized that he had lost the coverage he had earlier in the year. In a letter from the Connector dated November 8, 2022, the Connector determined that while he was eligible to purchase health insurance through the Connector, the appellant was not eligible to enroll in a plan until the next open enrollment period or until Appellant had a qualifying life event which would allow him to enroll outside of an open enrollment period. Appellant was notified of this decision by mail. See Exhibit 5. See also the testimony of the appellant's representative which I find to be credible.

Appellant reapplied for coverage more than 60 days after he had lost coverage. Appellant had no other qualifying event 60 days prior to reapplying for coverage. Appellant had not moved, gotten married, or had a child or added a dependent to his family in the 60 day prior to July 20th. Appellant was not a Native American or an Alaska indigenous person. There was no change in Appellant's immigration status. See the testimony of Appellant's representative which I find credible.

I determine that the Connector's determination that Appellant was not eligible for a special enrollment period should be affirmed. Appellant missed being able to enroll outside of the open enrollment period because he did not apply for and enroll in a plan within 60 days of losing his prior coverage. There is no evidence in the record that Appellant had any other qualifying life event within 60 days of his application for coverage. See cites above including 45 CFR Section 155. 420 which provides for special enrollment periods and for eligibility requirements for enrolling outside of an open enrollment period.

**ORDER:** The action taken by the Connector regarding Appellant's ineligibility to obtain health insurance through the Connector until the next open enrollment period or until he had a qualifying life event is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention

Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

cc. Appeals Unit

Hearing Officer



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-17996

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

**Hearing Issue:** Eligibility for health insurance after a withdrawal of application

**Hearing Date:** February 21, 2023

**Decision Date:** March 8, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 24, 2022 Appellant's household was found ineligible for a Health Connector Plan because the application for Health Connector Coverage was withdrawn. Also on November 24, 2022, Appellant's household was found ineligible for MassHealth because the application for MassHealth was withdrawn.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was found ineligible for a Health Connector Plan because Appellant's application had been withdrawn.

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 21, 2023. 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 and Appeal Request dated Dec. 6, 2022
- Exhibit 2: Eligibility on Appeal dated Nov. 24, 2022
- Exhibit 3: Research and Resolution
- Exhibit 4: Historic Notes NONE
- Exhibit 5: Recent Determination NONE
- Exhibit 6: Correspondence from Health Connector Appeals Unit dated Jan.18, 2023

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On November 24, 2022, Appellant applied for health insurance from the Health Connector and MassHealth for Appellant and household (Exhibit 2).
2. On November 24, 2022, the Health Connector informed Appellant that they were not eligible for Health Connector Plans because they had withdrawn their application in January 2019 and their case had been administratively closed (Exhibits 2 and 3).
3. On November 24, 2022, MassHealth informed Appellant that they did not qualify for MassHealth because they had withdrawn their application in January 2019 and their case had been administratively closed (Exhibits 2 and 3).
4. On or around December 6, 2022, the Health Connector and MassHealth removed the administrative closure so that Appellant could apply for coverage (Exhibit 3).
5. Appellant is now eligible to apply for Health Connector and MassHealth coverage (Exhibit 3).
6. Appellant has been informed that their current Health Connector application needs to be updated with income information (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 45 CFR 155.430(b), applicants and enrollees who have applied for Health Connector plans are permitted to voluntarily withdraw their application and terminate their enrollment. Appellant had voluntarily withdrawn their application for Health Connector Plans. When they sought to re-apply on November 24, 2022, they were notified that their application had been administratively closed and that they were therefore ineligible for Health Connector Plans. This was the correct determination for applicants who have withdrawn their applications.

After the denied application on November 24, 2022, Appellant provided the Health Connector with information that permitted them to apply for coverage. The Health Connector has notified Appellant that they must update their income information in order to be considered for subsidized health insurance.

## **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**

**If Appellant has not already done so, Appellant should immediately report current income information to the Health Connector (1 877 623-6765). Appellant needs to provide any documents requested. Appellant may also be contacted by MassHealth for information and Appellant should provide that information so that a determination can be made as to which program they are eligible for.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2318189

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

### Hearing Issue:

Whether the Connector correctly determined that Appellant was ineligible for health insurance coverage through the Connector because Appellant did not submit timely proof of residency.

**Hearing Date:** March 14, 2023

**Decision Date:** March 23, 2023

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On November 1, 2022, the Connector determined that the appellant was ineligible for health insurance coverage through the Connector because of Appellant's failure to submit proof of residency.

### HEARING RECORD

The appellant and a Spanish interpreter appeared at the hearing which was held by telephone on March 14, 2023. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. The interpreter was also sworn in. Exhibits were reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection. The appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appeals files, and verification of data, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated February 14, 2023 for a March 14, 2023 hearing, addressed to Appellant
- Exhibit 3: Connector Appeals Unit letter dated February 7, 2023 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated January 4<sup>th</sup> and February 7<sup>th</sup>, 2023
- Exhibit 3b: Appeals Unit email to Appellant dated January 4, 2023
- Exhibit 4: Hearing Request from Appellant dated January 3, 2023
- Exhibit 5: Connector letter dated November 1, 2022 to Appellant, denial of eligibility
- Exhibit 5a: Connector letter dated June 9, 2022 to Appellant requesting proof of residency due September 7, 2022 with list of acceptable forms of proof attached

Exhibit 6: Summary and results of Appellants' application for Connector health plan dated November 1, 2022

Exhibit 6a: Summary and results of Appellants' application for Connector health plan dated October 20, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in the spring of 2022. In a letter dated June 9, 2022, the Connector notified the appellant that Appellant needed to send in proof of residency and income by September 7, 2022. The letter included a list of acceptable forms of proof (Exhibit 5a, Testimony of Appellant).
2. The appellant sent in proof of income, but did not send in proof of residency. Appellant lived with relatives and did not have any utility bills in her name. The appellant failed to send in any other form of proof of residency by September 7, 2022 (Testimony of Appellant).
3. In a letter from the Connector dated November 1, 2022, Appellant was informed that she was ineligible for coverage through the Connector because of her failure to submit proof of residency by the deadline (Exhibit 5, Exhibit 6).
4. Appellant submitted a request for an appeal of the Connector's determination on January 3, 2023 (Exhibit 4).

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

The issue on appeal is whether the Connector correctly determined on November 1, 2022 that the appellant was ineligible to be enrolled in a health insurance plan through the Connector because of her failure to submit proof of residency in a timely fashion. Appellant appealed the determination. 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. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) which sets out eligibility standards for purchase of coverage through state exchanges. These requirements include, among other things, residency in the state where the state exchange is located. See 45 CFR 155.305. Pursuant to 45 CFR 155.320 the Connector may verify information obtained from the applicant by checking with other data sources.

In this matter, the appellant failed to send in proof of residency by September 7, 2022 as she was requested to do by the Connector. She submitted proof of income, but did not send in the other proof required despite being sent a list of acceptable forms of proof of residency by the Connector. See Exhibit 5a and the testimony of the appellant which I find to be credible. Because of this failure, the Connector determined that the appellant was ineligible to obtain health insurance through the exchange.

The November 1, 2022 determination was correct at the time it was made based upon Appellant's failure to send in an acceptable form of proof of residency. Without proof of residency, the appellant was no longer eligible for coverage through the Connector. See 45 Code of Federal Regulations 155.305(a)(1 through 3). Residency in the exchange's state is a requirement for eligibility. The determination of the Connector is, therefore, affirmed.

**ORDER:** The determination by the Connector terminating Appellant's coverage through 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](http://HealthCare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2318269

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** March 8, 2023

**Decision Date:** March 14, 2023

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### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

### **JURISDICTION**

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

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

On December 8, 2022, the Appellant was determined ineligible for Health Connector plans based on information from other sources because Appellant had not submitted documents requested to be submitted.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on March 8, 2023. 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 and procedures (1 page);
- Exhibit 2: Notice of Hearing (2-14-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (1-12-23) (1 page);
- Exhibit 4: Outreach notes and email (3 pages);
- Exhibit 5: Hearing Request form (1-11-23) (with documents) (7 pages);

- Exhibit 6: Eligibility denial letter (12-8-22) (6 pages);  
Exhibit 7: Eligibility detail printouts and application summary printouts (21 pages);  
Exhibit 8: Medicaid Household Determination (7 pages);  
Exhibit 9: Workspace form and documents (7 pages); and  
Exhibit 10: Reminder re Request for Information (10-31-22) (4 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had applied for health insurance through the Health Connector in 2022 and had been requested to submit information about income and residency. (Testimony, Exhibits 7, 10).
2. Appellant did submit some documents and the application was updated but there was still some information missing. (Exhibits 5, 7, 9).
3. Appellant was redetermined to be eligible for ConnectorCare Plan 3A but still needed to submit additional documents. (Testimony, Exhibit 7).
4. Appellant submitted additional documents but did not know if they had been processed. (Testimony).
5. In December 2022, the Health Connector determined that Appellant was ineligible for Health Connector plans based on information available to the Health Connector. (Exhibits 6, 7).
6. Appellant appealed. (Exhibit 5, Appellant Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed ineligible for Health Connector plans based on information from other sources because Appellant had not submitted requested documents and information within the time requested. 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 and residency, in accordance with 45 CFR § 155.320(c). Where the Health Connector cannot verify applicants' income or residency electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information or provide unacceptable information, the Health Connector will consider the information not verified and issue a new eligibility determination.

On December 8, 2022, the Appellant was determined ineligible for Health Connector plans based on information from other sources because Appellant had not provided the documents requested within the time required. The process for the determination on December 8, 2022, complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was ineligible for Health Connector plans on December 8, 2022, and that determination is upheld.

Appellant was subsequently redetermined as eligible for ConnectorCare Plan 3A, and enrolled.

## **ORDER**



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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-18271

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** March 21, 2023

**Decision Date:** March 30, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 28, 2022, the Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant had access to affordable insurance that met minimum value standards.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant's access to insurance that met minimum value standards.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 21, 2023. 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 Appellants:

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

- Exhibit 2: Health Connector’s Hearing Notice (3 pages, dated February 15, 2023)
- Exhibit 3: Health Connector’s Acknowledgement of Appeal 1 Page )
- Exhibit 4: Appeals Unit Staff Case Notes (7 pages)
- Exhibit 5: Appellant’s appeal request form 1 page undated )
- Exhibit 6: Notice of Eligibility Determination (6 pages, dated August 23, 2022)
- Exhibit 7: Health Connector’s Determination Results and Review Computer Printout (6 pages, dated December 28, 2002)
- Exhibit 8: Health Connector’s Determination Results and Review Computer Printout (6 pages, dated February 15, 2002)
- Exhibit 9: Historical Notices and Printouts (121 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies on December 28, 2022. (Exhibit 6 & 7)
2. Appellant stated he did not file his tax return for 2021. Appellant stated he just recently filed his 2021 tax return.
3. The Health Connector found documentation that indicated that the Appellant had access to other health insurance, MassHealth. The appellant stated that he did not think he had MassHealth now but may have had it in the past.

## **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. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value

standards, as those terms are defined in law, will block an Appellant from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3).

In addition, under 45 CFR s. 155.305(f)(4), the Exchange may not determine a tax filer eligible for advance payments of the premium tax credit if the tax filer did not comply with the requirements to file an income tax return for that year as required by 26 U.S. 6011,6012 and implementing regulations. In this case, one issue presented was whether the failure to assert that the Appellant would file a tax return was the correct determination. Based on his application and buttressed by his testimony, the determination of the Connector regarding eligibility for APTC and the Massachusetts subsidy was correct.

The Appeal is denied for the above stated reasons of non-tax filing and having access to other insurance.

## **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.

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

Appellant should contact the Customer Service Department of the Health Connector and the Customer Service Department of MassHealth to determine if the Appellant has MassHealth. The Appellant should contact the Health Connector Customer Service Department and inform them that he has filed his 2021 Federal Tax return and inquire about what proof of filing they require.