

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA24-21285

**Appeal Decision:** Appeal is dismissed as moot.

**Hearing Issue:** Whether the Health Connector correctly determined that the Appellant was qualified to enroll in a ConnectorCare Plan Type 2B and for \$646 per month in Advance Premium Tax Credits.

**Hearing Date:** March 7, 2024

**Decision Date:** March 21, 2024

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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 and 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**

On November 17, 2023, the Health Connector notified the Appellant that they were qualified to enroll in a ConnectorCare Plan Type 2B and for up to \$646 per month in Advance Premium Tax Credits.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant's spouse was qualified to enroll in a ConnectorCare Plan Type 2B and for up to \$646 per month in Advance Premium Tax Credits.

### **HEARING RECORD**

The Appellant and the Appellant's spouse appeared at the hearing, which was held by telephone on March 7, 2024. The Appellant and the Appellant's spouse were informed of the hearing procedures and sworn in. The Appellant's spouse translated for the Appellant, who speaks Urdu. The hearing record

consists of the Appellant's and the Appellant's spouse's testimony, and the following documents that were admitted into evidence:

- Exhibit 1: Hearing Request Form, dated December 6, 2023 (8 pages)
- Exhibit 2: Health Connector Appeals Unit Affidavit (1 page)
- Exhibit 3: Social Security document and pay statements submitted by the Appellant (3 pages).
- Exhibit 4: Health Connector Notice of Eligibility, dated November 17, 2023 (8 pages)
- Exhibit 5: 2024 Eligibility Results, dated November 17, 2023 (2 pages)
- Exhibit 6: 2024 Application Summary, dated November 17, 2023 (4 pages)
- Exhibit 7: Screenshot of Health Connector outreach notes (1 page)
- Exhibit 8: Health Connector Notice of March 7, 2024 hearing (3 pages)
- Exhibit 9: Health Connector Acknowledgment of Appeal (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed an appeal based on the Health Connector's November 17, 2023 determination that the Appellant was qualified for a ConnectorCare Plan Type 2B and for \$646 in Advance Premium Tax Credits. Exhibit 1 and Appellant's Spouse's Testimony.
2. The Appellant's spouse testified that they are on Medicare but that they pay for health insurance for the Appellant, who is a homemaker and does not work due to health reasons.
3. The Appellant's spouse testified that they worked full-time until April 2023, when they had surgery and had to reduce their work hours to two days per week.
4. The Appellant's spouse testified that they currently earn \$2768 per month, \$1768 of which is from Social Security benefits, and \$1000 of which is from part-time employment.
5. The Appellant's spouse testified that they used to pay more than \$800 per month for health insurance for the Appellant but that they contacted the Health Connector when they reduced their work hours after their surgery and were able to obtain a health insurance plan for the Appellant that costs \$158 per month. The Appellant's spouse testified that this \$158 monthly premium is affordable to them and that they do not object to paying this amount.
6. The Appellant's spouse testified that the Appellant received a letter from the Health Connector that the Appellant's spouse and the Appellant interpreted as stating that the Appellant's monthly health insurance premium would cost more than \$600 going forward. The Appellant's spouse testified that the Appellant filed an appeal because this letter scared the Appellant and the Appellant's spouse and that they could not afford to spend more than \$600 on the Appellant's health insurance premium. The Appellant and the Appellant's spouse did not have this letter with them at the hearing.

7. I take administrative notice of the Health Connector's webpage regarding ConnectorCare plans for 2024, which states that the lowest monthly premium amount for a Plan Type 2B is \$49. [See ConnectorCare Plans – Massachusetts Health Connector \(mahealthconnector.org\)](https://www.mahealthconnector.org).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Health Connector's November 17, 2023 Notice of Eligibility ("Notice") to the Appellant, which is the subject of this appeal, stated that the Appellant was qualified to enroll in a ConnectorCare Plan Type 2B and to obtain \$646 in monthly Advance Premium Tax Credits. Exhibit 4 and Appellant's spouse's Testimony. The Appellant's spouse testified that they and the Appellant understood the Notice to mean that the Appellant's monthly health insurance premium would be more than \$600 per month. It therefore appears that the Appellant and the Appellant's spouse confused the monthly amount of Advance Premium Tax Credits for which the Appellant was eligible -- \$646 per month -- with the Appellant's monthly health insurance premium. The Appellant's spouse further testified that the \$158 per month that they currently pay for the Appellant's health insurance is affordable to them and that they do not object to paying this amount. I note that the lowest monthly premium for a ConnectorCare Plan Type 2B in 2024 is \$49, which is significantly lower than the \$149 that the Appellant has been paying and that the Appellant's spouse testified is affordable.

Based on the Appellant's spouse's testimony at the hearing, I conclude that the Appellant was not in fact appealing the Health Connector's determination that the Appellant was qualified for a ConnectorCare Plan Type 2B and \$646 in Advance Premium Tax Credits, but rather misunderstood the Health Connector's November 17, 2023 Notice. As a result, I conclude that the Appellant's appeal is moot and dismiss it.

## **ORDER**

The appeal is dismissed as moot.

## **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 to Suffolk Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

cc: Connector Appeals Unit

## **ADDENDUM**

The Appellant is advised to contact customer service at 1-877-623-6765 if they have any questions about enrolling in a ConnectorCare Plan or the nature of the Advance Premium Tax Credits.

**FINAL APPEAL DECISION**

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

**Hearing Issue:** Eligibility for a special enrollment period, based on failure to have a qualifying life event

**Hearing Date:** January 2, 2024

**Decision Date:** March 20, 2024

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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 3, 2023, the Appellant was determined eligible for Health Connector plans with no financial help, but was determined ineligible for a special enrollment period due to failure to have a qualifying life event.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for a special enrollment period, based on the Appellant's failure to have a qualifying life event<sup>1</sup>.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 2, 2024. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

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<sup>1</sup> In his testimony, Appellant expressed his desire to appeal the affordability of plans he was determined to be eligible for in calendar year 2024 and did not want to appeal the Special Enrollment Period issue. After discussions with the Health Connector Staff the only issue considered here will be the failure to establish a qualifying life event to enroll in 2023.

- Exhibit 1: Appellant's online Appeal Form (6 pages undated); and Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Eligibility Results (2 pages, dated 11/3/23); Health Connector's Eligibility Approval Notice (8 pages, dated 10/21/23); Health Connector's Notice on Appeal (6 pages dated 10/21/23); and Health Connector's Application Summary (3 pages, dated 11/3/23)
- Exhibit 3: Health Connector's Outreach Notes (1 page, dated 12/22/2023)
- Exhibit 4: Health Connector's 2024 Eligibility Results (2 pages, undated); Health Connector's Application Summary (4 pages, undated)
- Exhibit 5: Health Connector's Acknowledgement of Appeal (1 page, 11/3/2023); Health Connector's Hearing Notice (3 pages, dated 12/06/2023); Health Connector's Open Enrollment Waiver and Instructions (7 pages dated 11/3/2023)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was employed until August of 2023, at which time the Appellant was laid off (Appellant Testimony).
2. The Appellant received a severance payment from this employer when laid off (Appellant Testimony).
3. The Appellant enrolled in COBRA coverage in August of 2023 through the Appellant's employer, and was eligible to remain enrolled in the COBRA plan for 18 months (Appellant testimony).
4. The Appellant's submitted an application to the Massachusetts Health Connector on October 21, 2023 (Exhibit 2, Appellant Testimony).
5. The Appellant was denied eligibility for the Health Connector on November 3, 2023 since he was not experiencing a qualifying life event.
6. As of his application date the Appellant had not experienced a qualifying life event (Appellant Testimony).
7. The Appellant began collecting unemployment compensation insurance in December of 2023.

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found qualified to enroll in a Health Connector Plan (no financial help), but was not granted a special enrollment period therefore could not enroll in coverage. The Appellant asserts that this determination was incorrect, and that he should be permitted to enroll in coverage through the Health Connector. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which was November 1, 2023 to January 23, 2024. Appellant testified that he did apply during open enrollment season after being notified of his ineligibility. He was informed at the Hearing that this appeal will only deal with lack of a qualifying event issue, and he can appeal his other issue subsequently (See Footnote 1). Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage. 45 CFR § 155.420.

On November 3, 2023, the Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. The Appellant's loss of employment and employee sponsored insurance would be a Qualifying Life Event which would have entitled him to search for a policy on the Health Connector, but for the fact that he elected to enroll in and continued with the COBRA coverage. He would not have been eligible for a Special Enrollment Period in accordance with 45 CFR § 155.420. In addition, Claimant testified to an estimated combined income in 2023 for he and his spouse of \$300,000. The Appellant testified to no qualifying life events in 2023. Because the Appellant did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR § 155.420. If the Appellant has experienced a change in circumstances, he can update his application to reflect these changes. The Appellant may also consider reviewing the criteria for an Enrollment Waiver from the Massachusetts Office of Patient Protection. Information can be found at <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/health-policy-commission/patient-protection/>.

### ORDER

This appeal is denied.

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

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

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA24-21538

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

**Hearing Issue:** Whether the Connector correctly determined the appellant's ineligibility to purchase health insurance through the Connector because of Appellant's access to or enrollment in Medicare.

**Hearing Date:** March 18, 2024

**Decision Date:** March 25, 2024

### 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 17, 2023 the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant had access to or was enrolled in Medicare.

### ISSUE

Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Connector because the appellant had access to or was enrolled in Medicare.

### HEARING RECORD

The appellant and Appellant's spouse appeared at the hearing which was held by telephone on March 18, 2024. The procedures to be followed during the hearing were reviewed with the appellant and the spouse who were then sworn in. Documents in the appellant's file were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. 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 file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 31, 2024 addressed to Appellant for a hearing on March 18, 2024
- Exhibit 3: Connector Appeals Unit letter dated January 17, 2024 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated January 17, 2024
- Exhibit 3b: MassHealth email to Connector Appeals Unit dated January 16, 2024 regarding transfer of appeal



- Exhibit 3c: Connector Appeals Unit letter dated January 17, 2024 to Appellant
- Exhibit 4: Hearing Request Form received by MassHealth on December 14, 2023 and by the Connector on January 17, 2024 from MassHealth
- Exhibit 5: Connector letter dated November 17, 2023 to Appellant denying eligibility
- Exhibit 6: Summary and results of Appellant's application dated November 17, 2023
- Exhibit 7: MassHealth print-out, Appellant's household determination dated November 17, 2023
- Exhibit 8: MassHealth letter to Appellant dated November 17, 2023 regarding spouse's eligibility for MassHealth program

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant obtained Medicare coverage, Parts A and B, in 2020 (Exhibit 6, Testimony of Appellant).
2. In November, 2023, Appellant applied for health insurance coverage through the Connector (Exhibits 5 and 6).
3. On November 17, 2023 the Connector determined that the appellant was ineligible to purchase health insurance through the Connector because Appellant either had access to Medicare or was enrolled in Medicare. The Connector notified the appellant by mail of this determination (Exhibits 5 and 6).
4. Appellant filed a request for an appeal of the Connector's determination which was received by MassHealth on December 14, 2023. MassHealth transferred the Appellant's request on January 17, 2024 to the Connector (Exhibits 3b, 4).
5. Appellant's spouse also applied for health insurance. As of the date of this hearing, the spouse had Medicare, Parts A and B, and MassHealth CommonHealth (Exhibit 8).

## **ANALYSIS AND CONCLUSIONS OF LAW**

On November 17, 2023 the Connector determined that Appellant was ineligible to enroll in coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's determination. The appeal request was received by MassHealth on December 14, 2023; the request was transferred to the Connector on January 17, 2024. See Exhibits 4, 5, 6.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain help paying for health insurance through an advance premium tax credit, an individual, among other things, must not have access to other health insurance coverage which meets minimum essential coverage standards. See 45 Code of Federal Regulations Section 155.305(f)(1)(ii)(B) and 26 Code of Federal Regulations 1.36B-2(a)(2). The Social Security Act, Section 1882(d)(3)(A)(i) states: "It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title . . . a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX." In other words, the Social Security Act provides that anyone who is eligible for Part A Medicare coverage cannot be sold coverage through the Connector, since that coverage would duplicate Part A coverage. See also 42USC 1395(d)(3)(A)(i).

Appellant was enrolled in Medicare at the time Appellant applied for health insurance through the Connector in November, 2023. Appellant has had Medicare coverage since 2020. See the testimony of the appellant which I find to be credible, and Exhibits 5, and 6.

The Connector correctly determined that because Appellant was enrolled in Medicare, or had access to enroll, Appellant was ineligible to purchase any health insurance plan through the Connector. This determination was based upon information on the appellant's application which indicated that Appellant was enrolled in the Medicare program. The appellant corroborated the information regarding Medicare enrollment during the hearing. See citations above. This determination is 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 decision. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

Cc: Health Connector Appeals Unit

Addendum: Appellant is looking for access to MassHealth coverage or to some form of supplemental coverage. If Appellant has not already done so, Appellant may wish to contact SHINE at 978-683-7747 of Health Care for All at 1-800-272-4232 in order to find out if there is supplemental coverage available.

**Massachusetts Health Connector Appeals Unit**

**FINAL APPEAL DECISION: ACA 24-21346**

**Appeal Decision:** Appeal denied

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

**Hearing Date:** March 5, 2024

**Decision Date:** March 19, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

By notice dated November 20, 2023, the Appellant was advised that they were 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 household consists of the Appellant, her Spouse, and child. (“Appellant”). The Appellant’s Spouse appeared at the hearing, which was held by telephone on March 5, 2024, and testified under oath. The Appellant’s Spouse testified that his Spouse was not present, but he had authority to appear on behalf of the Appellant and Household. 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	(2 PP, received 12/6/2023)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	( 1 P, dated 1/8/ 2024)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	( 1 P, dated 1/31/ 2024)
Exhibit 5:	Health Connector’s Application Summary	(3 PP, dated 11/20/ 2023)
Exhibit 6:	Health Connector’s Eligibility Results	(3 PP, dated 11/20/2023)

Exhibit 7:	Health Connector's Eligibility Approval	(8 PP, dated	11/20/2023)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	11/20/2023)
Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	1/8/ 2024)
Exhibit 10:	Health Connector's Email to Appellant	(3 PP, dated	1/8/ 2024)
Exhibit 12:	Health Connector's Application Summary	(8 PP, dated	11/16/ 2022)
Exhibit 13:	Health Connector's Eligibility Results	(3 PP, dated	11/16/ 2023)
Exhibit 14:	Health Connector's Eligibility Approval	(8 PP, dated	11/16/2023)
Exhibit 15:	Medicaid Household Determination	(8 PP, dated	11/16/2023)

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is enrolled in Connectorcare but did not have information regarding the cost of the premium. (Testimony, Exhibits 1, 5-9).
2. The Appellant's income was verified on November 20, 2023, and the annual household income was determined to be 408.05 % of Federal Poverty Level("FPL") based on an attested monthly income of \$7,500 a month for the Appellant and \$953.48 for the Spouse. (Testimony, Exhibits 1, 4-7).
3. The Appellant testified that their attested income was accurate at the time of the application but did not take into account expenses including extraordinary expenses the family had been incurring which made the insurance unaffordable. (Testimony).
4. The Appellant testified their incomes did change but not enough to warrant an increase in the insurance premiums. (Testimony, Exhibit 1 and 2).
5. The Appellant credibly testified that they are unable to afford to pay the cost of the plan that they are being offered because of the substantial expense. (Testimony, Exhibits 1,2, and 7).
6. The Appellant was advised however, that this appeal addresses only the issue of the Connector's income eligibility determination on November 20, 2023, in verification of the Appellant's income. (Exhibits 1,6, and 7).
7. The Appellant was advised the appeal only addresses whether the Connector's decision regarding eligibility based on income was correct at the time of the application. The Appellant was encouraged to contact customer service to report a change in income and to obtain information for a premium hardship waiver.

## ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is enrolled in Connectorcare. (Testimony, Exhibits 1 and 9). The Appellant's income was verified on November 20, 2023, wherein it was determined his FPL was 408.05% based on a based on an attested monthly income of \$8,453.48. (Testimony, Exhibits 1, 7-9, Finding No. 2, Infra). The Appellant asserts that this determination is incorrect because the current income they are currently receiving is less than the income from the manual verification to warrant an increase in the premium. (Testimony, Exhibits 1 and 2). However, the Appellant testified the plan being offered is unaffordable, especially given the substantial amount of copays and deductibles. (Testimony, Exhibits 1,7 and 12).

The Connector's notice on November 20, 2023, and the determination based on the Appellant Household's income verification was determined to be 408.05% of Federal Poverty Level("FPL") based on an attested monthly income of \$8,453.48 is consistent with rules in federal regulation at 45 CFR § 155.335. (Testimony, Exhibits 1, 7, and 8). The final determination was correct for the Appellant. (Exhibits 1,7). This was used to determine a household income equivalent to 408.05 % of the Federal Poverty Level. (Exhibits 1,7, and 9). 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 November 20, 2023, regarding the Appellant's eligibility for Health Connector Plans with APTC's was correct. The Appellant Spouse was advised to update their application or call Customer Service to report any changes in income, any other information on his application, regarding those issues. The Appellant was also encouraged to contact Customer Service about a Premium Hardship Waiver.

## **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 2024 from the federal government will be reconciled when you file your 2024 federal income tax return (usually in the spring of 2025). 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 2024 (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 2024 (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 2024 will be paid to you when you file your 2024 federal income tax return.

## FINAL APPEAL DECISION

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

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

**Hearing Date:** January 10, 2024

**Decision Date:** January 23, 2024

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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 October 26, 2023, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector. On December 14, 2023, Appellant was determined eligible for Health Connector Plans due to being a non-tax filer.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for Health Connector plans on October 26, 2023, based on the Appellant's failure to establish lawful presence to the Health Connector, and that Appellant was eligible for Health Connector Plans with no financial assistance on December 14, 2023, based on Appellant being a non-tax filer.

### **HEARING RECORD**

The Appellant and Appellant's Representative appeared at the hearing, which was held by telephone, on February 7, 2024.

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

- Exhibit 1: Affidavit of Records (1 page).
- Exhibit 2: Notice of Hearing (1-11-24) (3 pages).
- Exhibit 3: Acknowledgement of Appeal (12-14-23) (1 page).
- Exhibit 4: Outreach notes and email (2 pages).

# Massachusetts Health Connector Appeals Unit



- Exhibit 5: Hearing Request (11-20-23) (with documents) (16 pages).
- Exhibit 6: Applications Results and summary print outs (10 pages).
- Exhibit 7: Eligibility Denial letter (10-26-23) (7 pages).
- Exhibit 8: Medicaid Household Determinations (8 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on October 26, 2023, after failing to establish that the Appellant is lawfully present to the Health Connector. (Exhibit 6, Exhibit 7)
2. The Appellant did not attest to being lawfully present at the time the Appellant applied. (Exhibit 6)
3. Appellant updated the application in December 2023, and became eligible for Health Connector Plans with no financial assistance due to failure to attest to being a tax filer. (Exhibit 6).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On October 26, 2023, the Appellant applied for health insurance through the Health Connector but did not attest to being lawfully present and was determined ineligible for Health Connector plans. Because the Appellant did not present any evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1). Appellant submitted documents and was redetermined on December 14, 2023, as eligible for Health Connector Plans with no financial assistance because Appellant did not attest to being a tax filer. To be eligible for subsidies through the Health Connector, applicants must attest that they will be filing tax returns.

The Health Connector correctly found that the Appellant was not eligible for Health Connector plans on October 26, 2023, based on the Appellant's attestation, and that determination is upheld. Further, the Health Connector correctly found that Appellant was not eligible for subsidies on December 14, 2023 based on Appellant's failure to attest to being a tax filer, and that determination is upheld.

## **ORDER**

The appeal is denied.

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

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



## Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-20370

**Appeal Decision:** Appeal denied.

**Hearing Issue:** Eligibility for Waiver or Reduction of Monthly Premium for Subsidized Health Insurance

**Hearing Date:** February 9, 2024

**Decision Date:** March 21, 2024

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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

The appellant filed an Application for a Premium Waiver or Reduction, dated August 4, 2023, based on the ground that she experienced a large increase in essential expenses in the past six months because she or a person in her family had suffered from a major illness, including Covid-19. (Ex. 5) By notice dated August 9, 2023, the Health Connector advised the appellant that her application was denied. (Ex. 6) The appellant filed a Hearing Request Form dated September 6, 2023, (Ex. 7) in which she stated that she couldn't keep up with the cost of living and her Advance Premium Tax Credits (APTC) were not enough because she had to pay them back. The matter was referred to a hearing after receipt of the appeal. (Exs. 15,17,19)

### ISSUE

Was the Connector's decision denying the appellant's application for a premium waiver or reduction correct at the time of its determination on August 9, 2023, pursuant to 956 CMR 12.12 (7)?

### HEARING RECORD

The appellant appeared with her attorney at the hearing which was held by telephone on February 9, 2024, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for April 6, 2023 (3 pages)

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

- Ex. 3—Health Connector's Notice of Eligibility Approval dated April 6, 2023 (8 pages)
- Ex. 4—Medicaid Household Determination Document (4 pages)
- Ex. 5—Application for Premium Waiver or Reduction dated August 4, 2023 (2 pages)
- Ex. 6—Health Connector's Denial of Request for Premium Waiver or Reduction dated August 9, 2023 (7 pages)
- Ex. 7—Hearing Request Form dated September 6, 2023 (2 pages)
- Ex. 8—Letter from appellant's attorney with attachments, received on December 6, 2023 (51 pages)
- Ex. 9—Health Connector's Customer Service Log of Interactions with appellant for the period of August 2, 2023-August 14, 2023 (7 pages)
- Ex. 10—Acknowledgment of Appeal dated September 27, 2023 (1 page)
- Ex. 11--Appeals Unit case notes (2 pages)
- Ex. 12—Health Connector email dated September 27, 2023 (1 page)
- Ex. 13—Health Connector Eligibility Determination Results showing a program determination for January 13, 2024 (2 pages)
- Ex. 14—Health Connector's Review of Application (3 pages)
- Ex. 15—Notice of Hearing dated October 12, 2023 (3 pages)
- Ex. 16—Health Connector's Notice of Dismissal of Appeal dated November 2, 2023 (1 page)
- Ex. 17—Notice of Hearing dated November 10, 2023 (3 pages)
- Ex. 18—Hearing Record Sheet dated December 8, 2023 (1 page)
- Ex. 19—Notice of Hearing dated January 11, 2024 (3 pages)
- Ex. 20—Affidavit of Connector representative (1 page)

The record was held open until March 1, 2024, for documentation requested by the hearing officer from both the Health Connector and the appellant. Nothing was submitted by the appellant in response to the request. The documentation from the Connector was received in a timely manner and was marked as follows:

- Ex. 21—Summary of notices and communications with the appellant, and notices and correspondence with the appellant for the period of April 6, 2023-December 29, 2023 (50 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 38-years-old, is single and has a tax household size of one. (Testimony, Exs. 2,14)
2. By notice dated April 6, 2023, the appellant was determined eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$186.00/month, effective May 1, 2023. She enrolled on May 1<sup>st</sup> and paid a monthly premium of \$800.00 (Testimony, Exs. 1,21)
3. By notice dated April 13, 2023, the Health Connector advised the appellant that a payment she had made had been cancelled by her bank or financial institution. She was further advised to make a payment as soon as possible if she wanted to keep her health insurance. (Ex. 21)
4. By notice dated June 30, 2023, the Health Connector advised the appellant that she had an overdue balance of \$461.83 and risked losing her insurance if she did not make a payment soon. (Ex. 21)
5. By notice dated July 11, 2023, the Health Connector advised the appellant that a payment she had made had been cancelled by her bank or financial institution. She was further advised to make a payment as soon as possible if she wanted to keep her health insurance. (Ex. 21)

6. By notice dated July 29, 2023, the Health Connector advised the appellant that she had an overdue balance of \$761.83 and risked losing her insurance if she did not make a payment soon. (Ex. 21)

7. According to the Health Connector's customer service log of communications with the appellant for the period of August 2, 2023-August 14, 2023, the appellant filed an Application for a Premium Waiver or Reduction on or about August 3, 2023, in which she did not check off a specific reason for the application, but drew a line through all the listed reasons. On August 4, 2023, a customer service representative contacted the appellant and advised her that one of the reasons on the application had to be checked in order to process the form. The appellant indicated that she was going to file a revised application. (Ex. 9)

8. On August 4, 2023, the appellant filed an Application for a Premium Waiver or Reduction on the ground that she experienced a large increase in essential expenses in the past six months because she or a person in her family had suffered from a major illness including Covid-19. She requested a waiver of past due premium and a reduction of future premium and indicated that she could pay "\$350-ish". (Ex. 5)

9. By notice dated August 8, 2023, the Health Connector advised the appellant that a payment she had made had been cancelled by her bank or financial institution. She was further advised to make a payment as soon as possible if she wanted to keep her health insurance. (Ex. 21)

10. On August 9, 2023, the Health Connector denied the appellant's Application for a Premium Waiver or Reduction for one of the following possible reasons: 1) failure to meet at least one of the conditions for extreme financial hardship including: becoming homeless or behind in your housing payments, or having essential utilities shut off (such as your gas, electric, oil, water, or telephone); 2) failure to submit supporting proof with your request; 3) failure to provide enough information to process your request; 4) ineligibility for a ConnectorCare plan; or 5) not being enrolled in a ConnectorCare plan. No ground was specified for the denial. (Ex. 6)

11. According to the customer service notes dated August 9, 2023, the Health Connector denied the application because the appellant was enrolled in a Health Connector plan which made her ineligible to file the form. (Ex. 9)

12. According to the customer service notes dated August 14, 2023, a customer service representative advised the appellant that her request for a hardship premium waiver was denied because she was not enrolled in a plan which qualified her to file the application. (Ex. 9)

13. By notice dated August 29, 2023, the Health Connector advised the appellant that she had an overdue account balance of \$1123.66 which she had to pay by September 23, 2023, in order to keep her insurance coverage. (Ex. 21)

14. The appellant filed an appeal of the Connector's denial of her application for a premium waiver or reduction on September 6, 2023, in which she stated in part that she could not keep up with the cost of living and the premiums. (Ex. 7)

15. By notice dated October 29, 2023, the Health Connector advised the appellant that her insurance coverage had ended on August 31, 2023, because she had not paid the amount due for her monthly premium bills. (Ex. 21)

16. The appellant lived in an apartment in 2023 for which she paid a monthly rent of \$1597.00. By letter dated September 28, 2023, the landlord advised the appellant that her tenancy would be terminated within fourteen days from the date of the notice for non-payment of rent totaling \$1591.00. (Testimony, Ex. 8—Attachment 1)

17. On November 13, 2023, the appellant was served with a Summary Process Eviction Summons and Complaint for non-payment of rent totaling \$2303.38 (\$706.38 for September and \$1597.00 for November). (Ex. 8— Attachment 4) <sup>1</sup>

18. The appellant is requesting a waiver or reduction of her premiums for the period of May-August, 2023. (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 500% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

Pursuant to 956 CMR 12.12, the Connector determines premium contributions the enrollees must pay. Included in the rules are specific grounds for Waiver or Reduction of Enrollee Premium Contribution for Extreme Financial Hardship. See 956 CMR 12.12 (7).

Pursuant to 956 CMR 12.12 (7)(c), an applicant who has been found eligible for ConnectorCare may request a premium waiver prior to enrollment, although the filing of such request does not entitle the applicant to enroll at a reduced premium or without paying the premium while the request is pending.

Subsequent to the appellant's application for a premium waiver or reduction on August 4, 2023, the Health Connector issued a denial on August 9, 2023, which did not specify a ground for the denial. On August 14, 2023, the appellant was advised by a customer service representative that the reason for the denial was that she was not enrolled in a plan which qualified her to file the application. The Connector's August 9<sup>th</sup> form contains five specific grounds for denial including not qualifying for a ConnectorCare plan and not being enrolled in a ConnectorCare plan. The appellant was determined eligible for Health Connector Plans on April 6, 2023, with an APTC, and enrolled in a plan on May 1, 2023. At the time she filed the application for a waiver or reduction of her premium, she was still enrolled in a Health Connector plan, not a ConnectorCare plan. As such, she was not eligible to file the application in the first instance, as she was correctly advised on August 14, 2023.

Had the Connector issued a denial on August 9, 2023, in which it identified the specific ground for its decision, the appellant would have been properly advised of her rights and hopefully would have understood that she did not have any recourse to file the premium waiver/reduction application. It is unfortunate that so much time and energy were directed to pursuing an appeal for which there was no relief.

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<sup>1</sup> At the time of the instant hearing, the appellant was still living in her apartment and was scheduled to appear at the summary process hearing the following week. (Testimony)

Based upon the totality of the evidence, it is concluded that although not properly specified, the Connector's determination regarding the appellant's eligibility for a waiver or reduction of her monthly premium for health insurance was correct at the time of the application, and is therefore affirmed.

**ORDER**

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-20535

**Appeal Decision:** Denied

**Hearing Issue:** Eligibility for ConnectorCare Plans

**Hearing Date:** March 8, 2024

**Decision Date:** March 12, 2024

### 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 September 28, 2023 the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits (APTC) based on the income reported by the Appellant on the application.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's financial eligibility based on the income information provided.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on March 8, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Affidavit of Hearing Record
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated January 31, 2024.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Eligibility Approval notice dated September 28, 2023.
- Exhibit 5: 2023 Eligibility Results with an Application Summary dated September 28, 2023.
- Exhibit 6: Medicaid Household Determination Printout dated September 28, 2023.
- Exhibit 7: The Appellant's Online Appeal Request submitted on October 6, 2023.
- Exhibit 8: Appellant's letter to request to vacate a prior dismissal of their appeal dated December 19, 2023.
- Exhibit 9: Health Connector Customer Service Income Detail Printout.

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant updated their application for health insurance on September 28, 2023. The Appellant reported monthly self-employment income of \$4,500 (Exhibit 5).
2. Based on the income reported, Health Connector determined the Appellant's household of one had income equal to 397.35% of the federal poverty level (Exhibit 5).
3. On September 28, 2023 Health Connector determined the Appellant eligible for Health Connector Plans with APTC of \$0 for the period beginning November 1, 2023 (Exhibit 4).
4. The Appellant filed an appeal on March 7, 2023 (Exhibit 7).
5. The Appellant failed to appear for a Hearing scheduled for December 13, 2023 and their appeal was dismissed. On December 19, 2023 the Appellant submitted a letter to request that the dismissal be vacated. Health Connector approved this request (Exhibit 8).
6. The Appellant testified that they are self-employed and estimated their income on September 28, 2023 based on their tax return for 2022. The Appellant said that they made less money than expected. The Appellant said that as of January 1, 2024 they have been determined eligible for ConnectorCare based on Health Connector's expanded eligibility regulations. The Appellant argued that they should be eligible for retroactive ConnectorCare for November and December 2023 based on their lower income. The Appellant also argued that they should have been told by someone at Health Connector to update their income information (Appellant Testimony).
7. Health Connector's September 28, 2023 Eligibility Approval Notice contained specific instructions regarding change reporting requirements. On page two there is a heading "**If your information changes.** Please report changes that may impact coverage to the Health Connector **within 30 days.** You should report changes to your income, especially if your household will make more or less money than the income you reported when you applied" (Exhibit 4).
8. The Appellant was advised that they could update their application and report any changes in income at any time.

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant's application for health insurance for their household of one was updated on September 28, 2023. The Appellant reported monthly self-employment income of \$4,500. Health Connector determined based on the income reported by the Appellant that the Appellant's household had income equal to 397.35% of the federal poverty level. Health Connector determined the Appellant eligible for Health Connector plans with APTC. The Appellant filed an appeal on October 6, 2023 to dispute the eligibility determination.

Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. As a result of the federal American Rescue Plan, for Plan Years 2021, 2022 and 2023, there is no upper income limit to receive APTCs. Any individual who



purchases health insurance through the Health Connector may receive APTCs even if their income is greater than 400% of the federal poverty level so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5% of their annual income and they meet other non-income criteria to receive APTCs (See Health Connector Policy NG-2 effective 6/1/21). The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant's stated income was determined to be more than 300% of the Federal Poverty Level and rendered the Appellant financially ineligible for ConnectorCare for tax year 2023. 956 CMR § 12.04(1)<sup>1</sup>. This determination was correct as of September 28, 2023.

The Appellant said that as a self-employed person it is difficult to estimate income from one year to the next. The Appellant argues that there should be an allowance for retroactive eligibility for persons in their position. The Appellant also said that they should have been told to report an income change. As noted in Findings of Fact, the eligibility notice issued to the Appellant on September 28, 2023 specifically advised the Appellant of their obligation to report changes in income. 956 CMR 12.09(2). Had the Appellant updated their application to report a change in income, Health Connector would have redetermined their eligibility based on the reported change. 956 CMR 12.11(7).

Based on the income information reported by the Appellant for their household of one September 28, 2023, Health Connector correctly determined the Appellant's financial eligibility for Health Connector Plans (956 CMR 12.04).

## **ORDER**

This appeal is denied.

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

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

cc: Connector Appeals Unit

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<sup>1</sup> As of January 1, 2024 financial eligibility for ConnectorCare has been expanded to include households with an expected MAGI at or below 500% of the federal poverty level.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2320634

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** February 7, 2024

**Decision Date:** March 6, 2024

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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 September 29, 2023, the Appellant was determined eligible for Health Connector Plans, with Advanced Premium Tax Credits.

### ISSUE

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 7, 2024. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (1-11-24) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (10-20-23) (1 page);
- Exhibit 4: Outreach notes (2 pages);
- Exhibit 5: Hearing Request form (10-12-23) (6 pages);
- Exhibit 6: Eligibility Approval letter (9-29-23) (8 pages);

- Exhibit 7: Eligibility detail printouts and applications summary printouts (20 pages);  
Exhibit 8: Medicaid Household Determination (5 pages) and;  
Exhibit 9: Prior hearing notice (12-6-23).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant previously had health insurance through the Health Connector with a ConnectorCare Plan Type 3A. (Appellant Testimony Exhibit 4).
2. Appellant was redetermined and then became eligible for Health Connector Plans with Advanced Premium Tax Credits. (Exhibit 6, 7).
3. The Health Connector determined that Appellant was eligible for Health Connector Plans with APTC based on Appellant's income resulting in a Federal Poverty Level of 302%. (Exhibits 6, and 7).
4. Appellant was not sure what income amount was used and appealed, and did not realize that they had to pay the premium while the appeal was pending. (Testimony, Exhibit 5).
5. Appellant was redetermined again for 2024 and was eligible for Connector Care Plan Type 3B and paid for January 2024. However, when Appellant went to pay February, they discovered the insurance was cancelled. (Testimony, Exhibit 4).
6. Subsequent to the hearing, Appellant was reinstated back to January 2024.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed eligible for Health Connector Plans with APTC based on income reported and verified from other sources. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

In September 2023, the Appellant was determined eligible for Health Connector Plans with APTC based on information in Appellant's application, but Appellant was not sure the correct income was used to make the determination. Appellant filed an appeal. Appellant was not aware of the need to continue to pay premiums while the appeal was pending, and subsequently, the insurance was cancelled. However, it was then reinstated back to January 2024, and Appellant was deemed eligible for 2024 for ConnectorCare Plan Type 3B. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for Health Connector Plans with APTC on September 29, 2023, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2320939

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

**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:** January 8, 2024

**Decision Date:** February 28, 2024

### 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 3, 2023, the Connector determined Appellant to be eligible to purchase and to enroll in a Connector health insurance plan during the next open enrollment period or when the appellant had a qualifying life event.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 8, 2024. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection. 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
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated December 6, 2023 addressed to Appellant for January 8, 2024 hearing
- Exhibit 3: Connector Appeals Unit letter dated November 24, 2023 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit outreach notes dated November 24, 2023 and January 2, 2024
- Exhibit 3b: Appeals Unit email to Appellant dated November 24, 2023
- Exhibit 3c: Appeals Unit letter to Appellant dated November 24, 2023 regarding Office of Patient Protection with application attached
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on November 9, 2023

- Exhibit 5: Connector letter dated November 3, 2023 to Appellant denying a Special Enrollment Period
- Exhibit 5a: Connector letter dated November 3, 2023 to Appellant regarding eligibility to purchase a Health Connector plan with an advance premium tax credit
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated November 3, 2023
- Exhibit 6a: Summary and results of Appellant's application for Connector health plan dated December 15, 2022
- Exhibit 6b: Summary and results of Appellant's application for Connector health plan dated December 9, 2023
- Exhibit 7: Medicaid Household determination dated November 3, 2023
- Exhibit 8: Connector print-out showing history of Appellant's benefits coverage

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through MassHealth until Appellant's coverage was terminated as of August 31, 2023 (Testimony of Appellant; Exhibits 3a).
2. In letters from the Connector dated November 3, 2023, the appellant was informed that she was eligible to purchase a Health Connector plan with an advance premium tax credit, but that she was not eligible to enroll in a plan until the next open enrollment period or until the appellant had a qualifying event. In the letter denying Appellant a special enrollment period, Appellant was informed that she could apply for a waiver of the special enrollment period requirement through the Office of Patient Protection (Exhibits 5, 5a, 6).
3. Appellant spoke to customer service representatives at MassHealth and the Connector after Appellant lost her coverage. After speaking to the customer service representatives, the appellant thought she had to wait until November to apply for new coverage. Appellant applied for new coverage on November 3, 2023 (Testimony of Appellant, Exhibits 5, 5a, and 6).
4. Appellant did not have any qualifying life events which would allow her to enroll in a health insurance plan through the Connector outside of the Connector's open enrollment period, unless she was granted a waiver by the Office of Patient Protection. She answered the questions regarding qualifying life events on her application for coverage. While she had lost her health insurance coverage, a qualifying life event, on the date she applied for coverage, more than 60 days had gone by since that event took place. Appellant had not moved, gotten married, had a child, or added dependent to her family in the 60 days prior to her new application. The Appellant was not a Native American or an Alaska indigenous person. There was no change in Appellant's immigration status (Exhibits 3a, 5).
5. On November 9, 2023, Appellant appealed the determination by the Connector which denied her a special open enrollment period (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on November 3, 2023 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 her health insurance as of August 31, 2023. Appellant did not reapply for health insurance through the Connector until November 3, 2023. The Connector determined that while Appellant was eligible to purchase health insurance through the Connector, she 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 her to enroll outside of an open enrollment period. The determination was based upon information given by the appellant on her application. Appellant was notified of these decisions by mail. In the letter denying the appellant a special open enrollment period, Appellant was informed that she could apply for a waiver of the denial by applying to the Office of Patient Protection. See Exhibits 3a, 5 and 5a, and the testimony of Appellant which I find to be credible.

Appellant applied for coverage more than 60 days after she had lost coverage (August 31, 2023 to November 3, 2023, a 64-day gap). 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 her family in the 60 day prior to November 3rd. Appellant was not a Native American or an Alaska indigenous person. There was no change in Appellant's immigration status. See Exhibit 3a.

I find that the Connector's determination that Appellant was not eligible for a special enrollment period should be affirmed. As noted above, the determination was based upon information given to the Connector by the appellant. See Exhibit 3a. Appellant missed being able to enroll outside of the open enrollment period because she did not apply for and enroll in a plan within 60 days of losing her prior coverage. There is no evidence in the record that Appellant had any other qualifying life event within 60 days of her 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. Appellant was informed that she could apply to the Office of Patient Protection for a waiver. See Exhibit 5. There is no evidence in the record that Appellant took advantage of that option.

**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 she 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

Addendum: By the date of this hearing, Appellant had enrolled in a ConnectorCare plan for 2024. Appellant expressed concern about the cost of this plan during the hearing. If Appellant's income has decreased since she enrolled, she may wish to call Customer Service at 1-877-623-6765 and report a change of income.