

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-3584

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans with no subsidy, based on income

**Hearing Date:** March 29, 2018

**Decision Date:** May 18, 2018

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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.* 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 January 3, 2018, the Appellant was determined eligible for health insurance coverage through the Health Connector with no financial help in 2018, based on his income.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined on January 3, 2018, that the Appellant was eligible for Health Connector plans with no financial assistance in 2018.

### **HEARING RECORD**

The Appellant's brother-in-law appeared at the hearing as the Appellant's designated representative. The Appellant was overseas and unavailable to participate in the hearing.

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

- Exhibit 1: Affidavit
- Exhibit 2: 1/3/18 Eligibility Approval Notice (12 pages)
- Exhibit 3: 1/16/18 Appeal (5 pages)
- Exhibit 4: 1/21/18 Appeal Acknowledgement (3 pages)
- Exhibit 5: Eligibility Results for 12/24/16 Application (5 pages)
- Exhibit 6: 1/21/18 Appeal Unit Notes

Exhibit 7: 2/16/18 Email Chain (5 pages)  
Exhibit 8: 3/14/18 Hearing Notice (14 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned seventy-six years old in 2017. (Exhibit 2)
2. On January 3, 2018, the Appellant applied to the Health Connector for 2018 health insurance coverage. (Exhibit 5)
3. By Eligibility Approval Notice dated January 3, 2018, the Connector notified the Appellant that he qualified for health insurance coverage through the Health Connector with no financial assistance, based on a projected annual income of \$3,600 for 2018 that was 29.85% of the Federal Poverty Level (FPL). (Exhibits 2 and 5)
4. On January 16, 2018, the Appellant appealed the Connector's 1/3/18 decision to deny the Appellant help paying for health insurance coverage through the Health Connector. As the reason for his appeal, the Appellant circled "Income." (Exhibit 3)
5. The Health Connector can offer health insurance to people over 65 years old only if they expect to make income over 100% of the FPL for the year. In 2018, an individual's annual income of \$12,061 was 100% of FPL. (Exhibit 6 and Exhibit 7)
6. The Health Connector did not begin applying the 100% of FPL rule until recently. As a result, many people over 65 years old with income under 100% of FPL had qualified for ConnectorCare coverage in earlier years. (MLRI, "Minimum income standard for ConnectorCare and how it affects seniors")
7. The Appellant had health insurance coverage through MassHealth from December 24, 2014, until August 17, 2017, when he received notice that his MassHealth coverage had been canceled. (Exhibit 3)
8. Up until 2017, the Appellant depended on a monthly pension that he received from his prior employment in a foreign country. In 2017, the Appellant learned that the foreign country would no longer permit the transfer of his monthly pension payments to the USA due to sanctions imposed by the USA. As a result, the Appellant has traveled to the foreign country in order to make alternative arrangements for him to receive his pension payments regularly in the USA. (Exhibit 3)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector Plans without financial assistance, based on his age and projected income for 2018. Under 45 CFR § 115.305 (f) and 26 CFR § 1.36B-2(a) and (b), people with income at or under 100% of FPL are not eligible for premium tax credits; and, under 956 CMR 12.04, only people eligible for premium tax credits are eligible for financial assistance through ConnectorCare plans.

In this case, when the Appellant applied to the Health Connector for 2018 health insurance coverage on January 3, 2018, the Appellant stated that he expected his income for 2018 would be \$3,600. This amount of income equals 29.85% of FPL for 2018. As the Appellant's projected income for 2018 did not exceed 100% of FPL, the Appellant was not eligible for premium tax credits in 2018. Therefore, the Health Connector correctly determined on January 3, 2018, that the Appellant did not qualify for any financial assistance in purchasing insurance coverage through the Health Connector in 2018.

## **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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-3648

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans; access to Medicare

**Hearing Date:** March 14, 2018

**Decision Date:** May 4, 2018

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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 January 10, 2018, Appellant submitted an application for subsidized insurance, and was found not eligible for Health Connector Plans because Appellant had access to Medicare or was enrolled in Medicare.

### 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 information available to the Connector.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 14, 2018. The hearing was recorded. The record was left open to allow the Appellant to submit additional documents regarding access to Medicare. No additional documents were received. 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 (2-20-18) (4 pages);
- Exhibit 3: Notice of Hearing (1-25-18);
- Exhibit 4: Acknowledgement of Appeal (1-24-18) (6 pages);
- Exhibit 5: Outreach notes (1 page);

- Exhibit 6: Hearing Request form (1-18--18) (with documents) (4 pages);  
Exhibit 7: Eligibility Denial letter (1-10-18) (6 pages);  
Exhibit 8: Eligibility detail printout and application summary printout (4 pages);  
Exhibit 9: AVV form (1 page); and  
Exhibit 10: Mass Health form (1 page).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in January 2018.
2. Appellant was deemed ineligible for Health Connector plans on January 10, 2018 based on being eligible for Medicare.
3. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare.
4. Appellant stated he had Medicare Part A but not Part B. The record was left open for Appellant to submit documents showing that he was not eligible for and did not have access to either Medicare Part A or Medicare Part B.
5. No additional documents were received from the Appellant.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance through the Health Connector. Appellant has Medicare Part A but not Part B and needs insurance for cancer treatment. Under 42 USC 1395§§ (d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare.

Appellant indicated that he had previously had Medicare parts A and B when he was receiving disability, but he is no longer receiving disability and only has Medicare Part A. However, the disqualification is based on access to either Part A and/or Part B of Medicare. The record was left open to allow Appellant to submit documents showing he no longer has access to part A of Medicare. However, no additional documents were submitted. The information available to the Health Connector was that Appellant had access to or was eligible for Medicare.

## **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.

**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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-3671

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; income

**Hearing Date:** April 18, 2018

**Decision Date:** May 21, 2018

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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 21, 2017, Appellant submitted an application for subsidized insurance, and was found eligible for Health Connector Plans with Advance Premium Tax Credit without Massachusetts subsidy. Appellant also submitted an application on July 18, 2017.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with Advance Premium Tax Credits, based on the information available to the Connector.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 18, 2018. Appellant's representative also appeared at the hearing. The hearing was recorded. The record was left open to have the Connector provide documents relating to the July 17, 2017 application, and for Appellant to submit additional information, or rebuttal to the documents submitted. Appellant did not submit anything further after the Connector provided the additional documents. The hearing record consists of the Appellant's and the Appellant's Representative'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 (3-26-18) (5 pages);  
Exhibit 3: Acknowledgement of Appeal (1-30-18) (2 pages);  
Exhibit 4: Outreach notes and email (3 pages);  
Exhibit 5: Hearing Request form (1-24--18) (1 page);  
Exhibit 6: Eligibility Approval letter (12-21-17) (10 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (6 pages);  
Exhibit 8: Additional documents submitted prior to hearing (11 pages);  
Exhibit 9: Notice of prior hearing date (2-8-18) (5 pages); and  
Exhibit 10: Letter from Appellant re vacate dismissal (3-14-18) (1 page).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in December 2017.
2. Appellant was deemed eligible for Health Connector Plans with Advance Premium Tax Credits, but not Massachusetts subsidies based upon information available to the Health Connector. Based upon the income reported and the income verified, the Federal Poverty Level resulted in 338.31%.
3. Appellant appealed and stated during the hearing that the appeal was based on premiums paid from July 2017 to December 2017, not the premiums as of January 2018.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans with Advance Premium Tax Credits, but without additional Massachusetts subsidies, based on a verified income level resulting in 338.31% of the Federal Poverty level.

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In this case, the verified income FPL was over 300% and under 400% of FPL. This level of FPL resulted in eligibility only for federal Advance Premium Tax Credits. In this case, the issue presented was whether the determination of eligibility was correct based upon the information provided and available to the Connector. Based upon the information available to the Connector, the determination was correct. The Appellant's appeal of premiums from July 2017, to December 2017 was not timely.

**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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-3694

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit based on failure to verify information

**Hearing Date:** April 17, 2018

**Decision Date:** May 16, 2018

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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 January 6, 2018, the appellant was advised that he did not qualify for a subsidized Health Connector Plan because the Connector did not get the information it needed to verify his eligibility. (Ex. 1) The appellant filed an appeal dated January 24, 2018 (Ex. 10) and requested a premium waiver/reduction. The matter was referred to a hearing after receipt of the appeal. (Ex.14)

### ISSUE

Was the Connector's decision regarding the appellant's lack of qualification for Health Connector Plans correct at the time of its determination on January 6, 2018, 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 April 17, 2018, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence:

- Ex. 1—Health Connector's Notice of Eligibility Termination dated January 6, 2018 (12 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for January 6, 2018 (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (2 pages)

- Ex. 4— Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for October 28, 2017 (2 pages)
- Ex. 5— Computer printout of Health Connector’s Review of Application (2 pages)
- Ex.6—Notice from MassHealth dated October 28, 2017 (4 pages)
- Ex. 7—Health Connector’s Request for Information dated January 22, 2015 (8 pages)
- Ex. 8— Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for February 2, 2018 (2 pages)
- Ex. 9— Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 10—Hearing Request Form dated January 24, 2018 (3 pages)
- Ex. 11—Earnings Statements and Affidavit of Residence (6 pages)
- Ex. 12—Acknowledgement of Appeal dated January 26, 2018 (8 pages)
- Ex. 13—Email from Appeals Unit dated February 5, 2018 (1 page)
- Ex. 14—Notice of Hearing (5 pages)
- Ex. 15—Affidavit of Connector representative

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 50-years-old, is single, and has a tax household size of one. (Testimony, Exs. 3,5,9)
2. The appellant was enrolled in a ConnectorCare plan with Advanced Premium Tax Credits (APTC) in 2017 for which he paid a monthly premium of approximately \$123.00. (Testimony)
3. By notice dated October 28, 2017, the Health Connector notified the appellant that he qualified for Health Connector Plans for 2018. The appellant was further notified that his Federal Poverty Level (FPL) based on his self-reported income was determined to be 273.15%, but the FPL used to decide his program eligibility was 472.16%. Finally, the appellant was asked to submit proof of income and residency. (Testimony, Ex. 4)
4. The appellant planned to submit proof of income and residency to the Connector, but forgot. He subsequently received additional letters from the Connector, but did not open them. (Testimony)
5. By letter dated January 6, 2018, the Health Connector notified the appellant that he no longer qualified for subsidized coverage through the Connector because he did not submit the information it needed to verify his eligibility for a Health Connector Plan. The letter further stated that the Connector’s determination was based on “data from other sources” because it did not receive the documents it had requested. (Exs. 1,2)
6. The appellant appealed the Connector’s January 6, 2018 determination on January 24, 2018, and requested a premium waiver/reduction. He stated in part that he received the letter too late to call and cancel, and the new premium was not affordable. (Ex. 10)
7. The appellant subsequently sought assistance from a local health clinic and submitted proof of income and an Affidavit of Residence to the Health Connector. (Testimony, Ex. 11)
8. On February 2, 2018, the Health Connector notified the appellant that he qualified for ConnectorCare Plan Type 3B with an APTC of \$130.00, effective March 1, 2018. The FPL used to decide his program eligibility was 273.15%. The appellant enrolled in a plan beginning on March 1<sup>st</sup> and his monthly premium is \$126.00. (Testimony, Ex. 8)

9. The appellant's premium for unsubsidized Health Connector Plans increased to \$370.05/month on January 1, 2018. He was billed a total of \$616.10 for the months of January and February, but was unable to make any payments. He is seeking a waiver or reduction of that amount on the grounds that it is unaffordable. (Testimony, Ex. 10)

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

On January 6, 2018, the appellant was advised that he no longer qualified for a subsidized Health Connector Plan because he failed to provide the requested documentation to verify his continued eligibility. The appellant does not dispute his failure to submit the requested documentation to the Connector in order to continue his eligibility for subsidized coverage, but maintains that the premium for unsubsidized insurance for the months of January and February, 2018, is unaffordable.

Pursuant to 26 IRC section 36B and 45 CFR 155.305(f), certain taxpayers are eligible for an APTC if their household income is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly income. Taxpayers who qualify for an APTC and who have projected yearly income less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR 12.04. The Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided by the applicant, including the applicant's income, in accordance with 45 CFR 155.320(d). When the Connector cannot verify an applicant's income 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 for a household income value, and issue a new eligibility determination, in accordance with 45 CFR 155.315(f)(5), 155.320(c)(3)(i)(D).

On October 28, 2017, the Health Connector requested proof of income and residency in order to determine the appellant's eligibility to purchase a subsidized Health Connector plan for 2018. The request referred to a list of acceptable documents to verify income and residence. The Connector did not receive the information that it requested and in a notice dated January 6, 2018, advised the appellant that it could not verify his eligibility to purchase a Health Connector plan pursuant to 45 CFR 155.315(f). Since the appellant failed to provide the requested verification, the Connector relied on data it had available from other sources to issue its determination.

Subsequent to the January 6, 2018 determination, the appellant submitted documentation to verify his income and residence, and on February 2, 2018, he was determined eligible for a ConnectorCare plan effective March 1, 2018, based on household income within 273.15% of the FPL.

Based upon the totality of the evidence, it is concluded that the Connector's determination on January 6, 2018, regarding the appellant's eligibility for Health Connector Plans without subsidies due to failure to provide requested information, was correct and is therefore affirmed.

### **ORDER**

The appeal is denied.

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

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

HealthCare.gov/marketplace-appeals 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 appellant was advised to contact the Health Connector's billing department regarding options available to pay his outstanding balance of \$616.10.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-3819

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare plan; employer-sponsored insurance

**Hearing Date:** March 29, 2018

**Decision Date:** May 21, 2018

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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 under 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.* 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 January 6, 2018, the Connector determined the Appellant/husband eligible for Health Connector Plan with no financial help and the Appellant/wife eligible for ConnectorCare Plan Type 3A with APTC of \$100 monthly, for 2018.

### **ISSUE**

The issue addressed on this appeal is whether the Appellant/husband qualified for subsidized insurance coverage through a ConnectorCare plan.

### **HEARING RECORD**

The Appellant/husband appeared at the hearing, which was held by telephone on March 29, 2018.

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

- Exhibit 1: Affidavit
- Exhibit 2: 1/6/18 Eligibility Approval Notice (12 pages)
- Exhibit 3: 1/29/18 Appeal
- Exhibit 4: 1/19/18 Application Results (8 pages)
- Exhibit 5: 12/28/17 Application Results (5 pages)
- Exhibit 6: 3/14/18 Hearing Notice (11 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant/husband works at two different jobs during the year. He works year-round for an architecture company, but only part-time for the company from May to December, when the Appellant does commercial fishing. (Appellant's testimony; Exhibit 5)
2. The architecture company offers health insurance coverage, and the Appellant has the option to enroll in his employer's coverage. The Appellant has never enrolled in the coverage and does not know whether the coverage would be affordable for him. (Exhibit 5; Appellant's testimony)
3. On December 28, 2017, the Appellant applied to the Connector for insurance coverage for his family of four. The Connector determined at that time that the Appellant's family qualified for MassHealth Standard. (Exhibit 5)
4. The Appellant applied to the Connector again on January 6, 2018. By Eligibility Approval Notice, dated January 6, 2018, the Connector notified the Appellant that the Appellant's wife was eligible in 2018 for ConnectorCare Plan Type 3A with \$100 Advance Premium Tax Credit; and, that the Appellant/husband was eligible in 2018 for Health Connector Plans only with no financial help. This determination was based on projected household income for 2018 that was 215.01% of FPL and on the Appellant's access to employer-sponsored insurance. (Exhibit 2)
5. By letter dated January 6, 2018, MassHealth notified the Appellant/husband that his two dependents were approved for MassHealth Family Assistance. (Exhibit 3)
6. On January 19, 2018, the Appellant submitted another application to the Connector for health insurance coverage for his household of four. Based on projected income for 2018 that was 215.01% of FPL, the Connector determined that the Appellant was eligible for Health Connector Plans only; and, that his wife was eligible for ConnectorCare Plan Type 3A. (Exhibit 4; Appellant's testimony)
7. On January 29, 2018, the Appellant/husband submitted his family's appeal of the Connector's 1//6/18 determination. (Exhibit 3)
8. The Appellant's household income was about \$55,000 in 2017, and the Appellant projected an increase of no more than \$500 in 2018. In 2017, with subsidies, the Appellant paid no premiums for health insurance coverage for his family. In 2018, the Appellant is paying monthly premiums of \$268, for the Appellant/husband's coverage; \$84, for the Appellant/wife's ConnectorCare coverage; and, \$40, for their children's MassHealth coverage, for a total of \$392/monthly, plus \$27 monthly for dental insurance coverage for the Appellants. (Exhibit 3)

## **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 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 2018 if the employee's required contribution for self-only coverage is 9.56 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.

In 2017, the Appellants paid no premiums for health insurance coverage for their family of four. While it is not clear from the record whether the Appellants' dental insurance coverage in 2018 was new for the Appellants, the biggest reason by far for the Appellants' significant rise in health insurance costs in 2018 was the Appellant/husband's \$268 monthly premium for health insurance coverage in 2018. In the Appellant's 1/6/18 application to the Connector for 2018 coverage, the application at issue here, the Appellant/husband stated that he had access to health insurance coverage through his employer. Such access disqualifies the Appellant/husband from subsidized coverage through ConnectorCare plans, as long as the employer-sponsored coverage is affordable for the Appellant. There is nothing in the Appellant's application indicating that the insurance coverage offered by his employer was unaffordable, and the Appellant has not checked to see if the coverage is unaffordable. Therefore, I conclude that the Connector correctly determined, based on the information that the Connector had on January 3, 2018, that the Appellant/husband did not qualify for subsidized health insurance coverage through ConnectorCare plans, as he had access to employer-sponsored 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. 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 the Appellant has not done so already, I encourage him to check out the cost of individual health insurance coverage through his employer for affordability and, if it is not affordable, to update his Connector application to show this.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-3949

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; income

**Hearing Date:** March 14, 2018

**Decision Date:** May 4, 2018

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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 January 25, 2018, Appellant submitted an application for subsidized insurance, and was found eligible for Health Connector Plans with Advance Premium Tax Credit without Massachusetts subsidy. Appellant also submitted an application on November 9, 2017.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with Advance Premium Tax Credits, based on the information available to the Connector.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on March 28, 2018. 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 (3-6-18) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (2-16-18) (5 pages);
- Exhibit 4: Outreach notes (2 pages);

- Exhibit 5: Hearing Request form (2-13--18) (1 page);  
Exhibit 6: Eligibility Approval letter (1-25-18) (in Spanish) (14 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (13 pages); and  
Exhibit 8: Additional documents submitted prior to hearing (11 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in January 2018.
2. Appellant was deemed eligible for Health Connector Plans with Advance Premium Tax Credits, but not Massachusetts subsidies based upon information available to the Health Connector. Based upon the income reported, the Federal Poverty Level resulted in 212.68%. Based on information available to the Health Connector, the income resulted in a Federal Poverty Level of 310.22%.
3. Appellant appealed and stated that they could not afford the premiums sent in additional documents regarding income.
4. The additional documents were received by the Health Connector on March 21, 2018, and sent to be processed at that time. The additional documents had not been processed as of the date of the hearing..

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans with Advance Premium Tax Credits, but without additional Massachusetts subsidies, based on a verified income level resulting in 310.22% of the Federal Poverty level.

Eligibility for Advanced Premium Tax Credits and state subsidies include a determination of the household size and projected Modified Adjusted Gross Income (MAGI). Internal Revenue Code Section 36B(c)(1)(A) and MGL c. 176Q(3)(a)(13), along with the relevant regulations (45CFR section 155.305(f) and 956 CMR Sections 12.04, and 12.08. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level and less than 400% of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In this case, the verified income FPL was over 300% and under 400% of FPL. This level of FPL resulted in eligibility only for federal Advance Premium Tax Credits.

In this case, the issue presented was whether the determination of eligibility was correct based upon the information provided and available to the Connector. Based upon the information available to the Connector, the determination was correct.

## **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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4104

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; timeclock expiration income

**Hearing Date:** April 18, 2018

**Decision Date:** May 22, 2018

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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 April 5, 2017, Appellant submitted an application for subsidized insurance, and was found eligible for Connector Care Plan and was asked to submit proof of income. On January 26, 2018, the Health Connector determined Appellant to be eligible for a Health Connector plan with Advance Premium Tax Credits of \$0.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with Advance Premium Tax Credit of \$0, based on the information available to the Connector.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 18, 2018. 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 procedure (1 page);
- Exhibit 2: Notice of Hearing (3-26-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (3-1-18) (4 pages);
- Exhibit 4: Outreach notes and email (3 pages);

- Exhibit 5: Hearing Request form (2-23--18) (1 page);
- Exhibit 6: Eligibility Approval letter (1-26-18) (12 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (9 pages);
- Exhibit 8: Request for Information (4-5-17) (6 pages);
- Exhibit 9: Salesforce notes (4 pages);
- Exhibit 10: Workspace notes and documents (9 pages);
- Exhibit 11: Mass Health documents (6 pages); and
- Exhibit 12: Request for information (9-25-16) (4 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in April 2017.
2. Appellant was deemed eligible Connector Plans, and was asked to submit documents of proof of income to confirm eligibility.
3. Appellant did not submit the documentation of proof of income as requested.
4. On January 26, 2018, Appellant was deemed eligible for unsubsidized health insurance plans through the Health Connector.
5. The new determination was based on inability to confirm the income as reported by the Appellant.
6. On February 23, 2018, Appellant filed for an appeal, based on income.
7. Appellant thereafter submitted documents regarding income and received a new determination as of March 2, 2018.

## **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 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.

Appellant applied for health insurance coverage through the Connector in April 2017. Appellant was found to be eligible for a ConnectorCare plan and was notified that Appellant was required to submit documentation of proof of income to confirm eligibility. Appellant did not submit the documentation requested. On January 26, 2018, Appellant was notified that Appellant was eligible only for unsubsidized health insurance based on inability to confirm income. Appellant thereafter submitted proof of income documentation and as of March 2, 2018, was deemed eligible for ConnectorCare Plan Type 3A.

The Connector made the correct determination based on the information available to the Connector. When Appellant did not supply the required documentation, the Connector was unable to verify income.

**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 was 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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4106

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Special Enrollment Period

**Hearing Date:** March 29, 2018

**Decision Date:** May 21, 2018

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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.* 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 February 3, 2018, the Connector determined the Appellant eligible for ConnectorCare Plan Type1 but that she could enroll at that time only if she had a qualifying event.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined on February 3, 2018, that the Appellant could enroll in ConnectorCare at that time only if she qualified for a special enrollment period.

### **HEARING RECORD**

On March 29, 2018, the Appellant and the Appellant's representative appeared at the hearing by telephone and offered testimony under oath of affirmation.

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

- Exhibit 1: 2/3/18 Eligibility Approval Notice (12 pages)
- Exhibit 2: 2/23/18 Appeal
- Exhibit 3: Eligibility Results for 2/3/18 Application (4 pages)
- Exhibit 4: Salesforce Info (3 pages)
- Exhibit 5: 3/14/18 Hearing Notice (6 pages)
- Exhibit 6: 3/6/18 Appeals Contact Notes

## **FINDINGS OF FACT**

The record shows, and I so find:

1. During open enrollment for 2018 coverage, the Connector approved the Appellant's application, and the Appellant enrolled in coverage beginning on January 1, 2018. The Appellant was required to submit her payment for her first month of coverage by December 23, 2017. (Appellant's testimony; Health Connector Policy #NG-6B; Termination of Coverage – Non-Payment of Premium)
2. The Appellant sent her first payment on December 26, 2017. The Connector posted the Appellant's payment on January 5, 2018. The Connector canceled the Appellant's coverage for late payment of the initial premium. (Exhibit 4)
3. Open enrollment for 2018 coverage ended on January 23, 2018. (Mass.Gov website)
4. By Eligibility Approval Notice dated February 3, 2018, the Connector notified the Appellant that she was eligible for ConnectorCare Plan Type 1 with an Advance Premium Tax Credit of \$500, but that she could not enroll at that time unless she had experienced an event that qualified her for a Special Enrollment Period. (Exhibit 1)
5. On February 23, 2018, the Appellant appealed the Connector's determination, checking off "Other insurance" as the reason; and, stating, "I sent in a premium payment for whole year and it got there late my insurance was cancelled without notice sent to me."
6. On March 6, 2018, the Appeals Unit notified the Appellant that an administrative adjustment had been made for her, providing her with a Special Enrollment Period so that she could enroll in her ConnectorCare plan at that time. (Exhibit 6)

## **ANALYSIS AND CONCLUSIONS OF LAW**

In her appeal, the Appellant focuses on the late payment that she made for 2018 coverage that she had applied for in late 2017, during open enrollment. However, this billing/payment issue is not before me, as it is not appealable. The only issue before me is the new application that the Appellant submitted on February 3, 2018.

As the Open Enrollment period for 2018 health insurance coverage ended on January 23, 2018, and the Appellant's application at issue was not submitted until February 3, 2018, the Appellant was not able to enroll in a ConnectorCare plan at time, unless she qualified for a Special Enrollment Period. While the Connector has since provided the Appellant with an "administrative" Special Enrollment Period to permit her to enroll in a ConnectorCare plan, I conclude that the Connector correctly determined on February 3, 2018, that the Appellant could not enroll in her ConnectorCare plan at that time, until she qualified for a Special Enrollment Period, under 45 CFR § 155.420.

Accordingly, I deny the Appellant's appeal.

## **ORDER**

The appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the

Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4153

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare based on access to employer sponsored health insurance.

**Hearing Date:** March 28, 2018

**Decision Date:** May 9, 2018

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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 February 1, 2018, 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.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 28, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The record was kept open for the Appellant to provide the Employer Sponsored Health Insurance Form. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated March 6, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (4 Pages dated March 2, 2018)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (6 pages dated February 22, 2018)
- Exhibit 6: Notice of Eligibility Determination (5 pages, dated February 20, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated February 20, 2018)
- Exhibit 8: Health Connector Historical Notices and Printouts (2 pages)
- Exhibit 9: Prior eligibility Approval dated February 1, 2018

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies on February 1, 2018. (Exhibit 5, Exhibit 7 & Exhibit 8)
2. The Appellant was not found eligible for subsidized health insurance through the Health Connector because she stated on her application that she has access to employer-sponsored health insurance that is affordable and meets minimum standards. (Exhibit 5, Exhibit 7 & Exhibit 8, Appellant testimony)
3. Appellant stated that she entered into a new job on January 8, 2018 and received paperwork in regard to health insurance. Appellant did not fill out the paperwork because she had MassHealth and thought she was still entitled to MassHealth. Her mother renewed the mother's application with MassHealth and checked off that her daughter was entitled to insurance through her employer. Once Appellant found out she was not entitled to either MassHealth or subsidized insurance through the Health Connector, she tried to apply with her employer but it was too late. (Exhibit 5, Appellant's testimony)
4. The Appellant did not provide any open record documents

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant stated on her appeal request form that she cannot afford the insurance that was made available to her, and disputes the finding that she is not eligible for subsidies to help make her insurance more affordable.

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 2017 if the employee's required contribution for self-only coverage is 9.56 percent or less of the employee's projected household modified adjusted gross income.

The Appellant attested on her application that she has access to affordable employer sponsored insurance that meets minimum value standards. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination. The Appellant's appeal is therefore denied.

## **ORDER**

The appeal is Denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4173

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** March 28, 2018

**Decision Date:** May 9, 2018

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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 February 11, 2018, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 28. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and Appellant's representative were sworn in and testified. The record was kept open for the Appellant to furnish documents from Medicare regarding her eligibility or enrollment in Medicare. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated March 6, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (6 Pages dated February 28, 2018)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (2 pages dated February 20, 2018)
- Exhibit 6: Notice of Eligibility Determination (5 pages, dated February 11, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated February 11, 2018)
- Exhibit 8: Health Connector Historical Notices and Printouts (2 pages)
- Exhibit 9: Open record documents from the Appellant and the Health Connector (15 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on February 11, 2018, based on being eligible for Medicare. (Exhibit 6, Exhibit 8, Appellant's testimony)
2. Appellant was enrolled or is enrolled in Medicare. (Exhibit 6, Exhibit 8, Exhibit 9 & Appellant's testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant stated on her appeal request form that she cannot afford the insurance that was made available to her, and disputes the finding that she is not eligible for subsidies to help make her insurance more affordable.

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).

When the Appellant's eligibility for 2018 coverage was determined on February 11, 2018, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that she was eligible for Medicare. Because the Appellant was eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive APTC

and was also therefore not eligible for ConnectorCare. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4266

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; timeclock expiration residency

**Hearing Date:** April 18, 2018

**Decision Date:** May 24, 2018

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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 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 or about November 10, 2017, Appellant submitted an application for subsidized insurance, and was found eligible for Connector Care Plan and was asked to submit proof of residency. On February 17, 2018, Appellant was determined ineligible for ConnectorCare based on Appellant's failure to verify Appellant's residency.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for ConnectorCare 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 April 18, 2018. The hearing was recorded. The record was left open to allow Appellant to submit documents regarding residency. Appellant submitted the documents. 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 procedure (1 page);
- Exhibit 2: Notice of Hearing (3-26-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (3-9-18) (5 pages);
- Exhibit 4: Outreach notes (2 pages);

- Exhibit 5: Hearing Request form (3-5-18) (2 pages);  
Exhibit 6: Eligibility Termination letter (2-17-18) (6 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (8 pages);  
Exhibit 8: Request for Information letter (11-10-17) (6 pages); and  
Exhibit 9: Documents submitted pursuant to Open Record (4-30-18) (26 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in November 2017.
2. Appellant was deemed eligible Connector Plans and was asked to submit documents of proof of residency to confirm eligibility.
3. Appellant did not submit the documentation of proof of residency as requested.
4. On February 17, 2018, Appellant was deemed ineligible for ConnectorCare Plans based on failure to submit the required documents.
5. On March 5, 2018, Appellant filed for an appeal.
6. Appellant thereafter submitted documents regarding residency and was deemed eligible and has since enrolled in the ConnectorCare plan.

## **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 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.

Appellant applied for health insurance coverage through the Connector in November 2017. Appellant was found to be eligible for a ConnectorCare plan and was notified that Appellant was required to submit documentation of proof of residency. Appellant did not submit the documentation requested. On February 17, 2018, Appellant was notified that Appellant was ineligible for ConnectorCare plans based on failure to submit the required documentation of proof of residency. Appellant thereafter submitted proof of residency documentation and as of the date of this decision, was deemed eligible for a ConnectorCare Plan and has enrolled.

The Connector made the correct determination based on the information available to the Connector. When Appellant did not supply the required documentation, the Connector correctly terminated eligibility at that time. As of the date of this decision, Appellant has been enrolled again in a ConnectorCare Plan after having submitted the required documentation of proof of residency.

**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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4369

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** April 18, 2018

**Decision Date:** May 4, 2018

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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 February 5, 2018, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was enrolled in Medicare.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone, on April 18, 2018.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (undated)
- Exhibit 2: Correspondence from Appeals Unit (12 pages)
- Exhibit 3: Notice of Appeal and support documents (1 page)
- Exhibit 4: Health Connector Notice on Appeal (11 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on February 5, 2018, based on having access to Medicare or being enrolled in Medicare (Exhibit 4)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 4).
3. Appellant filed a Notice of Appeal on March 3, 2018, claiming that Appellant qualified due to income and needed care (Exhibit 3 and Testimony of Appellant).
4. Appellant is enrolled in Medicare (Testimony of Appellant).

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

When the Appellant's eligibility for 2018 coverage was determined on February 5, 2018, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. Appellant was eligible and had been enrolled in Medicare. See Exhibit 4 and Testimony of Appellant which I find to be credible. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible or enrolled in Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I).

Because the Appellant was eligible and in fact enrolled in Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

### **ORDER**

The appeal is denied.

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

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

### **ADDENDUM**

Appellant was provided with the phone number for SHINE (1-800 841-2900) to get information about other insurance options available.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA184372

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

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

**Hearing Date:** April 24, 2018

**Decision Date:** May 21, 2018

### 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 March 2, 2018, the Connector determined that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit based upon information supplied by the appellant to the Connector.

### ISSUE

Whether the Connector correctly determined pursuant to 26 Code of Federal Regulations Section 1.36B (1) and (2) that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 24, 2018. 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 from the appellant. Appellant testified. At the end of the hearing, the record was left open so that the Connector could submit evidence of documentation of projected income submitted to the Connector by the appellant. Appellant did not object to the documentation being added to the record. The Connector produced the documents Appellant submitted to the agency as proof of income. These have been marked as exhibits and admitted in evidence. The record is now closed.

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 Appellant's file, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated March 27, 2018 addressed to Appellant for April 24, 2018 hearing

Exhibit 3: Connector Appeals Unit letter dated March 15, 2018 addressed to Appellant

- acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit e-mail to Appellant dated March 15, 2018
- Exhibit 3b: Appeals Unit staff case notes
- Exhibit 4: Hearing Request Form signed by Appellant on March 7, 2018 with attachments
- Exhibit 5: Connector letter to Appellant dated March 2, 2018 regarding eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated March 2, 2018
- Exhibit 7: Summary and results of Appellant's application for Connector health plan dated February 14, 2018
- Exhibit 8: Connector letter to Appellant dated February 14, 2018 requesting information
- Exhibit 9: Letter to Appellant from Massachusetts Department of Employment Assistance dated September 26, 2017 regarding unemployment benefits
- Exhibit 10: Appellant's pay stub for first week of February, 2018
- Exhibit 11: Connector record showing receipt of proof income sent by Appellant, dated February 28, 2018 with processing date of March 2, 2018

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied to purchase health insurance through the Connector in February, 2018. He applied by phone and explained that he had been laid off from his full-time job. He had applied for unemployment compensation benefits. He was receiving benefits of a maximum of \$535 a week. He also had a part-time job. His wages varied week to week. He explained that the most he could receive in benefits and income was \$713 a week (Testimony of Appellant, Exhibits 4 attachment, 9).
2. On February 14, 2018, the Connector determined based upon the information supplied by the appellant over the phone that his projected annual income amounted to 371.22% of the Federal Poverty Level and that the appellant was eligible for a Health Connector Plan with an advance premium tax credit (Exhibit 7, and Testimony of Appellant).
3. The appellant enrolled in a plan after he received the February 14th determination (Testimony of Appellant).
4. On February 14th, the Connector also sent a letter to the appellant requesting that the appellant send in proof of income (Exhibit 8).
5. On February 28, 2014, the Connector received two documents from the appellant regarding his income. One was a letter dated September 26, 2017 from the Massachusetts Department of Unemployment Assistance; the other was a pay stub from the first week of February, 2018. The letter showed that the appellant was receiving a weekly maximum benefit of \$535 through September 22, 2018 and the pay stub showed that the appellant had earned \$448 gross for that week. The letter regarding his unemployment benefits also showed that there was an earnings exclusion of \$178.33 per week. The documents were processed by the Connector on March 2, 2018 (Exhibits 9, 10, and 11).
6. On March 2, 2018 the Connector determined that the appellant was eligible to enroll in a Connector Health plan with no financial assistance. He was given a special enrollment period and had until May 1, 2018 to enroll in a plan. The appellant was sent notification of the determination and his monthly premium payment was increased \$166 a month since his projected income based upon the documents received was 423.81% of the Federal Poverty Level. Appellant was billed for the increased amount for two months (Exhibit 5, Testimony of Appellant).

7. Appellant appealed the March 2, 2018 determination and increase in his premium because his unemployment compensation benefits are reduced when he earned up to a certain amount and appellant claimed that the Connector did not take that into account when it determined Appellant's projected income. There was a dollar for dollar reduction of his benefits after the appellant earned more than \$178 a week. The most he could earn and collect each week was a total of \$713 (Testimony of Appellant, Exhibits 4 and 9).

8. Appellant has since lost his part-time job and he has notified Customer Service of this change. His premium has been reduced, but Appellant was informed that he still owed \$332 (Testimony of the Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on March 2, 2018 that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. If the individual's projected income turns out to be higher than the actual income, the individual may receive a tax credit in the amount of the advance premium tax credit not received. This type of correction occurs when the individual files a tax return and reconciles the tax credit received and the tax credit that should have been received. See the Internal Revenue Service Publication 5120.

Appellant applied for health insurance coverage through the Connector in February, 2018. The Connector determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit. His projected annual income amounted to 371.22% of the Federal Poverty Level. This determination was based upon information supplied by the appellant on his application for coverage. The appellant was asked by the Connector to send in proof of income. On February 28th, the Connector received proof of income from Appellant. Based upon the documents received, the Connector redetermined the appellant's eligibility, finding that the appellant was no longer eligible for the tax credit. His projected income based upon the documents received was 423.81% of the Federal Poverty Level. Appellant appealed this redetermination. See Exhibits 4 through 11, and the testimony of the appellant which I find to be credible.

When asked to submit proof of income, the appellant sent in one pay stub, though his income varied week to week, and a letter from the Department of Unemployment Assistance which at first glance showed that the appellant would receive \$535 in benefits a week. The letter also contains information about "earnings exclusion," meaning that for each dollar more than \$178.33 earned, the benefit is reduced dollar for dollar. The reduction in benefits is not specifically spelled out. The Connector staff processing the information would have had to understand what an "earnings exclusion" is in order to correctly compute the appellant's projected income. I note that when the appellant requested a hearing on the determination, he attached to his request a copy of a payment history which clearly showed exactly how much he received

in benefits each week. See Exhibit 4, attachment. If he had sent that document in as proof of income, the Connector's determination might have been different. It might also have differed if the appellant had sent in more than one pay stub, given that his earnings varied from week to week.

Based upon the information given by the appellant to the Connector, the Connector correctly determined that the appellant was eligible for a Connector Health plan without an advance premium tax credit. If an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is over 400% of the Federal Poverty level, the individual is eligible to purchase a plan without an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. The proof of income the appellant sent in was incomplete. He could have sent in the payment history he attached to his request for a hearing and a more detailed accounting of his weekly wages.

As explained to the appellant during the hearing, the appellant, if his income does not increase between now and the year's end, may ultimately receive the tax credit that he feels he was entitled to. When he files his federal income tax return and, as required, reconciles his projected income and his actual income, he will receive a tax credit if during the course of the year he received less assistance paying for his coverage than he should have. Appellant may wish to look at the Internal Revenue Service Publication 5120 for more information about reconciliation and what happens when an individual's projected income is greater than actual income at the end of the tax year.

I also note that since the March 2nd determination, the appellant has lost his part-time job and now has a different monthly premium based upon a lower projected income.

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

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

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.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4378

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** April 18, 2018

**Decision Date:** May 1, 2018

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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 February 26, 2018, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was enrolled in Medicare.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone, on April 18, 2018.

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 (undated)
- Exhibit 2: Correspondence from Appeals Unit (13 pages)
- Exhibit 3: Notice of Appeal and support documents (5 pages)
- Exhibit 4: Health Connector Notice on Appeal (11 pages, dated February 26, 2018)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on February 26, 2018, based on having access to Medicare or being enrolled in Medicare (Exhibit 4)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 4).
3. Appellant filed a Notice of Appeal March 9, claiming that the Appellant had worked for 35 years, could no longer work and needed help (Exhibit 3 and Testimony of Appellant).
4. Appellant had been enrolled in Medicare since 2016 (Testimony of Appellant).

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

When the Appellant's eligibility for 2018 coverage was determined on February 26, 2018, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. Appellant had been enrolled in Medicare since 2016. See Exhibit 4 and Testimony of Appellant which I find to be credible. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible or enrolled in Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I).

Because the Appellant is eligible and enrolled in Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

### **ORDER**

The appeal is denied.

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

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

### **ADDENDUM**

Appellant was provided with the phone number for SHINE (1-800 841-2900) to get information about other insurance options available.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4389

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Health Connector determined the Appellant eligible for ConnectorCare with Advance Premium Tax Credit.

**Hearing Date:** April 26, 2018

**Decision Date:** May 1, 2018

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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 7, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credit.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on April 26, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated March 27, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form submitted on March 12, 2018.
- Exhibit 5: 2018 Eligibility Results with an attached application summary dated November 7, 2017.
- Exhibit 6: The Appellant's application history indicating that the Appellant had two separate applications.
- Exhibit 7: Health Connector's Eligibility denial notice with an application summary attached dated February 16, 2018.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On November 7, 2017 the Appellant applied for ConnectorCare coverage for her reported tax household of one (Exhibit 5).
2. On November 7, 2017 the Appellant's household was determined to have income equal to 248.76% of the Federal Poverty Level based on their household size and income (Exhibit 5).
3. On November 7, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credit. The Appellant was advised to enroll in a Health Plan (Exhibit 3).
4. I take administrative notice of the fact that the Open Enrollment Period for Massachusetts was November 1, 2017 through January 23, 2018.
5. It is undisputed that the Appellant did not enroll in a health plan prior to January 23, 2018 (Exhibit 4; Appellant Testimony).
6. The Appellant filed a second application on February 16, 2018. The Appellant reported on this application that their household size was two persons. The Appellant testified that their daughter lives in their home but is insured and files taxes as a single person. The Appellant is seeking insurance for them self and remains uninsured (Exhibit 6, 7 and Appellant Testimony).
7. The Appellant filed an appeal on March 12, 2018. The Appellant reported that they did not have the money to pay the monthly health care premium of \$271.00 during the Open Enrollment Period (Exhibit 4; Appellant Testimony).
8. As of the date of the hearing, April 26, 2018, the Appellant did not submit an application for a Special Enrollment Period to the Health Connector. The Appellant testified that they were aware that the Open Enrollment period had ended and thought they could request this through the appeal process (Appellant Testimony).
9. The Appellant was advised to contact Customer Service to apply for a Special Enrollment Period.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant applied for ConnectorCare for her reported tax household size of one on November 7, 2017. On November 7, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credit. This determination was based on the Appellant's attested income, which is equal to 248.76% of the Federal Poverty Level based on their household size and income. 26 IRC § 36B, 45 CFR §155.305(f)(1), M.G.L. § 176Q(3)(a)(13) and 956 CMR §§ 12.04, 12.08.

Following a determination of eligibility, eligible individuals are instructed to choose a Health Plan and enroll 956 CMR 12.04. On November 7, 2018, the Appellant was advised that they must chose a Health Plan and enroll. After choosing a Plan, the Appellant would be eligible for state and federal subsidies to help pay the monthly premiums.

The Appellant did not enroll in a health plan during the open enrollment period which ended January 23, 2018. The Appellant explained that they did not have the funds to pay the monthly premium. The Appellant filed this appeal to request a special enrollment period.

As explained at the Hearing, Applicants and Enrollees are entitled to a hearing to appeal any adverse eligibility decision based on any eligibility factor in accordance with 956 CNR 12.08. 956 CMR 12.12. The Appellant has not yet requested a Special Enrollment period in accordance with 956 CMR 12.10(5) and 45 CFR §155.420, and therefore there has been no denial to appeal. This part of the appeal is dismissed. 956 CMR 12.15(2)(b).

The Health Connector correctly determined the Appellant's eligibility for ConnectorCare.

**ORDER**

This Appeal is denied.

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

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

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant may contact Customer Service to request a Special Enrollment Period. If the request is denied the Appellant may file an appeal of that action or contact the Office of Patient Protection at 800-436-7757 to request further assistance.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4406

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** April 18, 2018

**Decision Date:** May 4, 2018

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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**

On March 3, 2018, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible was because Appellant had access to Medicare or was enrolled in Medicare.

### **ISSUE**

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

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone, on April 18, 2018. Also present was Appellant's family member and a duly sworn Interpreter.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (undated)
- Exhibit 2: Correspondence from Appeals Unit (12 pages)
- Exhibit 3: Notice of Appeal and support documents (2 page)
- Exhibit 4: Health Connector Notice on Appeal (6 pages)
- Exhibit 5: Eligibility results and Application Summary (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on March 3, 2018, based on having access to Medicare or being enrolled in Medicare (Exhibit 4)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 4).
3. Appellant filed a Notice of Appeal on March 9, 2018 claiming that the Appellant qualified due to health issues (Exhibit 3 and Testimony of Appellant).
4. Appellant is enrolled in Medicare (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

When the Appellant's eligibility for 2018 coverage was determined on March 3, 2018, the federal government provided information to the Health Connector that Appellant was eligible for Medicare. Appellant was eligible and was enrolled in Medicare. See Exhibit 4 and Testimony of Appellant which I find to be credible. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible or enrolled in Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I).

Because Appellant was eligible and in fact enrolled in Medicare, the Health Connector found that Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

The appeal is denied.

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

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

## **ADDENDUM**

Appellant was provided with the phone number for SHINE (1-800 841-2900) to get information about other insurance options available.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4436

**Appeal Decision:** Appeal denied

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

**Hearing Date:** April 17, 2018

**Decision Date:** April 30, 2018

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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 February 27, 2018, the appellant was advised that he was eligible for a Health Connector Plan with no financial help beginning on April 1, 2018. (Ex. 1) The appellant filed an appeal on March 12, 2018 (Ex. 9) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex. 12)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help correct on February 27, 2018, 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 April 17, 2018, 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 Notice of Eligibility Determination dated February 27, 2018 (24 pages)
- Ex. 2—Computer printout of Health Connector's Eligibility Determination Results showing a program determination for February 27, 2018 (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (3 pages)
- Ex. 4—Health Connector's Request for Information dated December 13, 2017 (12 pages)
- Ex. 5—Health Connector's Notice of Eligibility Determination Results showing a program determination for December 13, 2017 (2 pages)

- Ex. 6—Computer printout of Health Connector’s Review of Application (3 pages)
- Ex. 7—Appeals Unit workspace documents (3 pages)
- Ex. 8—Income information (15 pages)
- Ex. 9—Hearing Request Form dated March 12, 2018 (2 pages)
- Ex. 10—Acknowledgement of Appeal dated March 19, 2018 (4 pages)
- Ex. 11—Appeals Unit Case Notes (2 pages)
- Ex. 12—Notice of Hearing (5 pages)
- Ex. 13—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 63-years-old and is married. He has a tax household size of two consisting of himself and his wife who are joint tax filers. (Testimony, Exs. 3,6)
2. The appellant and his wife had health insurance through her employer for many years. Since 1993, she has been receiving social security disability benefits. Approximately, two years ago, she was placed in a nursing home.<sup>1</sup>(Testimony)
3. By notice dated December 13, 2017, the appellant was determined eligible for ConnectorCare Plan Type 3A with an Advance Premium Tax Credit (APTC) of \$242.00 based on having an income and household size equivalent to 246.31% of the Federal Poverty Level (FPL). On the application on which the December 13<sup>th</sup> determination was based, the appellant entered a projected yearly income of \$24,000.00. (Testimony, Exs. 5,6)
3. By letter dated December 13, 2017, the Health Connector sent the appellant a Request for Information in which he was asked to submit proof of income for himself and his wife by March 2, 2018. (Testimony, Ex. 4)
4. In response to the December 13, 2017 request, the appellant submitted several financial documents including his 2016 U.S Individual Income Tax Return (Form 1040) in which he reported a total joint income of \$90,900.00 and an adjusted gross income of \$66,626.00. On line 17, he reported trust income of \$74,220.00. (Testimony, Ex. 8)
5. By notice dated February 27, 2018, the Health Connector notified the appellant that he was determined eligible for Health Connector Plans with no financial help effective April 1, 2018, based on having an income and household size equivalent to 559.73% of the FPL. The Connector notified the appellant that he did not qualify for help paying for his coverage because of any of the following reasons: access to health insurance through another source that meets minimum essential coverage standards; or annual income is above 400% of the FPL ; or no plans to file a tax return; married but planning to file taxes separately; or advance payments of the premium tax credit were made to your health insurance company to reduce your premium costs in a prior year and it is not clear whether a tax return was filed for that year. (Exs. 1,2)
6. On the application associated with the program determination of February 27, 2018, the appellant’s verified income was determined to be \$45,450.00 (one half of his 2016 total joint income of \$90,900.00). (Ex. 3)

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<sup>1</sup> The appellant’s wife has health insurance through Medicare and is not a party to this appeal.

7. The appellant no longer receives \$50,000.00 of the trust income he reported on his 2016 tax return. He is self-employed and anticipates that he will earn approximately \$24,000.00 in 2018. (Testimony)

8. The appellant appealed the Connector's February 27, 2018, determination on March 12, 2018 based on income. In his appeal, he stated that his income had been reduced by \$50,000.00 between 2017 and 2018, and he is far under 559.73% of the FPL. (Ex. 9)

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

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

The appellant was found eligible for Health Connector Plans without financial help based on having an income and family size equivalent to 559.73% of the FPL. The appellant argues that this determination is incorrect because it is based on his 2016 income which was substantially higher than his projected income for 2018.

The Connector's December 13, 2017 determination that the appellant was eligible for subsidized insurance with an APTC was based on his projected income of \$24,000.00 which placed him within 246.31% of the FPL. The appellant was advised to provide proof of income following that determination, and in response, he submitted his 2016 tax return wherein he reported a total joint income of \$90,900.00. As a result, his eligibility changed such that he no longer qualified for subsidized insurance based on having an income and family size equivalent to 559.73% of the FPL.

Since the appellant testified credibly that his 2016 tax return does not accurately reflect his financial situation, and his 2018 projected income is significantly lower, he was advised to report the income change to the Connector by either updating his application online at [mahealthconnector.org](http://mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

Based on the evidence in the record, it is concluded that the Connector's determination on February 27, 2018, regarding the appellant's eligibility for Health Connector Plans 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](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 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: ACA184442

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

**Hearing Issue:** Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector plan with an advance premium tax credit.

**Hearing Date:** April 24, 2018

**Decision Date:** May 14, 2018

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 17, 2018, the Connector determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit based upon information supplied by the appellant to the Connector.

### ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit.

### HEARING RECORD

The appellant, her spouse, and a representative appeared at the hearing which was held by telephone on April 24, 2018. The procedures to be followed during the hearing were reviewed with those present who were all then sworn in. Exhibits were also reviewed with Appellant, her spouse and her representative, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant, her spouse, and the representative testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated

Exhibit 2: Connector Appeals Unit Notice of Hearing dated March 27, 2018 addressed to Appellant for April 24, 2018 hearing

Exhibit 3: Connector Appeals Unit letter dated March 20, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit outreach notes

Exhibit 4: Hearing Request Form dated and submitted by Appellant on March 14, 2018 with attachments

Exhibit 5: Connector letter dated February 17, 2018 to Appellant regarding eligibility to purchase a

## Connector health insurance plan

- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated February 17, 2018
- Exhibit 7: Summary and results of Appellant's application for Connector health plan dated December 3, 2017
- Exhibit 8: Summary and results of Appellant's application for Connector health plan dated April 6, 2018
- Exhibit 9: Connector letter dated April 6, 2018 to Representative regarding Appellant's spouses's denial of eligibility to purchase a Connector health insurance plan
- Exhibit 10: Print-out regarding Appellant's enrollment in plans
- Exhibit 11: Appellant's ConnectorCare premium bill, December, 2017

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through the ConnectorCare plan in 2017. In February, 2018, the appellant amended her application, increasing her and her spouse's projected annual income. She attested to a projected annual income of \$48,732. This projection was accurate (Testimony Appellant, Exhibit 6).
2. Appellant's projected income as of February 17, 2018 equaled 300.07.% of the Federal Poverty Level (Exhibit 6).
3. On February 17, 2018, the Connector determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit based upon information on the appellant's application or upon information received from other income data sources. (Exhibit 5).
4. Appellant's spouse is enrolled in Medicare (Testimony of Appellant, Representative, Spouse).
5. Appellant submitted a request for an appeal of the Connector's determination on March 14, 2018. (Exhibit 4).

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

The issue on appeal is whether the Connector correctly determined on February 17, 2018 that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if

the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

Appellant amended her application for health insurance coverage through the Connector on February 17, 2018. On the same date, the Connector determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit. This determination was based upon the appellant's attestation that she had a projected annual income of \$48,732. This income equaled 300.07% of the Federal poverty level. See Exhibits 5 and 6, and the testimony of the appellant and representative which I find to be credible. The appellant filed an appeal after receiving notice of the Connector's determination. See Exhibit 4.

Based upon the information given by the appellant to the Connector, the Connector correctly determined that the appellant was eligible for a Connector Health plan with an advance premium tax credit. If an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. Appellant testified that she had attested to an income of \$48,732. The determination of the Connector is, therefore, affirmed.

**ORDER:** The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan with an advance premium tax credit is affirmed.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4503

**Appeal Decision:** Appeal denied because the Health Connector correctly denied Appellant's eligibility to enroll in health insurance coverage based on a lack of acceptable proof of Massachusetts residency.

**Hearing Issue:** Whether the Health Connector correctly determined that Appellant is ineligible to enroll in health insurance coverage for failure to submit acceptable proof of residency.

**Hearing Date:** May 8, 2018

**Decision Date:** May 22, 2018

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 16, 2018, the Health Connector notified Appellant that Appellant is not eligible to enroll in subsidized ConnectorCare health insurance coverage because the Health Connector had not received information that it requested to determine Appellant's eligibility.

### ISSUE

Whether the Health Connector correctly determined that Appellant is ineligible to enroll in subsidized ConnectorCare health insurance coverage because Appellant did not submit requested proof of Massachusetts residency.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone with the assistance of a Spanish language interpreter on May 8, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary and Results pages from Appellant's May 26, 2017 application for health insurance coverage;

Exhibit 2: Health Connector Request for Information letter dated May 27, 2017;

Exhibit 3: Print-out of the Summary and Results pages from Appellant's February 16, 2018 application for subsidized health insurance coverage in 2018;

Exhibit 4: Health Connector Eligibility Denial letter dated February 16, 2018;

Exhibit 5: Appellant's March 20, 2018 request for hearing;

Exhibit 6: Health Connector Appeals Data form dated April 17, 2018;

Exhibit 7: Health Connector letter dated March 27, 2018 letter describing acceptable proof of residency;

Exhibit 8: Health Connector hearing request acknowledgment letter dated March 27, 2018;

Exhibit 9: Notice of Hearing dated April 18, 2018; and

Exhibit 10: Affidavit from Health Connector Keeper of Records.

## **FINDINGS OF FACT**

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

1. Appellant is an adult who resides with his daughter in Massachusetts. Testimony.
2. Appellant applied for subsidized health insurance coverage on May 26, 2017. Exhibit 1.
3. The Health Connector sent a Request for Information letter in Spanish to Appellant on May 27, 2017, requesting proof of Massachusetts residency within 90 days. Exhibit 2. A list of acceptable forms of proof of residency was attached to this letter. *Id.*
4. On February 16, 2018, Appellant filed an application for subsidized health insurance coverage in 2018. Exhibit 3.
5. On February 16, 2018, the Health Connector notified Appellant that Appellant is not eligible to enroll in a subsidized health insurance plan because the Health Connector had not received information that it requested to determine Appellant's eligibility. Exhibit 4.
6. After receiving the February 16, 2018 eligibility denial notice, Appellant mailed his current Massachusetts address to the Health Connector. Testimony.

7. An applicant's address was not listed as an acceptable proof of residence on the list that was attached to the Health Connector's May 27, 2017 request for information letter or the Health Connector's March 27, 2018 letter. Exhibits 2 and 7.
8. The Health Connector's March 27, 2018 letter regarding acceptable proof of residency instructed Appellant to submit such proof to the Health Connector's address by mail or by fax to 617-933-3099. Exhibit 7.
9. Appellant submitted an affidavit of residency, which is an acceptable proof of residency, three times by fax to 617-889-7862. Testimony.
10. The Fax number 617-889-7862 is not a recognized Health Connector fax line.<sup>1</sup>

## **ANALYSIS AND CONCLUSIONS OF LAW**

Congress enacted the ACA in 2010 "to increase the number of Americans covered by health insurance and decrease the cost of health care." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans ("QHPs"). 42 U.S.C. § 18031(b)(1). The Health Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans. 45 C.F.R. § 155.305(a).

In this case, Appellant was found ineligible for enrollment in a health insurance plan based on failure to verify residency. Pursuant to the federal regulations at 45 C.F.R. § 155.315(d), the Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status. Where the Health Connector cannot verify an applicant's residency electronically, it requests verifying information from the applicant in accordance with 45 C.F.R. § 155.315(f). If the applicant does not provide the requested verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination which in this case was notify Appellant that he is ineligible to enroll.

There is no evidence in the record that Appellant submitted acceptable proof of Massachusetts residency in response to the Health Connector's May 27, 2017 request for information. While Appellant testified that he mailed his current Massachusetts address to the Health Connector, a mere address is not among the acceptable forms of proof listed in either the Health Connector's May 27, 2017 request for information letter or the Health Connector's March 27, 2018 letter concerning proof of residency. And, although Appellant testified that he attempted to fax an affidavit of residency to the Health Connector on three occasions, Appellant used an incorrect fax number which cannot be attributed to any error by the Health Connector which provided a correct fax number in the March 27, 2018 letter. On these facts, I find that the Health Connector's eligibility denial determination

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<sup>1</sup> An online search revealed that the number 617-889-7862 is assigned to the MassHealth Section 1557 Compliance Coordinator who is responsible for investigating complaints under Section 1557 of the "ACA" of prohibited discrimination in health care programs and activities that get money from the federal government. See <https://www.mass.gov/service-details/discrimination-complaint-procedure> (last visited May 22, 2018). The Section 1557 Compliance Coordinator is not a part of the Health Connector.

was correct based on Appellant’s failure to provide acceptable proof of residency. See 45 C.F.R. §§ 155.315 and 155.305(a).

**ORDER**

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector’s February 16, 2018 eligibility denial 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.

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

If Appellant has not already done so, he should contact Health Connector Customer Service for assistance in submitting the affidavit of residency. In addition, Appellant should ask for assistance in amending the application to reflect that he does intend to file a tax return even if Appellant does not expect to have any taxable income because filing a tax return is a requirement for establishing eligibility for both the Federal APTC and ConnectorCare. See 26 C.F.R. § 1.36B-2(a). Customer Service may be reached by telephone between the hours of 8:00 a.m. and 6:00 p.m. Monday – Friday, at 877-MA-ENROLL (1-877-623-6765), or TTY 1-877-623-7773 for people who are deaf, hard of hearing, or speech disabled, or by visiting one of the following walk-in centers:

Boston (Monday–Friday: 8:00 a.m. to 6:00 p.m.)  
133 Portland Street  
Boston, MA 02114

Brockton (Mon–Friday: 9:00 a.m. to 5:00 p.m.)  
63 Main Street  
Brockton, MA 02301

Springfield (Monday–Friday: 9:00 a.m. to 5:00 p.m.)  
88 Industry Avenue  
Springfield, MA 01104

Worcester (Mon–Fri: 8:00 a.m. to 6:00 p.m.)  
146 Main Street  
Worcester, MA 01608



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4553

**Appeal Decision:** Appeal Denied

**Hearing Issues:** Eligibility for ConnectorCare, based on failure to reconcile prior tax credits  
Denial of a Request for a Premium Waiver or Reduction

**Hearing Date:** April 26, 2018

**Decision Date:** May 1, 2018

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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 February 16, 2018, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to reconcile past tax credits

On March 19, 2018, the Health Connector denied the Appellant's request for a Waiver or Reduction of the Appellant's monthly premium contribution.

### **ISSUES**

The first issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is only eligible for Health Connector plans and not eligible for ConnectorCare, based on the Appellant's failure to reconcile past tax credits.

The second issue addressed on this appeal is whether the Health Connector correctly determined that Appellant did not demonstrate eligibility for a Premium Waiver or Reduction due to extreme financial hardship.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on April 26, 2018. The Appellant's spouse also attended the hearing. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated April 9, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's blank Hearing Request Form, with attachments, submitted on March 23, 2018.
- Exhibit 5: Health Connector's Application History.
- Exhibit 6: Health Connector Premium Waiver denial with a copy of the Appellant's Application for a Premium Waiver or Reduction dated March 5, 2018 attached.
- Exhibit 7: A copy of the Appellant's Form 1095-A for filing 2016 taxes with a letter of instruction dated January 10, 2017.
- Exhibit 8: A copy of the Appellant's Form 1095-A for filing 2015 taxes with a letter of instruction dated January 26, 2016.
- Exhibit 9: 2018 Eligibility Results with an attached application summary dated February 16, 2016.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was enrolled in ConnectorCare in 2015 and 2016. The Appellant received advance premium tax credits in 2015 and 2016 (Exhibits 7, 8 and Appellant Testimony).
2. The Appellant submitted an application on February 16, 2018. The Appellant's spouse receives Medicare. The household of two has income equivalent to approximately 180% of the Federal Poverty Level (Exhibit 9).
3. On February 16, 2017 the Appellant was determined eligible for Health Connector plans, without subsidies. The Appellant failed to file the necessary tax forms to reconcile their taxes for tax years 2015 and 2016 (Exhibits 7, 8, 9 and Appellant Testimony).
4. The Appellant's health care premium was significantly increased for the month of March 2018 (Exhibit 6 and Appellant Testimony).
5. The Appellant submitted an application for a Waiver or Reduction of their monthly health care premium on March 5, 2018 (Exhibit 6).
6. It is undisputed that the Appellant did not provide any supporting documentation with the Waiver application. The Appellant noted on the application that they had paid their taxes (Exhibit 6).
7. The Health Connector denied the Appellant's application for a Premium Waiver or Reduction on March 19, 2018 because the Appellant had failed to provide any supporting documentation (Exhibits 4, 6).
8. The Appellant filed an Appeal of the Premium Waiver or Reduction denial on March 23, 2018 (Exhibit 4).
9. The Appellant testified that they were remiss about filing taxes and had paid for one of the two years at issue. The Appellant was unsure of what had been filed (Appellant Testimony).
10. The Appellant acknowledged that they did not submit documentation of their living expenses, or proof of any a family emergency or other natural or human caused disaster in order to demonstrate the financial need for a Premium Waiver or reduction (Exhibit 6 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

On February 16, 2018 the Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant's income is less than 300% of the Federal Poverty Level and they are otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants

who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

In 2015 and 2016, the Appellant was eligible for ConnectorCare, and received APTC. As of January 2018, the Appellant did not file an income tax return for 2015 or 2016. Because the Appellant did not reconcile receipt of APTC from prior years, the Appellant was not eligible to receive APTC in 2018. 45 CFR § 155.305(f)(4). The Appellant maintains that they have submitted a tax return for one of the two years but has not filed all required tax documents. The Appellant was unsure of what tax return had been filed. Based on available evidence, the Health Connector correctly determined that the Appellant is not eligible for APTC or ConnectorCare. 45 CFR § 155.305(f)(4), 956 CMR § 12.04.

The Appellant applied for a Premium Waiver or Reduction on March 5, 2018 after learning that the monthly premium for their chosen health insurance plan would be significantly higher than in past years. Under 956 CMR 12.11(5), individuals who are eligible for ConnectorCare and who experience extreme financial hardship may be eligible to have their premium payment waived or reduced. The Appellant did not submit any evidence or testimony to verify that the Appellant is homeless, in arrears in rent, mortgage, or utility expenses, or has incurred a significant increase in essential living expenses due to a family emergency or other natural or human caused disaster. The Application was denied for this reason. Even if the Appellant had verified financial hardship, individuals must be eligible for ConnectorCare in order to be eligible to have their premium payment waived or reduced. The Appellant is not eligible for ConnectorCare due to the tax filing issue discussed above. The Health Connector correctly determined that the Appellant is not eligible for a Premium Reduction or Waiver due to extreme financial hardship 956 CMR 12.11(5). The Health Connector denial is upheld.

## **ORDER**

This Appeal is denied.

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

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

Cc: Connector Appeals Unit

## **ADDENDUM**

The Appellant should comply with the requirement to reconcile receipt of 2015 and 2016 premium tax credits by filing 2015 and 2016 federal income tax returns, including Forms 8962. The Appellant will need to use Form 1095A in order to complete Form 8962 for both years. If the Appellant does not have their Forms 1095A, and because the Appellant received APTC in 2015 and 2016 through the Health Connector, the Appellant should contact the Health Connector's customer service center to request duplicate 1095A forms. Once the Appellant complies with the requirement to reconcile 2015 and 2016 APTC, the Appellant can report a change to their 2018 application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2017 federal income tax return with Form 8962 and reconciling any APTC received in 2017.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4565

**Appeal Decision:** Appeal Denied because the Health Connector correctly determined Appellant's eligibility for enrollment in subsidized health insurance coverage based on income information available at the time of the determination.

**Hearing Issue:** Whether the Health Connector correctly determined Appellant's eligibility for subsidized health insurance coverage.

**Hearing Date:** May 8, 2018

**Decision Date:** May 29, 2018

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 26, 2018, the Health Connector notified Appellant that Appellant and two dependent members of Appellant's household were qualified to enroll in a Health Connector plan with Advance Premium Tax Credits for 2018 based on a household income at 324.21 percent of the Federal Poverty Level.

### ISSUES

Whether the Health Connector correctly determined Appellant's eligibility for subsidized health insurance in 2018.

### HEARING RECORD

Appellant and Appellant's husband appeared at the hearing, which was held by telephone on May 8, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary and Results pages from Appellant's December 12, 2017 application for health insurance coverage in 2018;

Exhibit 2: Print-out of the updated Summary and Results pages dated February 26, 2018 regarding Appellant's eligibility for health insurance coverage in 2018;

Exhibit 3: Health Connector Eligibility Approval letter dated February 26, 2018;

Exhibit 4: Appellant's March 7, 2018 request for hearing on the Health Connector's February 26, 2018 eligibility determination;

Exhibit 5: Health Connector Appeals Data form and outreach emails dated April 10, 2018;

Exhibit 6: Health Connector Appeals Data form dated April 18, 2018;

Exhibit 7: Health Connector hearing request acknowledgment letter dated March 26, 2018;

Exhibit 8: Notice of Transfer to Board of Hearings;

Exhibit 9: Notice of Hearing dated April 18, 2018;

Exhibit 10: Appellant's Health Connector Enrollment History dated April 13, 2018;

Exhibit 11: MassHealth Enrollment data dated April 6, 2018;

Exhibit 12: "AVV" print-out dated April 6, 2018; and

Exhibit 13: Affidavit from Health Connector Keeper of Records.

## **FINDINGS OF FACT**

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

1. Appellant is a married adult resident of Massachusetts. Testimony.
2. Appellant's household consists of Appellant, Appellant's husband and two dependent children. Testimony; Exhibits 1-3.
3. Appellant's husband receives Social Security disability benefits and has health insurance coverage through Medicare. Testimony.
4. In 2017 and prior years, Appellant was enrolled in a subsidized ConnectorCare plan, and Appellant's two dependent children, who also receive Social Security disability benefits, were enrolled in MassHealth. Testimony; Exhibit 5 at 3.

5. In 2017, Appellant's Cionnector Care coverage cost her \$128.00 per month. Testimony; Exhibit 4 at 7.
6. Appellant completed an application for 2018 health insurance coverage for herself only on December 12, 2017. Exhibit 1. In this application, Appellant reported household income of (a) \$1,600.00 biweekly from her employment, (b) \$2,018.30 monthly in Social Security benefits payable to Appellant's husband. *Id.* at 4.<sup>1</sup>
7. On the basis of the household income that Appellant self-reported in the December 13, 2017 application, the Health Connector determined that Appellant's household is at 259.43 percent of the Federal Poverty Level ("FPL") which qualified Appellant for enrollment in a ConnectorCare Type 3B plan with a Federal Advance Premium Tax Credit subject to Appellant submitting proof of income. Exhibit 1 at 1.
8. On February 8, 2018, the Health Connector sent Appellant a letter which warned that if Appellant failed to submit the requested proof of income, her eligibility determination could change, and she could lose insurance coverage. Exhibit 10 at 5.
9. Appellant submitted income documentation in response to the Health Connector's request for information. This documentation showed gross biweekly income in the amount of \$2,200.00 and net biweekly pay of \$1,732.04 from Appellant's employment, (b) monthly Social Security payments to Appellant's husband in the amount of \$1,540.80 gross and \$1,406.00 net after deductions for medical insurance, (c) \$770.00 monthly (\$385.00 each) in Social Security disability benefits payable to Appellant's husband on behalf of the two dependent children, and (d) gross biweekly income in the amount of \$382.57 and net biweekly pay of \$295.29 from Appellant's husband's employment. Exhibit 10 at 7, 9, 11, 13, 15, 17.<sup>2</sup>
10. Based on the income documentation received from Appellant, the Health Connector redetermined Appellant's eligibility on February 26, 2018 by calculating household income at 324.21 percent of the FPL. Exhibit 2.
11. On February 26, 2018, the Health Connector notified Appellant that she and the two dependent children were eligible to enroll in an unsubsidized Health Connector Plan with a Federal Advance Premium Tax Credit in the amount of \$14.00 monthly. Exhibit 3.
12. Apparently as a result of the updated income information, Appellant's dependent children lost their MassHealth coverage. Testimony; Exhibit 11.
13. Appellant requested a hearing on the Health Connector's February 26, 2018 eligibility determination, noting that the monthly premium for a Health Connector plan will cost her \$652.74 per month. Exhibit 4 at 7.

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<sup>1</sup> Appellant explained that the Social Security payments that were self-reported to her husband in the December 12, 2017 application included the disability benefits received by her husband and the two dependent children. Testimony.

<sup>2</sup> Appellant's husband started part-time employment in 2018 after the December 12, 2017 application was submitted. Exhibit 10 at 17; Testimony.

14. On April 10, 2018, the Health Connector transferred Appellant's hearing request insofar as it seeks review of the determination to remove Appellant's dependent children from MassHealth coverage, to the Office of Medicaid Board of Hearings. Exhibit 8.<sup>3</sup>

## **ANALYSIS AND CONCLUSIONS OF LAW**

Congress enacted the ACA in 2010 "to increase the number of Americans covered by health insurance and decrease the cost of health care." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans ("QHPs"). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans.

To further the ACA's goal of making health insurance affordable, the Internal Revenue Code was amended to make tax credits ("APTCs") available as a form of subsidy to individuals who purchase health insurance through the Exchanges. 26 U.S.C. § 36B(c)(2)(A)(i). Under the federal ACA regulations, an individual is eligible for an APTC if he or she is expected to have a household income (as defined in section 36B(d)(2) of the Internal Revenue Code) between 100 percent and 400 percent of the FPL for the benefit year for which coverage is requested. 45 C.F.R. § 155.305(f)(1). In addition to the APTC, eligible Massachusetts residents whose incomes do not exceed 300 percent of the FPL may receive additional state premium assistance by enrolling in a subsidized ConnectorCare health insurance plan. 956 Mass. Code Regs. 12.04, 12.08. In order to enroll in ConnectorCare, an individual must be eligible for the Federal APTC. 956 Code Mass. Regs. 12.04(1)(b).

The record in this case reflects that Appellant applied for health insurance coverage in December of 2017 and submitted income verification documentation in February of 2018 which showed higher household income than Appellant self-reported in the initial application for 2018 health insurance coverage. Based on the submitted income documentation, the Health Connector adjusted Appellant's household income from 259.43 percent to 324.21 percent of the FPL which placed Appellant's above the maximum household income level for eligibility to enroll in a subsidized ConnectorCare plan. Appellant confirmed at the hearing that the income documentation submitted in February of 2018 is correct, and I find no error in this determination based on the income information then available to the Health Connector.

## **ORDER**

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector's February 26, 2018 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law.

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

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<sup>3</sup> Appellant was advised during the hearing that the issue before the hearing officer is limited to the Health Connector's determination of her eligibility for subsidized health insurance coverage and that the Board of Hearings has jurisdiction over any appeal of the determination that her dependent children are no longer eligible for MassHealth.

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 recognized during the hearing that the increase in household income resulting from her husband's new part-time job is the predominant factor in the determination that she is no longer eligible to enroll in ConnectorCare. In the event that Appellant's husband discontinued this employment, any changes to household should be reported to Health Connector Customer Service as such changes may affect the amount of any APTCs and eligibility to enroll in ConnectorCare as well as the dependent children's eligibility for MassHealth. Any advance premium tax credits you get during 2018 the tax year from the federal government will be reconciled when you file your 2018 tax return. This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you received too much in tax credits during the 2018 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 received too little in tax credits during 2018 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 2018 tax return.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4720

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** May 9, 2018

**Decision Date:** May 11, 2018

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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, 2017, the Appellant was determined eligible for ConnectorCare. On February 3, 2018 the Appellant was determined ineligible for a special enrollment period.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 9, 2018. The Record was left open to allow the Appellant to submit additional information. The Appellant did submit additional information. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated April 18, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Internet Appeal Request submitted on April 5, 2018.
- Exhibit 5: An application summary dated February 3, 2018 with a Health Connector notification that the Appellant's household does not qualify for a Special Enrollment Period.
- Exhibit 6: A Health Connector Eligibility Approval notice with Enrollment information and an application summary dated November 10, 2017.

- Exhibit 7: Notes from Health Connector Customer Service Interactions-SalesForce.
- Exhibit 8: Health Connector's Payment Portal indicating that the Appellant had no health or dental plan information on record.
- Exhibit 9: Health Connector Appeals Unit Record Open Form dated May 9, 2018.
- Exhibit 10: Additional information submitted by the Appellant including a MassHealth eligibility notice dated November 10, 2017.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On November 10, 2017 the Appellant applied for subsidized health insurance for their household of three. The Appellant's child was determined eligible for MassHealth. The Appellant and their spouse were determined eligible for ConnectorCare with Advance Premium Tax Credits (Exhibit 6).
2. On November 10, 2017 the Appellant was notified that if they had not already enrolled in a health plan, they were required to enroll in a plan and pay the first monthly premium by December 23, 2018 for coverage beginning January 1, 2018 (Exhibit 6).
3. Health Connector records indicate that the Appellant did not enroll in a health plan (Exhibit 8).
4. I take administrative notice of the fact that the Open Enrollment Period for Massachusetts was November 1, 2017 through January 23, 2018.
5. The Appellant contacted Health Connector Customer Service on November 27, 2017 to ask about eligibility. The Health Connector Call Center note referenced the Appellant's MassHealth Standard and creating a login ID (Exhibit 7).
6. On February 3, 2018, the Appellant updated their application for their household of three. The Appellant's child was determined eligible for MassHealth. The Appellant and their spouse were determined eligible for ConnectorCare with Advance Premium Tax Credits. The Appellant was advised that their household could not enroll in a health plan because the household did not qualify for a special enrollment period (Exhibit 5).
7. The Appellant contacted Health Connector Customer Service on April 5, 2018 to request to enroll in a health insurance plan. The Appellant was informed that open enrollment had ended, and they could not enroll in a plan at this time (Exhibit 7).
8. On April 5, 2018 the Appellant filed an Appeal (Exhibit 4).
9. The Appellant testified that their family of three was receiving MassHealth in 2017. The Appellant's income changed, and the Appellant said that they completed the application for ConnectorCare on November 10, 2017. The Appellant testified that they did not receive the approval notice. The Appellant said that they contacted customer service multiple times during the period of November through February and that the Appellant was told that they should check the web site because information would be coming. The Appellant said that they thought they had enrolled and were all set. The Appellant said that they learned they had no insurance from their dentist. The Appellant said that they got a letter from MassHealth saying that they were eligible through June 2018 and also received e-mail notices on February 27, 2018, March 16, 2018 and March 23, 2018 advising them to apply for insurance through the Health Connector. The Appellant's credible testimony is supported by the documentation submitted during the record open period (Exhibit 10 and Appellant testimony).
10. The Health Connector Call Center log verifies that the Appellant called the Health Connector twice, on November 27, 2018 and April 5, 2018. MassHealth Customer Service call information is not available (Exhibit 7).

11. Although the Appellant did not experience a qualifying life event such as a change in household composition, moving to the state or losing employer-based health insurance as outlined in Health Connector's Policy NG 1E, the Appellant received possible misinformation regarding their eligibility. The Appellant contacted the Health Connector on November 27, 2017 regarding their eligibility. The Call Center note references the Appellant's MassHealth but it is unclear if the Appellant was advised of how to enroll in a health plan through the Health Connector. The Appellant received conflicting information regarding their eligibility (Exhibits 7,10 and Appellant Testimony).

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

The Appellant's family of three received MassHealth in 2017. The Appellant's income changed and on November 10, 2017 the Appellant applied for ConnectorCare. On November 10, 2017, the Appellant and their spouse were determined eligible for Health Connector Plans effective January 1, 2018. The Appellant's child was determined eligible for MassHealth. The Health Connector informed the Appellant that they must choose a plan and pay the monthly premium by December 23, 2018 in order for coverage to begin in January 2018. 956 CMR 12.04. The Appellant did not enroll in a plan for January. The Appellant testified that they did not receive this letter. The Appellant waited a few days after applying and contacted Health Connector customer service on November 27, 2017 to inquire about their eligibility. The call center note referenced the Appellant's MassHealth and creating a login ID. The Appellant believed that their family was enrolled in a plan and did not learn they were not insured until February 2018 when informed by their dentist that their insurance was not valid.

On February 3, 2018 the Appellant updated their ConnectorCare application. The Appellant was informed that they could not enroll in a plan because open enrollment had ended, and the Appellant's household did not qualify for a special enrollment period. The Appellant filed an appeal and argues that they contacted customer service multiple times and were informed they were all set. The Health Connector call center has a record of only two telephone calls. The Appellant may well have been contacting MassHealth customer service. The Appellant did receive a notice from MassHealth on November 10, 2017 stating that their family of three would remain eligible for Transitional Medical Assistance through June 30, 2018. It is unclear why the Appellant is not receiving MassHealth, but as explained at the hearing, the Health Connector does not have the authority to review MassHealth eligibility issues. 956 CMR 12.02. The Appellant did speak with a Health Connector customer service representative on November 27, 2017. MassHealth eligibility was discussed, but it is unclear that the Appellant was advised of the actions needed to enroll in ConnectorCare.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Typically, enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG 1E. In addition to specific triggering events, enrollees may be entitled to a special enrollment period in certain circumstances where an enrollee receives misinformation from the Health Connector. 45 CFR § 155.420(d)(4). As noted above, the Appellant was dealing with the Health Connector as well as MassHealth. It appears that the Appellant received conflicting information from both agencies when attempting to establish eligibility for ConnectorCare. Under these circumstances the Appellant should be given a Special Enrollment Period to allow the Appellant to enroll in a health plan. This Appeal is approved.

### **ORDER**

The Health Connector should notify the Appellant of their Special Enrollment Period as soon as possible.

**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.

**ADDENDUM**

The Appellant is advised to contact MassHealth Customer Service at 1-800-841-2900 to discuss the eligibility notice issued by MassHealth on November 10, 2017.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4723

**Appeal Decision:** Appeal allowed because Appellant submitted acceptable proof of eligibility prior to the date on which the Health Connector terminated Appellant's health insurance plan enrollment for failure to submit such proof.

**Hearing Issues:** Whether the Health Connector correctly terminated Appellant's health insurance coverage in 2017 for failure to submit acceptable proof of eligibility and whether the Health Connector correctly determined that Appellant is not eligible for enrollment during 2018.

**Hearing Date:** May 8, 2018

**Decision Date:** May 22, 2018

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act (the "ACA" or "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 4, 2018, the Health Connector notified Appellant that he was qualified for a Health Connector Plan but that he could not enroll at that time because he did not have a "qualifying event" that would permit enrollment outside of the annual open enrollment period.

### ISSUES

Whether the Health Connector correctly terminated Appellant's health insurance coverage in 2017 for failure to submit acceptable proof of eligibility and whether the Health Connector correctly determined that Appellant is not eligible for enrollment during 2018.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 8, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary and Results pages from Appellant's June 22, 2017 application for health insurance coverage and Health Connector eligibility notices generated by this application;

Exhibit 2: Print-out of the Summary and Results pages dated April 4, 2018 regarding Appellants' eligibility for health insurance coverage in 2018;

Exhibit 3: Health Connector Eligibility Approval letter dated April 4, 2018;

Exhibit 4: Appellant's April 6, 2018 request for hearing on the Health Connector's April 4, 2018 eligibility determination;

Exhibit 5: Health Connector hearing request acknowledgment letter dated April 17, 2018;

Exhibit 6: Notice of Hearing dated April 18, 2018;

Exhibit 7: Appeals Data form and outreach emails;

Exhibit 8: Customer Service Notes from September 18, 2017 to May 7, 2018;

Exhibit 9: Health Connector Termination Warning letter dated May 2, 2018; and

Exhibit 10: Affidavit from Health Connector Keeper of Records.

## **FINDINGS OF FACT**

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

1. Appellant is an adult resident of Massachusetts. Testimony.
2. Appellant applied for health insurance coverage on June 22, 2017 after losing coverage as a dependent under his parents' health insurance plan. Testimony; Exhibit 1. Based on this application, the Health Connector determined that Appellant had experienced a qualifying event and that he was, therefore, eligible for a Special Enrollment Period ("SEP") in which he could enroll in a Health Connector Plan. Exhibit 1 at 1-2. However, the Health Connector's June 23, 2017 SEP determination letter stated that Appellant needed to submit proof of loss of coverage by September 20, 2017 and warned that if the Health Connector did not receive such proof by September 20, 2017, "the people in your household may lose coverage at the end of September. *Id.* at 2.
3. Appellant enrolled in a Health Connector Plan and began paying monthly premiums. Testimony. Appellant continued to make monthly premium payments through 2017. *Id.*

4. On September 4, 2017, the Health Connector sent Appellant a Termination Warning letter which stated that it had not received the requested proof of coverage loss and that Appellant needed to send the requested proof by September 20, 2017 or his coverage would end on September 30, 2017. Exhibit 1 at 13.
5. Appellant called Health Connector Customer Service on September 18, 2018 for information on what he needed to submit and was told by Customer Service that he needed to submit proof that he had lost coverage as a dependent under his parents' plan by September 25, 2017. Exhibit 8 at 4.
6. Appellant obtained a statement of coverage loss dated September 19, 2017 from his parents' insurer (Exhibit 1 at 33) and delivered this documentation to the Health Connector's Customer Service Center in Boston on September 25, 2017. Testimony.<sup>1</sup>
7. On October 3, 2017, the Health Connector sent Appellant an Eligibility Approval letter which thanked Appellant for sending in the requested proof and advised that he was eligible for a Health Connector Plan and that he needed a qualifying event to enroll at that time because it was not open enrollment period. Exhibit 1 at 19-20.
8. In November of 2017, Appellant noticed that his Health Connector account reflected a "credit" so he called Customer Service for an explanation. Testimony. Customer Service notes in the record reflect that Appellant was informed on November 14, 2017 that his account was "current" and that his next payment was due on November 23. Exhibit 8 at 4. Appellant was also told that his coverage would automatically renew for 2018 unless he selected a different plan and as long as he continued to make his monthly premium payments. Testimony; Exhibit 4 at 2.
9. There is no evidence in the record that the Health Connector ever notified Appellant prior to January 23, 2018 when annual open enrollment period for 2018 ended that the information provided to him on November 14, 2017 – that his account was current and that his coverage would automatically renew for 2018 as long as he continued to make his monthly premium payments -- was incorrect, or that his 2017 coverage had ended and that he would have to reapply for 2018 coverage during the open enrollment period.
10. In April of 2018, Appellant was informed during a visit with his doctor that his health insurance coverage was inactive. Testimony; Exhibit 4 at 2.
11. Appellant immediately contacted Customer Service which explained that his coverage had ended on September 30, 2017 because the proof of coverage loss was not received by September 20, 2017 and that the Customer Service representative had no authority to grant him an extension to September 25, 2017. Testimony; Exhibit 8 at 2-3.
12. Appellant's calls to Customer Service apparently generated an April 4, 2018 Eligibility Approval letter which notified Appellant that he was qualified for a Health Connector Plan but that he could not enroll at

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<sup>1</sup> The Health Connector's records indicate that Appellant's proof of coverage loss was received on September 26, 2017.

that time because he did not did not have a “qualifying event” that would permit enrollment outside of the annual open enrollment period. Exhibit 3.

13. Customer Service subsequently allowed Appellant to enroll in coverage effective May 1, 2018, but his request for retroactive coverage was denied by the plan provider. Testimony.
14. The record also reflects that Appellant encountered billing problems as a result of his previously-credited payments being refunded at a time when he had been advised that he did not need to make additional payments due to the credits which resulted in a non-payment termination warning. Testimony; Exhibit 8 at 3; Exhibit 9. However, Appellant confirmed at the hearing that these issues have been resolved, that he is currently enrolled in good standing, and that the only issue pending is his request that the reinstatement of his coverage effective May 1, 2018 be made retroactive due to Health Connector error. Testimony. Specifically, Appellant requests the option of retroactive coverage for the month of April 2018 to avoid liability for any tax penalty. *Id.*

## **ANALYSIS AND CONCLUSIONS OF LAW**

Congress enacted the ACA in 2010 “to increase the number of Americans covered by health insurance and decrease the cost of health care.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans (“QHPs”). 42 U.S.C. § 18031(b)(1). The Health Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans. 45 C.F.R. § 155.305(a).

In this case, Appellant was found eligible to enroll in a Health Connector Plan in June 2017 subject to a request that he submit documentation of eligibility in the form of proof of loss of coverage by September 20, 2017. Appellant obtained the requested proof of coverage loss and was advised by Customer Service that he had until September 25, 2017 to submit the documentation. Appellant testified that he delivered the documentation to the Boston Customer Service Center on September 25, 2017, and the Health Connector’s records confirm that the documentation was acknowledged on September 26, 2017 as received. Appellant continued to make monthly premium payments and, when he saw that a credit was showing on his account, he contacted Customer Service in November 2017 and was assured that his account was “current” and that his coverage would automatically renew for 2018 as long as he continued to pay his premiums which he dutifully did.

In the particular circumstances disclosed by this record, including the evidence that Appellant was told that he had until September 25, 2017 to submit the proof of coverage loss, I find that Appellant’s coverage should not have been allowed to terminate on September 30, 2017 *after* Appellant had already submitted, and the Health Connector had accepted and verified, his proof of coverage loss. I further find that the Connector erred in not accurately informing Appellant prior to the close of the 2018 open enrollment period that his coverage had terminated and that he would need to reapply for 2018 coverage. Because Appellant’s coverage was incorrectly allowed to terminate on September 30, 2017, and because Appellant was provided with incorrect information on the status of his coverage which directly caused him not to timely apply for 2018 coverage, Appellant will be granted an option to elect coverage retroactive to the date of termination in accordance with the NOTIFICATION OF YOUR RIGHT TO ELECT RETROACTIVE COVERAGE set forth below.

**ORDER**

Based on the foregoing findings and conclusions, the appeal is **ALLOWED**, and the Health Connector’s actions to terminate Appellant’s health insurance coverage on September 30, 2017 and to not automatically renew his coverage for 2018 are **VACATED**.

**NOTIFICATION OF YOUR RIGHT TO ELECT RETROACTIVE COVERAGE**

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

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4736

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; timeclock expiration residency and income

**Hearing Date:** May 7, 2018

**Decision Date:** May 24, 2018

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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 or about December 13, 2017, Appellant submitted an application for subsidized insurance, and was asked to submit proof of residency and proof of income. On March 24, 2018, Appellant was determined ineligible for ConnectorCare based on Appellant's failure to verify Appellant's residency and income.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 7, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification and procedure (1 page);
- Exhibit 2: Notice of Hearing (4-19-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (4-9-18) (7 pages);
- Exhibit 4: Outreach notes (2 pages);
- Exhibit 5: Hearing Request form (4-2-18) (1 page);

- Exhibit 6: Eligibility Termination letter (3-24-18) (6 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (8 pages); and  
Exhibit 8: Request for Information letter (12-13-17) (8 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in December 2017.
2. Appellant was asked to submit documents of proof of residency and proof of income to confirm eligibility.
3. Appellant did not submit the documentation of proof of residency as requested.
4. On March 24, 2018, Appellant was deemed ineligible for ConnectorCare Plans based on failure to submit the required documents.
5. Appellant testified that Appellant had sent in the documents.
6. On April 2, 2018, Appellant filed for an appeal.

## **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 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.

Appellant applied for health insurance coverage through the Connector in December 2017. Appellant was required to submit documentation of proof of residency and proof of income. Appellant did not submit the documentation requested within the appropriate time period. On March 24, 2018, Appellant was notified that Appellant was ineligible for ConnectorCare plans based on failure to submit the required documentation of proof of residency and proof of income.

The Connector made the correct determination based on the information available to the Connector. When Appellant did not supply the required documentation, the Connector correctly terminated eligibility at that time.

## **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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA184752

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

Hearing Issue: Whether the Connector correctly determined the appellant's eligibility to purchase a Health Connector plan with an advance premium tax credit.

Hearing Date: May 15, 2018

Decision Date: May 29, 2018

### 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 March 17, 2018, the Connector determined that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit based upon information supplied by the appellant to the Connector and/or verification of income from other sources.

### ISSUE

Whether the Connector correctly determined pursuant to 26 Code of Federal Regulations Section 1.36B (1) and (2) that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 15, 2018. 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 from the appellant. 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 Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated April 26, 2018 addressed to Appellant for May 15, 2018 hearing
- Exhibit 3: Connector Appeals Unit letter dated April 20, 2018 addressed to Appellant receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff case notes
- Exhibit 4: Hearing Request Form submitted by Appellant on April 9, 2018
- Exhibit 5: Connector letter to Appellant dated March 17, 2018 regarding eligibility

- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated March 17, 2018
- Exhibit 7: Connector letter to Appellant dated December 11, 2017 requesting information regarding income
- Exhibit 8: Connector letter to Appellant dated December 11, 2017 regarding eligibility
- Exhibit 9: Results and summary of Appellant's application dated December 11, 2017
- Exhibit 10: Connector letter to Appellant dated April 2, 2018 regarding eligibility
- Exhibit 11: Connector letter to Appellant dated April 2, 2018 requesting information regarding income
- Exhibit 12: Results and summary of Appellant's application dated April 2, 2018
- Exhibit 13: Appellant's Connector enrollment history

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had ConnectorCare coverage for about three years. In December, 2017, she updated her income information with the Connector. The Connector determined that the appellant was eligible for continuing ConnectorCare coverage, but requested that the appellant send in proof of income. According to her application her projected annual income was equal to 182.83% of the Federal Poverty Level (Testimony of the Appellant, Exhibits 7, 8, and 9).
2. Appellant did not send in proof of income, but she called Customer Service. She was asked if her income had changed and she replied that her income was the same except for a small cost of living adjustment (Testimony of Appellant).
3. On March 17, 2018, the Connector determined, based upon the information supplied by the appellant or from other income data sources, that the appellant was eligible for a Connector Health plan with an advance premium tax credit. The Connector determined that Appellant's projected annual income was 352.17% of the Federal Poverty Level (Exhibits 5 and 6).
4. As a result of the March 17th determination, Appellant's premium and cost of medical care increased; she was no longer eligible for ConnectorCare (Testimony of Appellant, Exhibit 4).
5. Appellant called Customer Service on April 2nd and discussed her income. After this call, the Connector determined that Appellant's projected annual income was 186.71%% of the Federal Poverty Level and that Appellant was again eligible for ConnectorCare. Appellant was again asked to send in proof of income. As of the date of this hearing, Appellant had not sent in proof of income (Exhibits 10, 11, 12).
6. Appellant appealed the March 17, 2018 determination and increase in premium (Testimony of Appellant, Exhibit 4 ).
7. Appellant inadvertently misstated her income on her applications and when talking with Customer Service. She did not report that she earns about \$15,000 a year at a part-time job in addition to the income of \$22,049 which she projected on her application (Testimony of Appellant).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on March 17, 2018 that the appellant was eligible to purchase a Health Connector plan with an advance premium tax credit.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan. See 956 CMR 12.00 et. seq. Pursuant to 45 Code of Federal Regulations Sections 155.315 and 155.320, the Connector is authorized to verify an applicant's income if the applicant does not send in proof of income.

Appellant had ConnectorCare coverage for several years. In December, 2017, the Connector determined that she was still eligible for that coverage; the Connector asked Appellant to send in proof of income. Instead of sending in documentation, the appellant called Customer Service and reported that her income had not changed. In March, 2018, the Connector verified the appellant's income by checking other income data sources and based upon this information determined that the appellant was no longer eligible for ConnectorCare, but that she was eligible for a Connector Health Plan with an advance premium tax credit. Appellant requested a hearing concerning this determination. See the testimony of the appellant, Exhibits 4 through 9).

In April, the appellant again contacted Customer Service and reported that her income had not changed. The Connector determined that the appellant was again eligible for ConnectorCare coverage, but also requested proof of income. As of the date of this hearing, Appellant had not sent in proof of income. See the testimony of the appellant and Exhibits 10, 11, and 12.

At the appeals hearing on May 15, 2018, Appellant testified about her past and projected income. She testified that she received approximately \$22,000 a year from her pension and her husband's Social Security benefits. In addition, she earned approximately \$15,000 from a part-time job which she had last year and continues to have. She testified that when she called Customer Service she was asked if her income had changed. Since she had never reported the income from her part-time job, not realizing that she had to, she responded that her income had not changed (except for a minor cost-of-living increase). She also testified that after discussing the matter during the hearing, she realized that she had to report the part-time job earnings and would send in proof of all of her income. She realized the mistake she had made and now understood the March, 2018 Connector determination to be correct. I find the appellant's testimony to be credible.

Based upon the information given by the appellant to the Connector, and based upon the Connector's verification of income from other data sources, the Connector correctly determined that the appellant was eligible for a Connector Health plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. Appellant had inadvertently reported an incorrect amount for her projected annual income. The Connector was able to determine the correct amount and correctly determine Appellant's eligibility for coverage.

**ORDER:** The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan with an advance premium tax credit is affirmed.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA18-4810

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare; timeclock expiration income

**Hearing Date:** May 16, 2018

**Decision Date:** May 25, 2018

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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 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 or about February 8, 2018, Appellant submitted an application for subsidized insurance, and was asked to submit proof of citizenship and proof of income. On March 17, 2018, Appellant was determined ineligible for ConnectorCare based on Appellant's failure to verify Appellant's citizenship and income.

### **ISSUE**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 16, 2018. 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 procedure (1 page);
- Exhibit 2: Notice of Hearing (4-25-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (4-13-18) (4 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (5-11-18) (with documents) (6 pages);

- Exhibit 6: Eligibility Termination letter (3-17-18) (12 pages);  
Exhibit 7: Eligibility detail printout and application summary printout (22 pages);  
Exhibit 8: Workspace Form (2 pages);  
Exhibit 9: Request for Information letter (2-8-18) (6 pages);  
(with documents submitted by Appellant); and  
Exhibit 10: Enrollment information (1 page).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in February 2018.
2. Appellant was asked to submit documents of proof of citizenship and proof of income to confirm eligibility.
3. Appellant did not submit the documentation of proof of residency as requested.
4. On March 17, 2018, Appellant was deemed ineligible for ConnectorCare Plans based on failure to submit the required documents.
5. Appellant testified that Appellant had sent in the documents.
6. On March 19, 2018, Appellant was deemed eligible for ConnectorCare plans.
7. On May 11, 2018, Appellant filed for an appeal.

## **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 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.

Appellant applied for health insurance coverage through the Connector in February 2018. Appellant was required to submit documentation of proof of citizenship and proof of income. Appellant did not submit the documentation requested within the appropriate time period. On March 17, 2018, Appellant was notified that Appellant was ineligible for ConnectorCare plans based on failure to submit the required documentation of proof of citizenship and proof of income.

Thereafter, Appellant did submit the required documentation and was approved for ConnectorCare plans. Appellant indicated in the hearing that the amount of premiums was too high based on an error on the documents submitted. However, that issue was not before the hearing officer and Appellant was advised to contact customer service.

The Connector made the correct determination based on the information available to the Connector. When Appellant did not supply the required documentation, the Connector correctly terminated eligibility at that time.

**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 was 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.