

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA197643

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

Hearing Issue: Whether the Connector correctly determined the appellant's eligibility to purchase health insurance through the Connector without an advance premium tax credit because of Appellant's access to other health insurance which meets minimum essential coverage standards.

Hearing Date: February 22, 2019

Decision Date: May 2, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 6, 2018, the Connector determined that the appellant was eligible to purchase health insurance through the Connector without an advance premium tax credit because she had access to other health insurance which met minimum essential coverage standards.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase health insurance through the Connector without an advance premium tax credit because the appellant had access to other health insurance which met minimum essential coverage standards.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 22, 2019. 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. The appellant testified. At the end of the hearing, the record was left open until March 20, 2019 to give the appellant time to submit additional evidence. As of the date of this writing, the appellant has not submitted any additional documentation. The record of this hearing 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 January 16, 2019 addressed to Appellant February 22, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated January 4, 2019 addressed to Appellant

acknowledging receipt of Appellant's Request for Hearing
Exhibit 3a: Connector Appeals Unit staff notes
Exhibit 4: Hearing Request Form submitted by Appellant on January 4, 2019 with attachment
Exhibit 5: Connector letter dated December 6, 2018 to Appellant regarding eligibility
Exhibit 6: Summary and results of Appellant's application for Connector health plan dated December 6, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in December, 2018 (Exhibits 5 and 6).
2. On December 6, 2018, the Connector determined that the appellant was eligible to purchase a Health Connector plan without an advance premium tax credit because Appellant had access to other health insurance which met minimum essential coverage standards, had income which was more than 400% of the Federal Poverty Level, had received a tax credit in the past and did not file a Federal tax return for the year during which the tax credits were received, or had a tax filer status which did not meet filing requirements (Exhibits 5).
3. Appellant filed a request for an appeal of the Connector's determination on January 4, 2019 (Exhibit 3).
4. At the time Appellant applied for coverage through the Connector, she had health insurance under her parents' plan and through her employment. Appellant received a Form 1099HC which showed that her coverage met the minimum essential coverage standards and the standards set by the Commonwealth (Testimony of Appellant).
5. Appellant attested to a projected annual income of \$47,047. This attestation was accurate. This income equaled 387% of the Federal Poverty Level (Exhibit 6, Testimony of Appellant).
6. Appellant filed tax returns in 2017 and 2018 and attested to her intention to file tax returns in 2019 (Exhibit 6, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied for health insurance in December, 2018. The Connector determined that Appellant was eligible to purchase a Health Connector plan without an advance premium tax credit because Appellant had access to other health insurance which met minimum essential coverage standards, had income which was more than 400% of the Federal Poverty Level, had received a tax credit in the past and did not file a Federal tax return for the year during which the tax credits were received, or had a tax filer status which did not meet filing requirements. Appellant appealed the Connector's determination on January 4, 2019. See the testimony of the appellant and Exhibits 4, 5, 6. The issue on appeal is whether the Connector's determination was correct.

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

the Social Security Act provides that anyone who is eligible for Part A Medicare coverage cannot be sold coverage through the Connector, since that coverage would duplicate Part A coverage. See also 42USC 1395(d)(3)(A)(i).

Appellant attested on her application filed in December, 2018 that Appellant had other health insurance. She testified that this was accurate and that the coverage met the Commonwealth's minimum creditable coverage standards. She had coverage through her parents' plan and through her job. See the testimony of the appellant which I find to be credible.

The Connector correctly determined that because Appellant had other coverage, she was eligible to purchase a Health Connector Plan without an advance premium tax credit. This determination was based upon attestations made by the appellant on her application. See citations above. This determination is affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA197903

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

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

Hearing Date: April 17, 2019

Decision Date: May 21, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 23, 2018, the Connector determined 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 April 17, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with the appellant, marked as exhibits, and admitted in evidence. The appellant objected to one of the exhibits, an e-mail sent to him from the Appeals Unit because the appellant no longer has an e-mail account. He had no objection to the other exhibits. 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 March 20, 2019 addressed to Appellant for April 17, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated January 28, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Connector Appeals Unit Staff Notes
- Exhibit 3b: Appeals Unit staff e-mail to Appellant dated February 4, 2019
- Exhibit 4: Hearing Request Form submitted by Appellant on January 23, 2019 with attachments
- Exhibit 5: Connector letter dated December 23, 2018 to Appellant regarding eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector plan dated December 23, 2018
- Exhibit 7: Connector letter to Appellant dated September 19, 2018 requesting information
- Exhibit 8: Summary and results of Appellant's application for Connector plan dated September 19, 2018
- Exhibit 9: Summary and results of Appellant's application for Connector plan dated January 22, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated September 19, 2018, the Connector notified the appellant that he needed to provide proof of income by December 18, 2018. The Connector notified the appellant that if Appellant already had coverage through the Connector, the coverage was temporary and might be decreased or ended if the required proof was not submitted. A list of acceptable forms of proof was included in the letter (Exhibit 7).
2. Appellant did not send in the required proof of income on time. He sent the proof in in January, 2019 (Testimony of Appellant, Exhibit 5).
3. Once the appellant did not send in proof of income by the deadline set, the Connector redetermined Appellant's eligibility, finding that Appellant was eligible for a Health Connector Plan with an advance premium tax credit. Appellant was notified of the redetermination by letter dated December 23, 2018. He had been enrolled in a ConnectorCare plan, Type 2B prior to the redetermination (Exhibits 5, 6, and 8).
4. Appellant filed a request for an appeal of the Connector's December 23, 2018 determination on January 23, 2019 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on December 23, 2018 that the appellant was eligible to enroll in a Health Connector plan with an advance premium tax credit, rather than a ConnectorCare plan because the appellant had not submitted proof of income by the required deadline.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. If a household's projected income is between 100% and 400% of the Federal Poverty Level, the household members may be entitled to an advance premium tax credit to help cover the cost of health insurance premiums. If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources and eligibility to enroll in a plan may be terminated. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility.

In a letter dated September 19, 2018, the Connector asked Appellant to submit proof of income by December 18, 2018. See Exhibit 7. The appellant did not send in the required documentation by the deadline set. He sent the proof in in January, 2019. After the deadline, having not received the required documentation, the Connector determined that Appellant was longer eligible for a ConnectorCare plan. Instead, the Connector determined that the appellant was eligible for a Connector Health plan. See Exhibits

5 and 6; and the testimony of the appellant which I find to be credible. Appellant appealed the December 23, 2018 determination. See Exhibit 4.

What is at issue here is whether the determination made by the Connector was correct on the date it was made. Under the Affordable Care Act and Massachusetts state law (Chapter 111M, Section 2) in order to obtain coverage through the Connector, an applicant, among other things, must provide proof of income. Appellant failed to comply with the request for proof of income in a timely fashion. The Connector made no error in redetermining eligibility. See cites above.

The determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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: As of the date of this hearing, Appellant had sent in proof of income and was determined to be eligible for a ConnectorCare plan. Appellant had enrolled in a plan.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-7935

Appeal Decision: Appeal Denied

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

Hearing Date: April 30, 2019

Decision Date: May 1, 2019

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 19, 2019, the Appellant was deemed ineligible for Health Connector plans based on failure to verify residency.

ISSUE

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

HEARING RECORD

The Appellant and Appellant's representative appeared at the hearing, which was held by telephone, on April 30, 2019. The hearing was recorded. The hearing record consists of the Appellant's and the Appellant's representative'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 procedures (1 page);
- Exhibit 2: Notice of Hearing (4-1-19) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (1-30-19) (8 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (1-28-19) (with documents) (6 pages);

- Exhibit 6: Eligibility Termination letter (1-19-19) (8 pages);
Exhibit 7: Request for Information letter (10-15-18) (4 pages); and
Exhibit 8: Eligibility detail printout and application summary printout (13 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance through the Health Connector during 2018.
2. Appellant was requested to submit proof of residency in October 2018 to establish eligibility for 2019.
3. Appellant was determined ineligible for Health Connector plans on January 19, 2019, after failing to send in documents verifying residency. Appellant lives in Massachusetts but did not send in documents verifying residency by the deadline.
4. Appellant submitted the documents verifying residency and Appellant was therefore determined eligible as of February 12, 2018 for ConnectorCare Plan Type 1.

ANALYSIS AND CONCLUSIONS OF LAW

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

In October 2018, the Appellant was determined eligible for a ConnectorCare Plan and was asked to verify their residency. The Appellant failed to send in documents verifying their residency, and was determined ineligible for Health Connector plans on January 19, 2019, for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

While Appellant has now sent in documents verifying eligibility, and has been found eligible for ConnectorCare Plan Type 1, the Health Connector correctly found that the Appellant was no longer eligible for Health Connector plans on January 19, 2019, and that determination is upheld.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Note: Appellant was advised to contact Customer Service to enroll in a plan as soon as possible.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA197936

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

Hearing Issue:

Whether the Connector correctly determined the appellants' eligibility to purchase a Health Connector plan with an advance premium tax credit.

Hearing Date: March 11, 2019

Decision Date: May 15, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 21, 2019, the Connector determined that the appellants were eligible to purchase a Health Connector plan with an advance premium tax credit based upon information supplied by the appellants to the Connector.

ISSUE

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on March 11, 2019. 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 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 February 20, 2019 addressed to Appellant for March 11, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated January 31, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes

- Exhibit 4: Hearing Request Form from Appellant received by the Connector on January 30, 2019 with attachments, including copy of a Connector letter to Appellants dated January 19, 2019 regarding eligibility
- Exhibit 5: Connector letter dated January 21, 2019 to Appellant regarding eligibility to purchase a Connector health insurance plan
- Exhibit 6: Summary and results of Appellants' application for Connector health plan dated January 21, 2019
- Exhibit 7: Summary and results of Appellants' application for Connector health plan dated January 29, 2019
- Exhibit 8: Connector processing notes for documents received from Appellants
- Exhibit 9: Connector letter to Appellants dated November 21, 2018 regarding Special Enrollment Period
- Exhibit 10: Letter to Appellant dated November 7, 2018 from employer regarding retirement
- Exhibit 11: Connector print-out regarding Appellants' eligibility as of April 1, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants applied for health insurance through the Connector in November, 2018. They were informed by the Connector that they were eligible to enroll in a plan during a special enrollment period. They were also asked to provide proof of income. Some proof was sent in for one of the appellants and received by the Connector on January 7, 2019. The other appellant still needed to send in proof (Exhibits 4, 8, and 9).
2. On January 19, 2019, the Connector determined that the appellants were eligible for a Health ConnectorCare plan Type 3B with an advance premium tax credit of \$274 a month, given a projected income equal to 269.35% of the Federal Poverty Level (Exhibit 4 attachment).
3. On January 21, 2019, the Connector determined that the appellants were eligible for a Health Connector plan with an advance premium tax credit of \$175 a month, based upon a determination that their projected income equaled 302.49% of the Federal Poverty Level (Exhibits 5, and 6).
4. One of the appellants works as a per diem employee. Her income varies from week to week. When the Connector requested proof of income, the appellant sent in two pay stubs. The Connector asked for additional proof; appellant sent in two more. She was then asked for more proof and sent in a third set of two pay stubs. Each pay stub showed a different amount of gross pay (Testimony of Appellant).
5. Appellants submitted a request for an appeal of the Connector's determination on January 30, 2019 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on January 21, 2019 that the appellants were eligible to purchase a Health Connector plan with an advance premium tax credit. See Exhibit 5.

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

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

In this matter, the appellants applied for health insurance through the Connector in November, 2018. One of the appellants, who was a per diem employee, submitted three sets of pay stubs (two stubs each time), each stub showing a different amount of gross income. Depending upon which pay stubs were considered, the appellants' eligibility changed. On January 19, 2019, the Connector determined that the appellants were eligible for a Health ConnectorCare plan Type 3B with an advance premium tax credit of \$274 a month, given that their projected income equaled 269.35% of the Federal Poverty Level. See Exhibit 4 attachment. On January 21, 2019, the Connector determined that the appellants were eligible for a Health Connector plan with an advance premium tax credit of \$175 a month, based upon a determination that their projected income equaled 302.49% of the Federal Poverty Level. See Exhibits 5, and 6. See also the testimony of the appellant which I find to be credible.

Based upon the varying proof of income that the appellants provided to the Connector, the Connector correctly determined that the appellants were 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. The appellant confirmed that the projected income level used by the Connector to determine her and her spouse's eligibility for coverage was based upon various pay stubs, each showing a different amount of gross income.

The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellants' 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.

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA197941

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

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

Hearing Date: April 17, 2019

Decision Date: May 30, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 23, 2018, the Connector determined 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 17, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with the appellant, marked as exhibits, and admitted in evidence without objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until April 24, 2019 so that the Connector could provide documents. The appellant agreed to leaving the record open for this purpose. The Connector provided records regarding the appellant's contacts with the agency. 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 20, 2019 addressed to Appellant for April 17, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated February 4, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Connector Appeals Unit Staff Notes dated February 4th and 14th, 2019
- Exhibit 4: Hearing Request Form submitted by Appellant on January 30, 2019 with attachments
- Exhibit 5: Connector letter dated December 23, 2018 to Appellant regarding eligibility
- Exhibit 6: Summary and results of Appellant's application for Connector plan dated December 23, 2018
- Exhibit 7: Connector letter to Appellant dated September 19, 2018 requesting information
- Exhibit 8: Summary and results of Appellant's application for Connector plan dated April 13, 2019

Exhibit 9: Connector Customer Service notes from November, 2016 through March 25, 2019

Exhibit 10: Letter dated January 12, 2019 signed by Appellant submitted to Connector as proof of income and Connector processing notes showing receipt and disposition on January 16, 2019

Exhibit 11: Appellant's 2018 Federal tax return submitted to Connector as proof of income and Connector processing notes showing receipt and disposition on March 28, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated September 19, 2018, the Connector notified the appellant that she needed to provide proof of income by December 18, 2018. The Connector notified the appellant that if Appellant already had coverage through the Connector, the coverage might be decreased or ended if the required proof was not submitted by the due date. A list of acceptable forms of proof was included in the letter (Exhibit 7).
2. The appellant called the Connector's Customer Service Center twice, once on October 12, 2018 and once on December 14, 2019. Both times she called about what proof she needed to submit. During the December call, she stated that she was going to go to a walk-in center to drop off the proof (Exhibit 9).
3. Appellant did not submit the required proof of income by the due date of December 18, 2018. She dropped off a document on January 12, 2019 which was received at the processing center on January 14, 2019. The document, a letter from the appellant stating how much alimony she received annually, was received after the due date. It was also not an acceptable form of proof (Exhibit 10).
4. Once the appellant did not send in proof of income by the deadline set, the Connector redetermined Appellant's eligibility, finding that Appellant was eligible for a Health Connector Plan without an advance premium tax credit. Appellant was notified of the redetermination by letter dated December 23, 2018 (Exhibits 5, 6).
5. Appellant filed a request for an appeal of the Connector's December 23, 2018 determination on January 30, 2019 (Exhibit 4).
6. On March 26, 2019, the appellant submitted an acceptable form of proof of income, her 2018 Federal tax return. Based upon the return, the Connector determined that the appellant was eligible for a ConnectorCare Type 3A plan (Exhibits 8, 11).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on December 23, 2018 that the appellant was eligible to enroll in a Health Connector plan without an advance premium tax credit, rather than a ConnectorCare plan because the appellant had not submitted proof of income by the required deadline.

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)(1) and (2), and 956 Code of Massachusetts Regulations 12.00 et. seq. If a household's projected income is between 100% and 400% of the Federal Poverty Level, the

household members may be entitled to an advance premium tax credit to help cover the cost of health insurance premiums. If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources and eligibility to enroll in a plan may be terminated. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility.

In a letter dated September 19, 2018, the Connector asked Appellant to submit proof of income by December 18, 2018. In the letter was a list of acceptable forms of proof. See Exhibit 7. The appellant did not submit the required documentation by the deadline set., despite calling the Connector's Customer Service Center twice before the deadline to discuss what she needed to submit. See Exhibit 9. She sent the proof in in January, 2019; the proof she sent in was not an acceptable form of proof. See Exhibit 10.

After the deadline, having not received the required documentation, the Connector determined that Appellant was longer eligible for a ConnectorCare plan. Instead, the Connector determined that the appellant was eligible for a Connector Health plan without an advance premium tax credit. See Exhibits 5 and 6. Appellant appealed the December 23, 2018 determination on January 30, 2019. See Exhibit 4.

What is at issue here is whether the determination made by the Connector was correct on the date it was made. Under the Affordable Care Act in order to obtain coverage through the Connector, an applicant, among other things, must provide proof of income. See 45 Code of Federal Regulations 155.305 (f)(1) and (2), and 956 Code of Massachusetts Regulations 12.00 et. seq. Appellant failed to comply with the request for proof of income in a timely fashion. The Connector made no error in redetermining eligibility using other data sources.

The determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a Connector Health plan is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals 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: As of the date of this hearing, Appellant had sent in proof of income and was determined to be eligible for a ConnectorCare plan.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8059

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for Health Connector plans based on failure to verify information

Hearing Date: April 16, 2019

Decision Date: May 31, 2019

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, 2019, the appellant was advised that she did not qualify for Health Connector Plans, and that her eligibility for her current coverage would end on January 31, 2019. (Ex. 1) The appellant filed an appeal which was received on February 8, 2019. (Exs. 13,13A) The matter was referred to a hearing after receipt of the appeal. (Ex. 15)

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, 2019, 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 16, 2019, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Notice of Eligibility Termination dated January 6, 2019 (12 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results (23pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (3 pages)
- Ex. 4—Computer printout of Health Connector's Eligibility Determination Results showing a program determination for February 7, 2019 (4 pages)
- Ex. 5—Computer printout of Health Connector's Review of Application (3 pages)

- Ex. 5A—Enrollment Information (1 page)
- Ex. 6—Health Connector’s Request for Information dated October 2, 2018 (4 pages)
- Ex. 7—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for October 2, 2018 (3 pages)
- Ex. 8—Computer printout of Health Connector’s Review of Application (3 pages)
- Ex. 9—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for March 18, 2019 (3 pages)
- Ex. 9A—Enrollment Information dated March 1, 2019 (1 page)
- Ex. 10-- Computer printout of My Workspace results (1 page)
- Ex. 11—Appeals Unit Notes (2 pages)
- Ex. 12—MassHealth member information (1 page)
- Ex. 13—Online Appeal Request received on February 8, 2019 (6 pages)
- Ex. 13A—Fair Hearing Request Form dated January 31, 2019 (1 page)
- Ex. 14—Acknowledgement of Appeal and Notice of Bifurcation dated February 11, 2019 (4 pages)
- Ex. 15—Notice of Hearing (4 pages)
- Ex. 16—Affidavit of Connector representative (1page)

The appellant testified that she did not receive the Health Connector’s October 2, 2018 Request for Information. (Ex. 6) She testified that the information on her Application was changed by someone other than herself at some point early in 2019 to indicate two different addresses in the contact information section and the family and household section, one of which she has never used and would never use.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 48-years-old, is single, and has an 18-year-old daughter. She has a tax household size of two. (Testimony, Exs. 3, 5,8)
2. In 2018, the appellant was enrolled in a ConnectorCare Plan with Advanced Premium Tax Credits (APTC) and her daughter was enrolled in health insurance with MassHealth. (Testimony)
3. By letter dated October 2, 2018, the Health Connector notified the appellant that it needed proof of residence by December 31, 2018 in order to determine what health insurance coverage she qualified for. The letter further stated that if the requested documentation was not sent, the Connector would use available federal and state data to decide if she qualified for health and/or dental coverage. (Ex. 1)
4. On the application connected with the October 2, 2018 letter, the appellant listed one address which included a post office box number in the contact information section, and a second address which included a street name and number in the family and household section. (Testimony, Ex. 8)
5. At the time of the October 2, 2018 letter, the appellant had not been receiving some of her mail including a car insurance bill and rental insurance bill. The letter was sent to the address with the post office box number, the same address where previous Connector notices were sent. The appellant lives in a small town and does not have residential mail delivery. Her mail is delivered to a post office box. The appellant went to her local post office to inquire about the situation and was advised that it had no explanation for the missing mail. (Testimony)
6. By letter dated January 6, 2019, the Health Connector notified the appellant that she no longer qualified for a ConnectorCare Plan Type 3A with APTC because it did not get the information it needed to verify her eligibility to

purchase a Health Connector Plan. The letter further stated that her coverage with the Connector would end on January 31, 2019. The letter was sent to the same address as the October 2, 2018 letter. (Testimony, Ex. 1)

7. The appellant's daughter was notified at the same time that her insurance with MassHealth was being terminated. (Testimony)

8. The appellant received the January 6, 2019 letter and faxed the following documentation to the Connector on January 7, 2019: an electric bill due on December 26, 2018 which contained two different addresses: a mailing address with her post office box number, and a service address with her street name and number, along with the addition of a pole number, and a different town. The information was verified by the Connector on January 7, 2019. (Testimony, Ex. 10)

9. By letter dated January 7, 2019, MassHealth notified the appellant's daughter that she no longer qualified for health insurance because she was not a resident of Massachusetts. The address on the letter was not the post office box number that had been used on all previous notices, but the service address used by the electric company referred to in Finding No. 8. (Ex. 13)

10. The appellant appealed the Connector's January 6, 2019, determination on February 8, 2019, and stated that she lives in Massachusetts and has her whole life. She also included a Fair Hearing Request Form filed for her daughter based on residency and attached several pieces of documentation including a letter from the Internal Revenue Service sent to her regular post office box address, and another electric bill due on October 25, 2018 with the same two mailing and service addresses referred to in Finding No. 8. (Ex. 13)

11. Following receipt of her appeal, the Connector notified the appellant that the issues she raised regarding her daughter fell within the purview of the Office of Medicaid Board of Hearings, and that the hearing request for her daughter was being transferred to that agency. (Ex. 14)

12. At some point after the termination of insurance for the appellant and her daughter, the appellant contacted her state representative to assist in resolving the matters before the Connector and MassHealth. (Testimony)

13. Following the processing of her documentation, the Connector notified the appellant on February 17, 2019, that effective March 1, 2019, she and her daughter were determined eligible for ConnectorCare Plan Type 3A with an APTC of \$388.00. On the application connected with the determination, the address in the contact information section included the appellant's post office box number, but the address in the family and household section included the service address used by the electric company referred to in Finding No. 8. (Ex. 13) ¹

14. The appellant enrolled herself and her daughter in Plan Type 3A for the month of March and paid a premium of \$170.00. (Testimony, Ex. 5A)

15. At some point after the March enrollment, the appellant's daughter's insurance with MassHealth was reinstated. (Testimony)

16. The Connector notified the appellant on March 18, 2019, that effective April 1, 2019, she was determined eligible for ConnectorCare Plan Type 3A with an APTC of \$185.00. She was further advised that she did not owe

¹ The appellant felt compelled to add her daughter to her plan because the daughter's coverage with MassHealth had been cancelled.

any payment for the April premium, and assumed that the billing department had made an adjustment for removal of her daughter from her plan. (Testimony, Ex. 9)

ANALYSIS AND CONCLUSIONS OF LAW

On January 6, 2019, the appellant was advised that she no longer qualified for coverage through the Health Connector because she failed to provide the requested documentation to verify her continued eligibility. The appellant argues that this determination was incorrect because she never received the Connector's Request for Information.

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 2, 2018, the Health Connector requested proof of residence from the appellant in order to verify her eligibility to purchase a Health Connector plan for 2019. The appellant testified that she did not receive the October 2nd letter. She also testified that other pieces of mail from that time frame were missing and the post office had no explanation. The next piece of mail she received from the Connector was the January 6, 2019 letter notifying her that her coverage would be terminated on January 31, 2019 because it did not get the information it needed to verify her eligibility to purchase a Connector plan. That letter was sent to the same address as the October 2nd letter which she maintained that she did not receive. In response to the January 6th letter, the appellant submitted an electric bill the following day which listed two different addresses: a service address and a mailing address.

Much of the confusion in this matter stems from the fact that in her application, the appellant provided two different addresses, one of which is a post office box, because she does not have residential mail delivery. While she testified that this had not been a problem in the past, the Health Connector could not find a match in its data base for the physical address she provided, and requested proof of residence. Numerous problems ensued including the appellant's claim that she never received the October 2nd letter, her daughter's removal from MassHealth, and the insertion on her application of a service address from her utility bill that she submitted as proof of her residence in the state, not at that particular address.

Although the appellant argues that she did not receive the October 2nd letter requesting proof of residence, she does not deny that she received all of the Connector's other notices and letters which were sent to the same address. It is possible that the letter in question was not delivered along with other pieces of mail which she alleges went missing around that time. However, based on the totality of the evidence, I find it more probable that she ignored the letter because her residence had never previously been an issue, and waited until the January 6, 2019 letter to respond to the Connector's request.

Based on the foregoing, it is concluded that the Connector's determination on January 6, 2019 regarding the appellant's ineligibility for Health Connector Plans due to failure to provide requested information was correct.

ORDER

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised to contact customer service at 1-877-623-6765 to clear up any lingering confusion about her residential address and the correct amount of her premium.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION ACA 19-8061

Appeal Decision: Appeal Denied

Hearing Issue: Applicant's eligibility for subsidized insurance, access to Medicare

Hearing Date: March 13, 2019

Decision Date: May 22, 2019

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

On January 7, 2019, the Appellant was informed that Appellant was not going to be renewed into a Health Connector plan, because Appellant is enrolled in Medicare. The Appellant was also issued a final eligibility notice on January 7, 2019 advising them that they would not be eligible for Health Connector plans in 2019, based on access to Medicare.

ISSUE

The issue addressed in 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 or enrollment in Medicare.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 13, 2019.

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

- Exhibit 1. Health Connector Affidavit of Maintenance of File (1 p.)
- Exhibit 2. Notice of Hearing (5 pp.).
- Exhibit 3. Receipt of Appeal (9 pp.)
- Exhibit 4. Hearing Request, dated February 6, 2019 and received February 11, 2019 (3 pp.)

- Exhibit 5. Notice of Denial (6 pp.)
Exhibit 6. Printout of Results / Application Summary (4 pp.).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a Massachusetts resident. (Exhibits 2 – 6, Testimony).
2. Appellant does not have access to affordable employer-sponsored insurance, and has income below 150 percent of the federal poverty level. (Exhibit 6, Testimony).
3. On January 7, 2019, a notice was sent to the Appellant stating that Appellant did not qualify for health insurance coverage through the Massachusetts Health Connector because Appellant has access to Medicare or is currently enrolled in Medicare. (Exhibit 5).
4. The Appellant is currently enrolled in Medicare, but states that because Medicare covers only 80 percent of health care costs, it is insufficient coverage to make the cost of health care reasonable or affordable.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant has appealed the finding that they are not eligible for a Health Connector plan for 2019; and stated that because Medicare covers only 80 percent of health care costs, it is insufficient coverage to make the cost of health care reasonable or affordable.

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

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

might otherwise satisfy the eligibility criteria at 45 CFR § 155.304(a). Generally, the Health Connector performs the function of renewals for carriers, in accordance with the provisions found at 45 CFR §155.335. However, in cases where the individual is going to be eligible for Medicare on January 1 of the renewal year, the Health Connector cannot determine whether renewal is appropriate and would comply with the anti-duplication rule. The Health Connector therefore does not perform any renewals for Medicare-eligible individuals, and instead directs individuals to contact their carriers, who can determine whether renewal is permissible. This approach ensures compliance with the anti-duplication rule, and does not interfere with any individual rights, since the individual cannot be eligible for the subsidies exclusively available through the Health Connector. *See* 26 CFR 1.36B-2(a)(2). To the degree any individual has the right to renew their same policy or contract of insurance, the individual's health insurance issuer remains responsible for performing that renewal.

The Appellant confirmed at the hearing that Appellant is eligible for and enrolled in Medicare. Because the Appellant is enrolled in Medicare, the Health Connector correctly found that the Applicant was not eligible for Health Connector plans in 2019, in order to avoid violating the Medicare anti-duplication rule. Although the fact that Medicare covers 80 percent of health care costs – rather than a higher percentage – presents a significant financial challenge for the Appellant, that does not qualify as an exemption from the anti-duplication rule.

Order

Accordingly, the Health Connector's decision is affirmed, and the appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: The Appellant is advised to look into the **Serving the Health Insurance Needs of Everyone (SHINE)** program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.

FINAL APPEAL DECISION NO. 19-8278

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for ConnectorCare, based on failure to reconcile prior tax credits

Hearing Date: May 14, 2019

Decision Date: May 29, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On March 1, 2019, Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant only eligible for Health Connector plans and not eligible for ConnectorCare, since she did not provide documentation to verify that she had filed tax return forms to reconcile any previous Advance Premium Tax Credits she had received.

HEARING RECORD

The Appellant's son appeared at the hearing, which was held by telephone, on May 14, 2019.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Hearing Notice of Hearing (10 pages, dated April 22, 2019)
- Exhibit 3: Health Connector's Acknowledgment of Appeal (2 pages, dated March 6, 2019)
- Exhibit 3(a) Health Connector's Appeals Unit Staff Notes (5 pages)
- Exhibit 4: Appellant's Appeal Request Form (2 pages, dated February 27, 2019) (1 Page)
- Exhibit 5: Health Connector Notice of Eligibility Approval (8 pages, dated February 17, 2019)

- Exhibit 6: Health Connector's Results Computer Print Out (4 pages, dated February 17, 2019)
Exhibit 7: Health Connector Notice of Using Form 1095-A to Appellant (8 pages, dated January 12, 2018)
Exhibit 8: Health Connector Notice of Using Form 1095-A to Appellant (8 pages, dated January 6, 2017)

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated February 17, 2017, from the Connector and entitled 'Eligibility Approval,' the Appellant was informed that for 2019, she was eligible to enroll in Health Connector Plans with no financial help. (Exhibit 5)
2. In the application submitted by the Appellant, the Appellant's income was 0% of the Federal Poverty Level (FPL). (Exhibit 5)
3. The Appellant filed a Hearing Request Form appealing the Connector's decision. (Appellant testimony and Exhibit 4)
4. The Appellant had been filing tax returns. (Testimony)
5. The Appellant submitted an amended tax return in February 2019. (Testimony)
6. As of February 2019 the Appellant had not attested that she had filed taxes and reconciled all past Advance Premium Tax Credits. (Exhibit 3(a))
7. Since the determination, the Appellant has received a new determination regarding her eligibility.
8. The Appellant will be eligible for Advanced Premium Tax Credits on May 1, 2019.

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined that the Appellant could purchase health insurance through the Connector for 2019, but that she was not eligible for the Advance Premium Tax Credit and for subsidized health insurance through ConnectorCare.

In the Appellant's application for subsidized health insurance for 2019, the Appellant did not verify her eligibility for the Advance Premium Tax Credit. In order to be eligible for future Advance Premium Tax Credits, the recipient of the tax credits must reconcile their previous Advance Premium Tax Credits. (45 CFR §155.305(f) (4)). In order to comply with this requirement, the recipient must file her income taxes using Form 1040 and include Form 8962. The Appellant received Advance Premium Tax Credits in 2016 and 2017, but she did not provide evidence that she filed the requisite tax forms to reconcile those tax credits at the time the Connector made its eligibility determination.

However, since the determination the Appellant was not eligible for advance premium tax credits, she has received new determinations and is again eligible for the Advance Premium Tax Credit and for subsidized health insurance through ConnectorCare.

Based on the Appellant's failure to provide evidence that she had filed taxes reconciling her past Advance Premium Tax Credits, the Connector's decision to determination to deny the Appellant access to those credits is upheld.

Massachusetts Health Connector Appeals Unit



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.

William F. O'Connell
Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2019 from the federal government will be reconciled when you file your 2019 federal income tax return (usually in the spring of 2020). 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 2019 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2019 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2019 will be paid to you when you file your 2019 federal income tax return.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8281

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 16, 2019

Decision Date: May 17, 2019

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 5, 2019, the appellant was advised that he qualified for ConnectorCare Plan Type 3B with Advance Premium Tax Credits (APTC) because the Connector did not get the information it needed to verify his eligibility. (Ex. 1) The appellant filed an appeal which was received on February 28, 2019 based on income. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex.11)

ISSUE

Was the Connector's decision regarding the appellant's qualification for ConnectorCare Plans correct at the time of its determination on February 5, 2019, 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 16, 2019, 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 Request for Information dated October 19, 2018 (12 pages)
- Ex. 2—Computer printout of My Workspace Results (10 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated February 5, 2019 (20 pages)
- Ex. 4— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for February 5, 2019 (3 pages)
- Ex. 5— Computer printout of Health Connector's Review of Application (4 pages)

- Ex. 6—Online Appeal Form received on February 28, 2019 (13 pages)
- Ex. 7—Computer printout of My Workspace Results (12 pages)
- Ex. 8—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for March 19, 2019 (2 pages)
- Ex. 9— Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 10—Appeals Unit notes (1 page)
- Ex. 11—Acknowledgement of Appeal dated February 28, 2019 (6 pages)
- Ex. 12—Notice of Hearing (4 pages)
- Ex. 13—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 52-years-old and has a tax household size of one. (Testimony, Exs. 5,9)
2. By notice dated October 19, 2018, the Health Connector notified the appellant that it could not verify that he qualified to purchase a Health Connector plan, and requested proof of income by January 17, 2019. On the list of acceptable documents attached to the notice, he was advised to send one type of proof from the list which included “a signed and dated most recent quarterly or year-to-date profit and loss statement.” (Testimony, Ex. 1)
3. On January 11, 2019, the appellant submitted a signed “Q4 Net Income Statement”. The document was undated, did not contain a business name, and did not have dates associated with the list of payments. On February 4, 2019, the Connector determined that the submission was “not acceptable[.] [W]e need the entire year along with proof of tax extension the business name listed with the dates of income and signed and dated.” (Ex. 2)
4. By notice dated February 5, 2019, the Health Connector notified the appellant that he qualified for ConnectorCare Plan Type 3B with an APTC of \$213.00, effective March 1, 2019. The notice further advised the appellant that it used a Federal Poverty Level (FPL) of 250.94% to decide his program eligibility, and that its determination was based on data from other sources because he did not send the documents it requested. Finally, the notice requested proof of income and advised the appellant that he qualified for a Special Enrollment Period. (Exs. 3,4)
5. On the application connected with the February 5, 2019 determination, the appellant projected his yearly income to be \$16,362.00 based on a monthly income of \$1363.00. He was determined to be within 129.78% of the FPL based on his self-reported income, but the Connector used a FPL of 245.94% to determine his program eligibility. (Ex. 5)
6. The appellant appealed the Connector’s February 5, 2019 determination on February 28, 2019 based on income, and stated that the Connector mistakenly used prior year’s income. He also attached a letter in which he stated in part that he was advised by a customer service representative to forward documentation with his appeal consisting of: a 2018 profit and loss statement with his business name on it, the dates of payment in 2018, a record of unearned income, and a record of his 2018 federal income tax extension. (Testimony, Ex. 6)
7. Following receipt of the appellant’s appeal and documentation, the Connector verified the appellant’s income and re-ran his eligibility. (Ex. 7)

8. By notice dated March 19, 2019, the Health Connector notified the appellant that he was eligible for ConnectorCare Plan Type 3B with an APTC of \$193.00, effective April 1, 2019. The notice further advised the appellant that it used a FPL of 263.73% to determine his program eligibility. (Ex. 8)

ANALYSIS AND CONCLUSIONS OF LAW

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 19, 2018, the Connector requested proof of income from the appellant by January 17, 2019 in order to verify his eligibility to purchase a Health Connector plan. On January 11, 2019, the appellant submitted a "Q4 Net Income Statement" which was undated, did not contain a business name and did not have dates associated with the list of payments. On February 4, 2019, the Connector determined that the submission was unacceptable and requested specific additional documentation. On February 5, 2019, the Connector advised the appellant that he was eligible for ConnectorCare Plan Type 3B with APTC, and that its determination was based on data from other sources because he had not sent the documentation it had requested. The appellant appealed that determination and submitted the documentation identified by the Connector in its February 4, 2019 decision. Subsequently, the Connector issued a new eligibility determination on March 19, 2019.

The determination on appeal is the February 5, 2019 decision of the Connector. That determination resorted to data from other sources because the appellant's January 11, 2019 submission was incomplete and inadequate. The appellant does not dispute that determination, but appears to be disputing the March 19, 2019 determination which he was advised was not a subject of the instant appeal.

Based upon the totality of the evidence, it is concluded that the Connector's determination on February 5, 2019, regarding the appellant's eligibility for ConnectorCare Plans with APTC 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](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line at 1-877-369-0130. The mailing address is: Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so,

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to contact Health Connector customer service at 877-623-6765 regarding his concerns about the March 19, 2019 determination, or to update his application online, if necessary, at mahealthconnector.org.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8299

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue Eligibility for subsidized Health Connector plans, based on failure to verify residency and income

Hearing Date: April 17, 2019

Decision Date: April 29, 2019

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

In February 2019, Appellant was determined ineligible for Health Connector Plans for failure to provide proof of residency and proof of income. After providing proof of residency, on March 21, 2019, Appellant was found eligible for Health Connector plans, but ineligible for subsidies due to failure to verify income

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 17, 2019. Also present was Appellant's family member and a duly sworn interpreter. The hearing record consists of the Testimony of Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file,
- Exhibit 2: Correspondence from Connector Appeals Unit
- Exhibit 3: Hearing Request Form and support documents
- Exhibit 4: Notices on Appeal
- Exhibit 5: Request for Information, dated November 29, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. On November 29, 2018 2018, Appellant was sent a notice to send in proof of residency and proof of income on or before February 27, 2019 in order to be eligible for subsidized health insurance (Exhibit 6).
2. Appellant had moved in November 2018 and did not change the address with the Health Connector for several months (Testimony of Appellant).
3. Appellant did not receive the notice from November 29, 2018 and Appellant did not contact the Health Connector until February 2019.
4. Appellant did not send in the required information by February 27, 2019 (Exhibit 5).
5. In March 2019, Appellant provided proof of residency and a corrected address to the Health Connector (Exhibit 4 and Testimony of Appellant).
6. On March 21, 2019, Appellant was sent a notice that beginning on April 1, 2019, Appellant was eligible for a Health Connector Plan but was not eligible for subsidies due to not sending in the requested income information (Exhibit 4).
7. As of March 21, 2019, Appellant still had not sent in the income information because they were waiting to complete income taxes (Testimony of Appellant).
8. Appellant sent some income information to the Health Connector in early April. Appellant was not sure where the information was mailed to (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will 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 November 29, 2018 The Health Connector requested income and residency information to be sent to the Connector by February 27, 2019. Appellant provided residency information in March 2019 but the Health Connector still had not been provided with income information in March. On March 21, 2019, Appellant was found eligible for Health Connector Plans with no subsidies beginning on April 1, 2019, based upon electronic data sources. That determination is upheld.

ORDER

The Appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

ADDENDUM

Appellant was given the number of the Health Connector (1-877 623-6765). It was suggested that Appellant call the Health Connector as soon as possible, to find out exactly what income information was still needed and how to send it to the Connector as soon as possible.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8300

Appeal Decision Appeal Denied

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

Hearing Date: April 17, 2019

Decision Date: May 13, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 4, 2019, Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credit of \$0, based upon Appellant's updated income information

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 upon Appellant's updated income information

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 17, 2019.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file
- Exhibit 2: Correspondence from Appeals Unit of Health Connector
- Exhibit 3: Hearing Request Form dated March 1, 2019
- Exhibit 4: Notices on Appeal and Eligibility Results and Summary
- Exhibit 5: Request for Information letter dated October 1, 2018 and Eligibility Results and application summary

Exhibit 6: Customer Service notes, which include income information sent by Appellant on January 2, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. During 2018, Appellant was covered under a ConnectorCare Plan with Advance Premium Tax credits (Exhibit 5 and Testimony of Appellant).
2. On October 1, 2018 and December 21, 2018 Appellant was asked to provide documents regarding Appellant's income on or before January 4, 2019 (Exhibits 5 and 6).
3. Appellant provided the requested income information on or about January 2, 2019 (Exhibit 6).
4. As a result of the information submitted to the Health Connector in January 2019, Appellant's income was determined to be 365.67% of the federal poverty level (Exhibit 4).
5. On January 4, 2019, Appellant was determined eligible for a Health Connector Plan with Advance Premium Tax Credit of \$0 beginning on February 1, 2019 (Exhibit 5).
6. As a result of Appellant's new eligibility determination on January 4, 2019, Appellant's cost for health insurance increased (Exhibit 6).
7. In 2018 and 2019, Appellant paid the premiums by automatic withdrawal from a checking account (Testimony of Appellant).
8. In February 2019, an increased amount for the new plan was withdrawn from Appellant's checking account (Testimony of Appellant).
9. Appellant called the Health Connector and then switched to a lower cost plan (Testimony of Appellant).
10. Appellant filed an appeal on March 4, 2019, seeking a refund for the money which had been taken from Appellant's bank account in February 2019 (Exhibit 3 and Testimony of Appellant).
11. The updated income information that was sent to the Health Connector on January 2, 2019 was a correct reflection of Appellant's projected income (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

During 2018, Appellant had been covered by a ConnectorCare Plan with Advance Premium Tax Credits. In January, 2019, Appellant updated the projected income with the Health Connector. The updated income led to a determination that Appellant's income was 365.67% of the federal poverty level. Since Appellant's income was higher than 300% of the federal poverty level, Appellant was no longer eligible for a subsidized ConnectorCare Plan. On January 4, 2019, Appellant was found eligible for a Health Connector Plan with Advance Premium Tax Credit of \$0 beginning on February 1, 2019. Appellant's premium increased and the new premium was withdrawn from Appellant's bank account in February, 2019. Appellant then changed to a less expensive plan. Appellant filed an appeal on March 4, 2019, seeking a refund of the premium that was withdrawn. See Exhibits 3, 4, 5 and 6 and Testimony of Appellant, which I find to be credible.

Based upon the updated information that Appellant provided on January 4, 2019, the Health Connector made the correct determination of eligibility for a Health Connector Plan with Advance Premium Tax Credit of \$0.

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

It was explained to Appellant that billing issues are not appealable. However, the Health Connector has now reached out to Appellant to discuss the billing issue and Appellant's request for a refund.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA198363

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

Hearing Issue: Whether the Connector correctly determined that the appellant was ineligible to purchase a health insurance plan through the Connector.

Hearing Date: April 17, 2019

Decision Date: May 21, 2019

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, 2019, the Connector determined that the appellant was ineligible to purchase a health insurance through the Connector because the appellant failed to send in requested information.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on April 17, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with the 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 March 22, 2019 addressed to Appellant for April 17, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated March 8, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Connector Appeals Unit Staff Notes
- Exhibit 4: Hearing Request Form submitted by Appellant on March 8, 2019 with attachments
- Exhibit 5: Connector letter dated February 26, 2019 to Appellant regarding eligibility denial
- Exhibit 6: Summary and results of Appellant's application for Connector plan dated February 26, 2019
- Exhibit 7: Summary and results of Appellant's application for Connector plan dated November 13, 2018
- Exhibit 8: Connector letter to Appellant dated November 13, 2018 requesting information
- Exhibit 9: Connector print-out showing receipt of document from and disposition (unacceptable), February 25, 2019
- Exhibit 10: Summary and results of Appellant's application for Connector plan dated March 26, 2019

Exhibit 11: Affidavit of residence received from Appellant by Connector on March 23, 2019

Exhibit 12: Connector print-out showing ConnectorCare start date of May 1, 2019 for Appellant

FINDINGS OF FACT

The record shows, and I so find:

1. In a letter dated November 13, 2018, the Connector notified the appellant that he needed to provide proof of residency by February 11, 2019. The Connector notified the appellant that if Appellant already had coverage through the Connector, the coverage might be ended if the required proof was not submitted by the deadline. A list of acceptable forms of proof was included in the letter (Exhibits 7, 8).
2. Appellant did not send in the required proof of residence on time. He sent in a document on February 25, 2019, after the deadline, that was not an acceptable form of proof (Exhibit 9).
3. Once the appellant did not send in proof of residence by the deadline set, the Connector redetermined Appellant's eligibility, finding that Appellant was ineligible to purchase a health insurance plan through the Connector. Appellant was notified of the redetermination by letter dated February 26, 2019. (Exhibits 5 and 6).
4. Appellant filed a request for an appeal of the Connector's determination on March 8, 2019 (Exhibit 4).
5. Appellant sent in an affidavit of residence, received by the Connector on March 23, 2019 (Exhibit 11).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on February 26, 2019 that the appellant was ineligible to enroll in a health insurance plan through the Connector because the appellant had not submitted proof of residence by the required deadline. See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. If a household's projected income is between 100% and 400% of the Federal Poverty Level, the household members may be entitled to an advance premium tax credit to help cover the cost of health insurance premiums. If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources and eligibility to enroll in a plan may be terminated. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility.

In a letter dated November 13, 2018, the Connector asked Appellant to submit proof of residence by February 11, 2019. See Exhibit 8. The appellant did not send in the required documentation by the deadline set. After the deadline, he sent in a document which was not an acceptable form of proof. He later sent the proof in on March 23, 2019. After the deadline, having not received the required documentation, the Connector determined that Appellant was longer eligible to purchase a health insurance plan through the Connector. See Exhibits 5, 6, 8, 9, and 11. Appellant appealed the February 26, 2019 determination. See Exhibit 4.

What is at issue here is whether the determination made by the Connector was correct on the date it was made. Under the Affordable Care Act and Massachusetts state law (Chapter 111M, Section 2) in order to obtain coverage through the Connector, an applicant, among other things, must provide proof of residence. Appellant failed to comply with the request for proof of residence in a timely fashion. The Connector made no error in redetermining eligibility. In order to purchase a plan through the state exchange, an individual must reside in the state. See cites above.

The determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellant's ineligibility to purchase a health insurance plan through the Connector is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals 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: As of the date of this hearing, Appellant had sent in proof of residence and was determined to be eligible for a ConnectorCare plan.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8364

Appeal Decision: Appeal allowed to grant Appellant a special enrollment period.

Hearing Issue: Whether the Health Connector correctly determined that Appellants are not eligible for a special enrollment period.

Hearing Date: April 19, 2019

Decision Date: May 10, 2019

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

By letter dated February 26, 2019, the Health Connector notified Appellant, a single person residing in Massachusetts, that they were not qualified to enroll in a new or different plan at that time because Appellants did not tell the Health Connector that they had a qualifying event.

ISSUES

Whether the Health Connector correctly determined that Appellant is not qualified to enroll in a new or different health insurance plan in 2019.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on April 19, 2019. The hearing record consists of Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary pages generated from Appellant’s February 26, 2019 application for health insurance coverage in 2019;

Exhibit 2: Health Connector Special Enrollment Period Decision dated February 26, 2019;

Exhibit 3: Appellant's March 8, 2019 request for hearing on the Health Connector's February 26, 2019 Special Enrollment Period Decision;

Exhibit 4: Health Connector Appeals Data form dated March 11, 2019;

Exhibit 5: Health Connector hearing request acknowledgment letter dated March 11, 2019;

Exhibit 6: Notice of Hearing dated March 20, 2019;

Exhibit 7: Affidavit from Health Connector Keeper of Records; and

Exhibit 8: Post-hearing evidence submitted by Appellant consisting of letter from Appellant's prior health insurer confirming date on which coverage ended.¹

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; Exhibits 1 and 2.
2. Appellant was enrolled in health insurance coverage as a dependent under a parent's Health New England plan until December 31, 2018. Testimony; Exhibit 8.
3. Appellant turned 26 on December 13, 2018. Testimony; Exhibit 1.
4. Appellant filed an application for health insurance with the Health Connector on February 26, 2019. Exhibit 1.
5. The Health Connector notified Appellant in the February 26, 2019 Special Enrollment Period Decision letter that Appellants are not qualified to enroll in a new or different because Appellant did not tell the Health Connector that he had a qualifying event. Exhibit 3.
6. The record was held open for Appellant to submit documentation from Health New England showing when Appellant's coverage as a dependent ended.
7. By letter dated April 19, 2019, Health New England confirmed that Appellant's coverage ended on December 31, 2019. Exhibit 8.

¹ The record was held open after the conclusion of the hearing for Appellant to submit documentation showing when Appellant's prior health insurance coverage ended.

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 Mass. Code Regs. 12.04(1)(b).

Generally, individuals must enroll during an annual open period which for 2019 ran from November 1, 2018 to January 23, 2019, and changes in plan enrollment outside of the open enrollment period are only allowed in limited circumstances. One such circumstance is when an individual loses eligibility for coverage as a dependent in which case the individual is allowed to enroll in coverage through the Health Connector within 60 days of the qualifying event. See Health Connector Policy #SB-1D (effective Jan. 1, 2016), available at https://www.mahealthconnector.org/wp-content/uploads/policies/Policy_SB_1D.pdf. In denying Appellant a Special Enrollment Period, it appears that the Health Connector started the 60-day clock for enrollment on Appellant’s birthday, December 13, 2018, thus considering his application filed on February 26, 2019 to be untimely. However, Appellant’s dependent eligibility ended on December 31, 2018, the end of the month following Appellant’s 26th birthday. Exhibit 8. Therefore, I find that Appellant timely applied within 60 days of losing coverage eligibility as a dependent and that the Health Connector consequently erred in denying him a Special Enrollment Period.

When an otherwise qualified individual is not enrolled in a QHP “unintentionally, inadvertently, or as the result of the error, misrepresentation, misconduct, or inaction of an officer, employee or agent, of the Health Connector, the U.S. Department of Health and Human Services (HHS), or non-Exchange entities providing enrollment activities,” it is Health Connector policy that the individual and any dependents should be allowed a 60-day special enrollment period to enroll in coverage outside of the annual open enrollment period. See Policy #: NG-1E (rev. Jan. 27, 2016), available at https://www.mahealthconnector.org/wp-content/uploads/policies/Policy_NG_1E.pdf. Pursuant to this policy, I conclude that Appellant must be allowed a 60-day special enrollment period and the option of electing retroactive coverage in order to remedy the Health Connector’s error.

ORDER

Based on the foregoing findings and conclusions, the appeal is **ALLOWED**, and the Health Connector's February 26, 2019 SEP Decision is **MODIFIED** to allow Appellant a 60-day open enrollment period to commence on the date of this decision.

NOTIFICATION OF OPTION 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](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: ACA19-8427

Appeal Decision: Appeal Denied

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

Hearing Date: April 22, 2019

Decision Date: May 30, 2019

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 16, 2019, the Appellant was determined ineligible for Health Connector plans. The Appellant was denied subsidies because the Appellant has access to 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

On April 22, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: Affidavit (1 page)
- Exhibit 2: 2/16/19 Eligibility Approval Notice (24 pages)
- Exhibit 3: 3/14/19 Appeal (2 pages)
- Exhibit 4: Appeal Unit Notes (1 page)
- Exhibit 5: 2/16/19 2019 Eligibility Results (6 pages)
- Exhibit 6: 11/14/18 2019 Eligibility Results (5 pages)

- Exhibit 7: AVV – Program Determination, 3/15/19 (1 page)
Exhibit 8: 3/15/19 Connector Agent Portal – Plan Selection, 11/24/18 (2 pages)
Exhibit 9: Plan Selection – Spouse (1 page)
Exhibit 10: 3/20/19 Hearing Notice (10 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By letter dated February 16, 2019, the Health Connector notified the Appellant that he did not qualify for health insurance coverage through the Health Connector because he had access to insurance through another source. (Exhibit 2)
2. On March 14, 2019, the Appellant appealed the Health Connector's 2/16/19 determination, circling "Access to other insurance," as the reason for his appeal, and stating, "I have not yet received Medicare Part B medical insurance, my Medicare medical insurance will start July 1, 2019." (Exhibit 3)
3. The Appellant was born in November 1952. (Exhibit 3)
4. The Appellant was eligible for health insurance coverage through Medicare (Part A Hospital Insurance and Part B Medical Insurance) beginning March 1, 2018, as long as he enrolled during his Initial Enrollment Period of August 1, 2017, through February 28, 2018. (Medicare Eligibility On-Line Calculator; Exhibit 7)
5. The Appellant did not enroll in any Medicare program during his Initial Enrollment Period. (Appellant's testimony)
6. As the Appellant did not enroll in Medicare during his Initial Enrollment Period, he could have enrolled thereafter only during the General Enrollment Period between January 1 and March 31 each year, for coverage effective July 1 of that year. (medicare.gov website)
7. In early 2019, the Appellant submitted to Social Security his application for Social Security benefits and for Medicare benefits, at the same time. In both cases, he was told that he needed more credits. (Appellant's testimony)
8. The Appellant's application for Medicare Part B was approved, effective July 1, 2019. (Appellant's testimony;)

ANALYSIS AND CONCLUSIONS OF LAW

In his appeal, the Appellant is asking the Health Connector to grant him health insurance coverage until his Medicare Part B coverage starts on July 1, 2019. However, under 42 USC 1395ss(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare.

When the Appellant's eligibility for 2019 Health Connector coverage was determined on February 16, 2019, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant stated at hearing that he was not eligible for Medicare Part B, Medical Benefits, at that time, because he did not have sufficient credits to qualify. However, the Appellant has been eligible for Medicare Part A and Part B, since March 1, 2018, as long as he applied during a designated enrollment period. While a Medicare recipient might pay a penalty for not enrolling during the Initial Enrollment Period or a higher premium for earning insufficient Medicare credits when employed, this does not affect their eligibility for Medicare. Every Medicare-eligible individual who fails to enroll during their initial enrollment period must wait for a general enrollment period to enroll and must wait until July 1 of that year for the Medicare coverage to go into effect. Because the Appellant had access to Medicare, the Health Connector found on February 16, 2019, that the Appellant was not eligible for subsidized insurance coverage through the Health Connector. This was the correct determination, under 42 USC 1395ss(d)(3)(A)(i). Therefore, the Appellant's appeal is denied.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8468

Appeal Decision: Appeal Denied.

Hearing Issue: Eligibility for ConnectorCare based on the annual renewal process.

Hearing Date: May 1, 2019

Decision Date: May 6, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On October 13, 2018, the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits. The Appellant's determination was a result of the Health Connector's annual renewal process.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant eligible for Health Connector plans based on the income used in the annual renewal process.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 1, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated April 9, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Appeal Request submitted on March 19, 2019.
- Exhibit 5: Health Connector's Final Renewal Notice with an Application Summary dated October 13, 2018.
- Exhibit 6: Health Connector's Preliminary Eligibility Determination Notice with an Application Summary dated September 5, 2019.

- Exhibit 7: 2019 Eligibility Results with an Application Summary dated March 6, 2019.
Exhibit 8: Notes from Customer Service Interactions-SalesForce.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for ConnectorCare Plan Type 3B in tax year 2018. The Appellant enrolled in Tufts Health Plan Direct ConnectorCare (Exhibits 5, 6).
2. In conjunction with the annual renewal process, on September 5, 2018, the Health Connector sent the Appellant a Preliminary Eligibility Determination notice for 2019. The notice stated that the Appellant's eligibility was going to change from ConnectorCare Plan Type 3B to a Health Connector Plan with Advance Premium Tax Credit. This notice stated that the Health Connector's 2019 determination was based on an income equivalent to 377% of the Federal Poverty Level. The notice instructed the appellant to review the information and if it was not correct, to report a change to the Appellant's application with the correct information. This notice was mailed to the Appellant's address of record (Exhibit 6).
3. The Appellant did not report any changes to their application, and their preliminary determination for 2019 was finalized on October 13, 2018 with a notice was issued the same day. This notice was mailed to the Appellant's address of record (Exhibit 5).
4. The Appellant's Health Plan was changed to Tufts Health Plan Direct Standard Silver effective January 1, 2019 as outlined in the notices issued on September 5, 2018 and October 13, 2018 (Exhibits 5, 6).
5. The Appellant filed an appeal to dispute the change on March 19, 2019 (Exhibit 4).
6. The Appellant's appeal was not filed timely, but the Health Connector Appeals Unit agreed to allow the Appellant's appeal to be heard (Exhibit 3).
7. The Appellant testified that they did not receive the renewal notices issued by the Health Connector on September 5, 2018 and October 13, 2018 because they were sent to the Appellant's old address. The Appellant testified that they moved on August 31, 2018. The Appellant had surgery on January 8, 2019 and because of the change in their health plan owes outstanding medical bills for a deductible and other non-covered service (Exhibit 4 and Appellant Testimony).
8. It is undisputed that the Appellant did not notify the Health Connector of their change of address until January 18, 2019 (Exhibit 8 and Appellant Testimony).
9. The Appellant argues that they were not told to report a change of address. I did not find this to be credible given the fact that eligibility notices issued to the Appellant in tax year 2018 would have advised the Appellant to report changes.
10. The Appellant updated their application on March 6, 2019. The Appellant was determined eligible for ConnectorCare Plan Type 3B with Advanced Premium Tax Credit effective April 1, 2019 based on verified income equal to 296.54% of the federal poverty level (Exhibit 7).

ANALYSIS AND CONCLUSION OF LAW

In tax year 2018 the Appellant was determined eligible for ConnectorCare Plan Type 3B with Advance Premium Tax Credit. The Health Connector is required to redetermine eligibility for its members annually. As part of this process, Health Connector is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c)-(g). Where the member does not report any

changes, the Health Connector must finalize the member's eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

Individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

On October 13, 2018, the Appellant was found eligible for Health Connector Plans with Advance Premium Tax Credits for tax year 2019, based on having a household income equivalent to 377% of the Federal Poverty Level. This determination came as part of the Health Connector's annual renewal process, and followed the preliminary eligibility notice for plan year 2019, dated September 5, 2018. The preliminary notice asked the Appellant to review this information and report any changes within 30 days if it was incorrect. The Appellant did not report any changes after receiving the preliminary eligibility notice, and the eligibility was finalized on October 13, 2018, with notice to the Appellant on October 13, 2018. All relevant notices were mailed to the Appellant's address of record as reported on the application completed by the Appellant.

The Appellant filed an appeal to dispute this determination on March 19, 2019. Although the Appeal was not filed in a timely manner as outlined at 956 CMR 12.13, the Appeals Unit agreed to allow the case to proceed to hearing. The Appellant argues that they did not get the Health Connector notices issued on September 5, 2018 and October 13, 2018 because they were sent to an outdated address. The Appellant moved at the end of August 2018 but does not dispute the fact that they failed to report their change of address to the Health Connector until January 18, 2019. The Appellant argues that this is not their fault because they were never informed to report changes.

Applicants and Enrollees have certain responsibilities. Applicants and Enrollees are routinely reminded to report all changes, including changes of address, to the Health Connector within 30 days. 956 CMR 12.09 (2). This information is needed to administer the program. The Health Connector mailed the 2019 preliminary and eligibility notices to the Appellant's address of record. This is consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for the Appellant, based on a household income equivalent to 377% of the Federal Poverty level. 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335.

The Appellant updated their income information in their application on March 6, 2019. Health Connector correctly determined that effective April 1, 2019 the Appellant is eligible for ConnectorCare Plan Type 3B with Advance Premium Tax Credits.

ORDER

This appeal is denied.

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

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8515

Appeal Decision: Appeal Denied

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

Hearing Date: May 1, 2019

Decision Date: May 6, 2019

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 2, 2019 the Appellant was determined ineligible for a special enrollment period for tax year 2019.

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 1, 2019. 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, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Internet Appeal Request with attachments submitted on March 22, 2019.
- Exhibit 5: Health Connector's Special Enrollment Period Decision denial dated February 2, 2019, with an Application Summary dated January 28, 2019.
- Exhibit 6: Health Connector's Agent Portal Printout of Qualifying Life Events Questionnaire.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a Massachusetts resident enrolled in a health insurance plan through their prior employer located in Connecticut (Exhibit 3 and Appellant Testimony).
2. The Appellant applied for health insurance through the Health Connector on January 28, 2019. The Appellant reported that the projected annual income for tax year 2019 would be \$45,300 for their household of one (Exhibit 5).
3. The Appellant's income is over 300% (\$36,420) but less than 400% of the federal poverty level (\$48,564) for their household of one (Exhibit 5 and Appellant Testimony).
4. I take administrative notice of the fact that for tax year 2019 the period of Open Enrollment for health insurance coverage was November 1, 2018 through January 23, 2019.
5. On February 2, 2019 the Health Connector denied the Appellant's request for a Special Enrollment Period for 2018 for failing to document a qualifying life event (Exhibit 5).
6. The Appellant filed an appeal on March 22, 2019 (Exhibit 4).
7. The Appellant does not dispute the income amount used to determine eligibility for their household of one. The Appellant testified that they were not aware that their out of state health insurance plan does not meet Massachusetts Minimum Creditable Coverage (MCC) standards until they were preparing to file their 2018 income tax return. The Appellant argues that they pay over \$600 for their insurance through the COBRA program but are subject to a tax penalty. The Appellant applied for health insurance in Massachusetts to correct the problem (Exhibit 4 and Appellant Testimony).
8. It is undisputed that during the 60 day period prior to the Appellant's application, the Appellant did not experience a qualifying life event such as a change of household composition, moving to the state or losing employer-based health insurance as outlined in Health Connector's Policy NG 1E (Exhibit 6 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for health insurance for their household of one on January 28, 2019. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Appellant was determined eligible for Health Connector Plans for tax year 2019 based on reported income which is between 300% and 400% of the federal poverty level. The Appellant does not dispute this determination. The Appellant's request for a Special Enrollment period for tax year 2019 was denied by notice dated February 2, 2019. The Appellant has appealed that determination.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG 1E. Open enrollment for tax year 2019 ended on January 23, 2019. The Appellant's application was submitted on January 28, 2019. Although the Appellant raised concerns about the fact that their current insurance is costly and not Massachusetts compliant, it is undisputed that within the sixty-day period prior to this application, the Appellant did not experience a qualifying life event as outlined in Health

Connector Policy NG 1E. Because the Appellant did not experience a qualifying life event, the Health Connector correctly determined that the Appellant is not eligible for a special enrollment period 45 CFR § 155.420.

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 the Office of Patient Protection at 1-800-436-7757 to request a waiver.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA198536

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

Hearing Issue:

Whether the Connector correctly determined the appellants' eligibility to purchase a Health Connector-Care plan, Type 3B with an advance premium tax credit.

Hearing Date: May 3, 2019

Decision Date: May 28, 2019

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 22, 2019, the Connector determined that the appellants were eligible to purchase a Health ConnectorCare plan Type 3B with an advance premium tax credit based upon information supplied by the appellants to the Connector.

ISSUE

Whether the Connector correctly determined that the appellants were eligible to purchase a Health ConnectorCare plan Type 3B with an advance premium tax credit.

HEARING RECORD

One of the appellants and a representative appeared at the hearing which was held by telephone on May 3, 2019. Appellant stated that she wanted the representative to be present and to speak on her behalf. The procedures to be followed during the hearing were reviewed with the appellant and the representative who were then sworn in. Exhibits were also reviewed with Appellant, and the representative, marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant and the representative testified.

The hearing record consists of the testimony of Appellant 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 April 9, 2019 addressed to Appellant for May 3, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated March 27, 2019 addressed to Appellant

- acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated March 27th and April 8th, 2019
- Exhibit 3b: Connector Appeals Unit e-mail to Appellant with Representative form attached
- Exhibit 4: Hearing Request Form from Appellant received by the Connector on March 26, 2019 with attachment
- Exhibit 5: Connector letter dated February 22, 2019 to Appellant regarding eligibility
- Exhibit 6: Summary and results of Appellants' application for Connector health plan dated February 22, 2019
- Exhibit 7: Connector letter to Appellants dated December 13, 2018 requesting information
- Exhibit 8: Summary and results of Appellants' application for Connector health plan dated December 13, 2018
- Exhibit 9: Connector processing center notes for documents verifying income received from Appellants on February 21, 2019
- Exhibit 10: Appellants' 2018 Federal and Massachusetts tax returns sent to Connector as proof of income

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants applied for health insurance through the Connector in December 2018. They were informed by the Connector that they were eligible to enroll in a ConnectorCare Type 1 plan, but that they needed to provide proof of income by March 13, 2018. The Connector also informed the appellants that if they were already enrolled in a plan and did not send in proof of income, they might lose their coverage or they might have to pay more for coverage (Exhibits 6 and 7).
2. On February 21, 2019, the appellants sent the Connector copies of their Federal and Massachusetts 2018 tax returns as proof of income (Testimony of Representative, Exhibits 9 and 10).
3. On February 22, 2019, the Connector determined that the appellants were eligible for a Health ConnectorCare plan Type 3B with an advance premium tax credit based upon a projected income equal to 257.47% of the Federal Poverty Level. This determination was based upon the proof of income sent in by the appellants which showed that in 2018 the appellants had an income of approximately \$42,000 (Exhibit 5, 6, and 10; Testimony of Representative).
4. Appellants submitted a request for an appeal of the Connector's determination on March 26, 2019 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on February 22, 2019 that the appellants were eligible to purchase a ConnectorCare plan Type 3B. See Exhibit 5.

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

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on

health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual's projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the appellants applied for health insurance through the Connector in December, 2018. They were asked to submit proof of income by March 13, 2019. The appellants complied with this request by sending in their 2018 Federal and Massachusetts tax returns. The returns showed that the appellants earned approximately \$42,000 in 2018. Using this amount, the Connector determined that the appellant's projected income was equal to 257.47% of the Federal Poverty Level. Based upon this determination, the Connector found that the appellants were eligible for a ConnectorCare plan Type 3B. See Exhibits 5, 6, 7, 9, and 10 and the testimony of the representative which I find to be credible.

Based upon the proof of income that the appellants provided to the Connector, the Connector correctly determined that the appellants' eligibility for a ConnectorCare plan Type 3B. As noted above, if individuals are otherwise eligible to purchase health insurance through the Connector and if the individuals have an income which is between 100% and 400% of the Federal Poverty level, the individuals are eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. If the projected income is between 100% and 300% of the Federal Poverty Level, the individuals may be eligible for a ConnectorCare plan if they meet other eligibility requirements. See 956 MCR 12.00 et. seq.

The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellants' eligibility to purchase a Connector-Care plan Type 3B is affirmed.

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

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

Cc: Connector Appeals Unit

Hearing Officer

Addendum: If the appellants' income has changed, they may wish to contact the Connector and notify the agency of the changes. They may contact the Connector at 1-877-623-6765 or on line at MAhealth-connector.org.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA198542

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

Hearing Issue: Whether the Connector correctly determined that the appellants were ineligible to purchase health insurance through the Connector until the next open enrollment period because Appellants did not have a qualifying life event.

Hearing Date: May 3, 2019

Decision Date: May 31, 2019

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, 2019, the Connector determined that the appellants were ineligible to purchase health insurance through the Connector until the next open enrollment period.

ISSUE

Whether the Connector correctly determined pursuant to 45 CFR 155.410 and 420 that the appellants were ineligible to purchase health insurance through the Connector until the next open enrollment period because Appellants did not have a qualifying life event.

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on May 3, 2019. 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. The appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellants' file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated April 9, 2019 addressed to Appellant for May 3, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated March 28, 2019 addressed to Appellant acknowledging receipt of Appellants' Request for Hearing
- Exhibit 3a: Appeals Unit staff case notes dated March 28, 2019
- Exhibit 4: Hearing Request Form submitted by Appellant on March 27, 2019
- Exhibit 5: Connector letter dated March 17, 2019 to Appellant regarding special enrollment period

Exhibit 6: Summary and results of Appellants' application for Connector plan dated October 4, 2018, verified on March 17, 2019 with print-out from application regarding qualifying life events

FINDINGS OF FACT

The record shows, and I so find:

1. One of the appellants had a job which offered health insurance. She and her spouse were covered under the offered plan until she left the job for a new position in October, 2018 (Testimony of Appellant).
2. At her new job, the appellant was not offered health insurance. The appellants chose to have coverage through COBRA, continuing the plan they had through the job Appellant had left. At the same time, the appellants applied to the Connector for health insurance (Testimony of Appellant, Exhibit 6).
3. Instead of taking coverage through the Connector, the appellants stayed on their plan through COBRA. They paid about \$1,200 a month for the coverage (Testimony of Appellant).
4. At some point, the cost of the COBRA coverage increased to \$1,400 a month. When this happened, in March, 2019, the appellants decided to go back to the Connector to try to get coverage (Testimony of Appellant).
5. The appellants had no qualifying life event within 60 days of their applying for health insurance in March, 2019. They indicated this on their Connector application. They had not lost health insurance coverage, gained a dependent, had a change in marital or immigration status within the past 60 days. Appellants were not Alaska natives or native Americans. They had no other qualifying event and no exceptional circumstances which would allow the Connector to grant them a special enrollment period. They did indicate that they expected to lose coverage, but they did not indicate the date the coverage would end though they were asked to include this information (Testimony of Appellant, Exhibit 6).
6. The appellants were found to be eligible for health insurance, but were determined to be ineligible to enroll until the next open enrollment period because Appellants did not have a qualifying event which would allow them to enroll outside of the open enrollment period (Exhibits 5, 6, Testimony of the Appellant).
7. The Connector sent notice dated March 17, 2019 of the determinations to the appellants (Exhibit 5).
8. Appellants filed a request for an appeal of the Connector's determinations on March 27, 2019 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on March 17, 2019 that the appellants were ineligible to enroll in a Health Connector plan until the next open enrollment period because they had no qualifying life event.

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)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event.

Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth or other health insurance coverage, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period. There is an exceptional circumstances exception. Examples of exceptional circumstances are given in the Centers for Medicare and Medicaid Services and for Consumer Information and Insurance Oversight Affordable Exchanges Guidance dated March 26, 2014. Examples listed are a natural disaster, or medical emergency.

In this matter, Appellants had no qualifying life event within 60 days of their applying for coverage through the Connector. They indicated this on their Connector application. They had lost health insurance coverage when one of them left her job, but they immediately took COBRA coverage. They did indicate on their application that they expected to lose coverage, but they did not indicate the date the coverage would end though they were asked to include this information. They had not gained a dependent, had a change in marital or immigration status within the past 60 days. Appellants were not Alaska natives or native Americans. They had no other qualifying event and no exceptional circumstances which would allow the Connector to grant them a special enrollment period. See the testimony of the appellant which I find to be credible and Exhibit 6.

What is at issue here is whether the original determination that Appellants were ineligible to enroll in a Connector Health Plan until the next open enrollment period was correct at the time it was made. The determination was based upon the attestations made by Appellants on their application concerning qualifying life events. Appellants did not claim that they had a qualifying life event on their application and there is no other evidence in the record that the appellants had a qualifying life event. The Connector's determination was correct, and the appellants must wait until the next open enrollment period to enroll in a plan.

Because of this, the determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellants' ineligibility to purchase a Connector Health plan until the next open enrollment period 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 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

FINAL APPEAL DECISION NO. 19-8561

Appeal Decision: Appeal Denied.

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

Hearing Date: May 14, 2019

Decision Date: May 24, 2019

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 18, 2019, the Appellant's Spouse was determined ineligible for Health Connector plans. The reason the Appellant's Spouse was denied subsidies is because the Appellant's Spouse 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's Spouse was not eligible for Health Connector plans, based on the Appellant's Spouse access to Medicare.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 14, 2019.

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

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

- Exhibit 2: Health Connector’s Hearing Notice of Hearing (4 pages, dated April 22, 2019)
Exhibit 3: Health Connector’s Acknowledgment of Appeal (6 pages, dated March 29, 2019)
Exhibit 3(a) Health Connector’s Appeals Unit Staff Notes (1 page)
Exhibit 4: Appellant’s Appeal Request Form (2 pages, dated March 28, 2019) (2 Pages)
Exhibit 5: Health Connector Notice of Eligibility Denial (12 pages, dated March 18, 2019)
Exhibit 6: Health Connector’s 2019 Results Computer Print Out (7 pages, dated March 29, 2019)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant’s Spouse was determined ineligible for Health Connector plans on March 18, 2019, based on being eligible for Medicare. (Exhibit 3, Exhibit 3(a), Exhibit 5, Exhibit 6)
2. The Appellant’ Spouse was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare and is in fact on Medicare Part A (Exhibit 1, Exhibit 3, Exhibit 4, Exhibit 5, Appellant Testimony)
3. The Appellant testified his Spouse is currently enrolled in Medicare Part A. (Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

When the Appellant’s eligibility for 2019 coverage was determined on March 18, 2019, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant’s appeal is therefore denied.

ORDER

The appeal is denied.

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

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

Cc: Health Connector Appeals Unit

Addendum

The Appellant is advised to look into the **Serving the Health Insurance Needs of Everyone (SHINE)** program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8571

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plan

Hearing Date: May 13, 2019

Decision Date: May 16, 2019

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 March 1, 2019, the Health Connector determined the Appellant eligible in 2019 for ConnectorCare Plan Type 2B with Advance Premium Tax Credit of \$435/monthly.

ISSUE

Whether the Health Connector made the correct determination on March 1, 2019, based on the information provided by the Appellant at that time.

HEARING RECORD

On May 13, 2019, the Appellant appeared at the hearing by telephone and offered testimony under oath or affirmation.

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

- Exhibit 1: 3/1/19 Eligibility Approval for 2019 (10 pages)
- Exhibit 2: 3/29/19 Appeal (5 pages)
- Exhibit 3: 2019 Elig. Results for 3/1/19 Application (5 pages)
- Exhibit 4: 4/1/19 Appeals Unit Note (1 page)
- Exhibit 5: 2/21/19 Request for Information (6 pages)
- Exhibit 5A: 4/1/19 Portal – Change Income (3 pages)

Exhibit 6: 4/1/19 Income Verified (6 pages)
Exhibit 7: 4/23/19 Hearing Notice (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By notice dated February 21, 2019, the Health Connector requested the Appellant to provide proof of income in order to determine whether she qualified to purchase a Health Connector plan. (Exhibit 5)
2. On February 27, 2019, the Health Connector received proof of income from the Appellant. (Exhibit 5A; Exhibit 6)
3. On March 1, 2019, the Appellant applied to the Health Connector for health insurance coverage for 2019. By letter dated March 1, 2019, the Health Connector notified the Appellant of its determination. The Health Connector determined that the Appellant qualified for ConnectorCare Plan Type 2B with Advance Premium Tax Credit of \$435/monthly, effective as early as April 1, 2019; that the Appellant qualified for a Special Enrollment Period until April 30, 2019; and, that the Appellant had to enroll in coverage by that date or have to wait until the next Open Enrollment to get coverage. (Exhibit 1; Exhibit 3)
4. After receiving the 3/1/19 eligibility approval notice, the Appellant did not enroll in coverage for 2019 because she thought that she did not need to do anything more and that she was already enrolled in coverage. (Appellant's testimony)
5. The Appellant was hospitalized during March 2019. (Exhibit 2; Appellant's testimony)
6. The Appellant is sixty-two years old. (Exhibit 2)
7. The Appellant had MassHealth coverage from November 2016 to July 2017 and had no health insurance coverage from August 2017 to 2019. (Exhibit 4)
8. On March 29, 2019, the Appellant appealed the Health Connector's 3/1/19 determination. The Appellant's sister submitted the appeal on behalf of the Appellant, because the Appellant was in the hospital. (Appellant's testimony; Exhibit 4)
9. On April 1, 2019, the Appeals Unit tried to reach the Appellant and spoke with the Appellant's sister. The Appellant's sister explained that she had submitted the appeal at the request of the Appellant, who was hospitalized. The Appeals Unit stated to her that the Appellant would need to fill out a representation form before they could speak with the Appellant's sister about the case. (Exhibit 4)

ANALYSIS AND CONCLUSIONS OF LAW

In this case, the Appellant acknowledged at hearing that she had misread the 3/1/19 Eligibility Approval letter to mean that she was already enrolled in health insurance coverage and did not need to do anything further. In light of her unfamiliarity with the Health Connector's processes and her hospitalization in March 2019, it is not surprising that the Appellant would not have understood from the letter that she needed to take the additional step of enrolling in a specific health insurance plan. However, the issue before me is whether the Health Connector made the correct determination on March 1, 2019, with respect to the Appellant's application for insurance coverage, and the answer is clearly yes, from the evidence and the Appellant's admission at hearing.

Nevertheless, as the Appellant failed to enroll in coverage in response to the 3/1/19 approval notice, the Appellant still needs insurance coverage in 2019, and the Health Connector is offering an administrative special

enrollment period to the Appellant for a limited time, due to her special circumstances. If the Appellant has not yet taken advantage of this offer, I urge the Appellant to enroll in coverage before it is too late.

Accordingly, as the Health Connector's 3/1/19 eligibility approval was correct, the 3/1/19 determination is upheld and the Appellant's appeal is denied.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8656

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for a special enrollment period for health insurance coverage with the Massachusetts Health Connector

Hearing Date: May 14, 2019

Decision Date: May 23, 2019

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 23, 2019, the Connector advised the appellant that he qualified for a Health Connector Plan with no financial help and that he had until March 24, 2019 to enroll in a new or different plan. By notice dated April 8, 2019, the Connector advised the appellant that he did not qualify to enroll in a new or different plan because he did not have a qualifying event. (Ex. 4) The appellant filed an online appeal on April 8, 2019. (Ex. 5) The matter was referred to a hearing after receipt of the appeal. (Ex. 10)

ISSUE

Is the appellant eligible for a special enrollment period for health insurance coverage pursuant to 45 C.F.R.155.420 and 956 CMR 12.10(5)?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 14, 2019, 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 Approval dated January 23, 2019 (8 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 4— Health Connector's Notice of Special Enrollment Period Decision dated April 8, 2019
- Ex. 5— Online Appeal Request received on April 11, 2019 (2 pages)

- Ex. 6—Acknowledgment of Appeal dated April 11, 2019 (2 pages)
Ex. 7—Appeals Unit letter dated April 11, 2019 with Waiver Information and Instructions (7pages)
Ex. 8—Appeals Unit notes (1 page)
Ex. 9—Appeals Unit email dated May 9, 2019 (1 page)
Ex. 10—Notice of Hearing (4 pages)
Ex. 11—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 38-years-old and has a tax household size of one. (Testimony, Ex. 3)
2. By notice dated January 23, 2019, the Health Connector advised the appellant that he qualified for a Health Connector Plan with no financial help effective February 1, 2019. He was further advised that he qualified for a 60-day special enrollment period (SEP) and had until March 24, 2019 to enroll in a new or different plan. (Testimony, Ex. 1)
3. The appellant left the U.S. at the end of January and traveled overseas until the beginning of April. He forgot the enrollment deadline date and logged into his account while travelling, but was unable to access the January 23rd notice with the date. He did not call the Health Connector for further information. (Testimony)
4. After the appellant returned to the U.S. in April, he found the January 23rd notice and realized that he had missed the March 24th deadline. (Testimony)
5. By letter dated April 8, 2019, the Health Connector advised the appellant that he did not qualify to enroll in a new or different health insurance plan because he did not have a qualifying event. (Ex. 4)
6. The appellant filed an appeal which was received on April 8, 2019, in which he stated in part that when he was advised of the Health Connector's eligibility determination on January 23, 2019, the notice did not inform him that he had to shop for a plan "within the same open enrollment period", and did not make clear that the deadline for shopping "was on that same day." (Ex. 5)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 956 CMR 12.10 (5), an individual may enroll in a health plan outside of the open enrollment period during a special enrollment period (SEP) established by the Connector only for one of the following reasons: (a) the enrollee experiences a triggering event, as set forth in 45 CFR 155.420 and applicable state law; (b) a qualified individual is determined newly eligible for a ConnectorCare plan in accordance with 956 CMR 12.08; (c) the enrollee changes plan types in accordance with 956 CMR 12.04(3); or (d) the enrollee has been approved for a hardship waiver in accordance with 956 CMR 12:11; or (e) the enrollee's hardship waiver period has ended. Enrollees have sixty (60) days to enroll in a health plan from the date of one of the aforesaid events. Outside of open enrollment an individual may be granted a SEP, during which the individual can enroll in coverage, bus/he experiences a qualifying life event, such as a change in household composition or loss of coverage.

I take administrative notice of the fact that the open enrollment period for health insurance for 2019 ended on January 23, 2019 for the commercial non-group market, and that closed enrollment runs from February 1, 2019 to December 31, 2019.

The appellant maintains that after he received the January 23, 2019 determination, he traveled abroad until the beginning of April and forgot the enrollment deadline date of March 24, 2019. He also contends that he attempted to obtain the information online while overseas, but could not access the January 23rd notice.

The appellant's argument is without merit. The January 23rd determination unequivocally states that he qualified for a SEP and had until March 24, 2019 to enroll in a plan. If he was indeed unable to access that information online while he was overseas, he could have called the Health Connector to verify the date.

Based on the totality of the evidence, it is concluded that the appellant failed to establish that he experienced a qualifying life event in order to be eligible for a SEP.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

If you are a Massachusetts resident, you may also have the option to apply for an open enrollment waiver from the Office of Patient Protection. You may qualify for the waiver if you were not able to enroll in health insurance during the last open enrollment or special enrollment period for reasons that were not under your control, other than an administrative problem with the Health Connector. Further information may be obtained at the website for the Massachusetts Office of Patient Protection at the Health Policy Commission at mass.gov/hpc/opp.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8721

Appeal Decision: Appeal denied

Hearing Issue: Appeal of eligibility for Health Connector plans based on access to Medicare

Hearing Date: May 21, 2019

Decision Date: May 29, 2019

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 March 22, 2019, the appellant was advised that she qualified for Health Connector Plans with no financial help. (Ex. 1) The appellant filed an appeal dated April 11, 2019 in which she stated in part that her Medicare Part B did not start until July 1, 2019. (Ex. 5) The matter was referred to a hearing after receipt of the appeal. (Ex. 8)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with no financial help correct at the time of its determination on March 22, 2019, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 21, 2019, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Notice of Eligibility Approval dated March 22, 2019 (8 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results (2pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 4—Computer printout of Health Connector's "AVV" tool showing information from the application database for the appellant (1 page)
- Ex. 5—Hearing Request Form dated April 11, 2019 (2 pages)

- Ex. 6—Acknowledgement of Appeal dated April 17, 2019 (5 pages)
- Ex. 7—Appeals Unit notes (1 page)
- Ex. 8—Notice of Hearing (5 pages)
- Ex. 9—Affidavit of Connector representative (1page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 67-years-old and has a tax household size of one. (Testimony, Ex. 3)
2. The appellant has been enrolled in subsidized health insurance through the Health Connector for several years. She did not enroll in health insurance through Medicare when she turned 65 because she was still working, was not planning to retire and was happy with her Connector insurance. (Testimony)
3. The appellant enrolled in Part A insurance with Medicare in September, 2018. She does not become eligible for Part B until July 1, 2019. (Testimony)
4. By notice dated March 22, 2019, the Health Connector advised the appellant that she was eligible for a Health Connector Plan with no financial help effective April 1, 2019. The Connector's determination was based on information from the federal government indicating that the appellant was enrolled in Medicare. (Exs. 1,2,4)
5. The appellant appealed the Connector's March 22nd decision on April 11, 2019, and stated in part that her Medicare Part B does not start until July 1, 2019. (Ex. 5)

ANALYSIS AND CONCLUSIONS OF LAW

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

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to provide (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their "same policy or contract of insurance." See 45 CFR § 147.106 and 45 CFR § 148.122; and discussion generally at 81 FR 94068, December 22, 2016. In choosing this standard, the federal government indicated a clear directive to not renew the individual market coverage of Medicare-eligible individuals except in the narrowest of circumstances, and regardless of whether the individual might otherwise satisfy the eligible criteria at 45 CFR § 155.305(a).

The appellant does not dispute that she has been enrolled in Medicare Part A since September, 2018, and will become eligible for Medicare Part B on July 1, 2019. Based on that information, the Connector determined that she was no longer eligible for subsidized insurance and notified her that she qualified for a Health Connector Plan with no financial help effective April 1, 2019. To the degree that insurance may be available from a health insurance issuer which does not violate the anti-duplication rule, the appellant is directed to contact her carrier who can determine whether continued insurance under the circumstances is permissible.

Based on the foregoing, it is concluded that the Connector's determination on March 22, 2019 regarding the appellant's eligibility for Health Connector Plans based on access to Medicare was correct.

ORDER

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8769

Appeal Decision: Appeal denied

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

Hearing Date: May 14, 2019

Decision Date: May 30, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated April 18, 2019, the appellant was advised that he was eligible for a Health Connector Plan with Advanced Premium Tax Credit (APTC) beginning on May 1, 2019. (Ex. 2) The appellant filed an appeal which was received on April 18, 2019 (Ex. 6) based on income. The matter was referred to a hearing after receipt of the appeal. (Ex. 10)

ISSUE

Was the Connector's decision regarding the appellant's eligibility for Health Connector Plans with APTC correct on April 18, 2019, 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 May 14, 2019, 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 Request for Information dated January 17, 2019 (6 pages)
- Ex. 2—Health Connector's Notice of Eligibility Approval dated April 18, 2019 (6 pages)
- Ex. 3—Computer printout of Health Connector's Eligibility Determination Results showing a program determination for April 18, 2019 (2 pages)
- Ex. 4— Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 5—Computer printout of My Workspace Results (2 pages)

- Ex. 6—Online Appeal Request received on April 18, 2019 (1 page)
- Ex. 7—Acknowledgement of Appeal dated April 19, 2019 (2 pages)
- Ex. 8—Appeals Unit Case Notes (1 page)
- Ex. 9—Health Connector email dated May 9, 2019 (1page)
- Ex. 10—Notice of Hearing (4 pages)
- Ex. 11—Affidavit of Connector representative (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 40-years-old and has a tax household size of one. (Testimony, Ex. 4)
2. Prior to May, 2019, the appellant was enrolled in a ConnectorCare health insurance plan for which he paid approximately \$44.00/month. (Testimony)
3. By notice dated January 17, 2019, the Health Connector asked the appellant to submit proof of income and residence by April 17, 2019 in order to determine whether he qualified for health insurance. In response, he submitted recent paystubs and an affidavit of residence. (Testimony, Ex. 1)
4. By notice dated April 18, 2019, appellant was determined eligible for a Health Connector Plan with an APTC of \$8.00/month based on having an income and household size equivalent to 334.15% of the Federal Poverty Level (FPL). On the application on which the April 18th determination was based, the appellant attested to a projected yearly income of \$40,566.00. (Testimony, Exs. 2,3,4)
5. The appellant appealed the Connector's April 18, 2019, determination on the same day based on income. In his appeal, he stated in part that his income did not change enough to justify the remarkable increase in cost which he felt was cruel and unjust. (Ex. 6)
6. The appellant was employed on a seasonal basis until he recently transitioned into a full-time job which increased his income by approximately \$6000.00/year. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant was found eligible for a Health Connector Plan with an APTC of \$8.00 based on having an income and family size equivalent to 334.15% of the FPL. The appellant testified that he moved to a full-time job which pays approximately \$6000.00 more per year than his previous seasonal position. He does not dispute his projected yearly income of \$40,566.00, but argues that the increase over his prior subsidized premium of \$44.00/month has made health insurance unaffordable.

It appears that the appellant's qualification for subsidized insurance changed as a result of his income increase of \$6000.00. Based on the evidence in the record, it is concluded that the Connector's determination on April 18, 2019, 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](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line at 1-877-369-0130. The mailing address is: Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit