

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Special Enrollment

Hearing Date: July 6, 2017

Decision Date: November 20, 2017

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 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 February 23, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 2A with APTC, but ineligible to enroll at that time because her special enrollment period had expired .

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined on February 23, 2017, that the Appellant was not eligible for a special enrollment period at that time, because her special enrollment period had expired.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 6, 2017. The record was closed at the end of the hearing. On September 29, 2017, the record was re-opened until October 13, 2017, for the Connector to submit additional evidence. The Connector submitted additional evidence on September 29, 2017, and the record was closed.

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

- Exhibit 1: Affidavit
- Exhibit 2: 11/23/16 Eligibility Approval Notice for 2016 (12 pages)
- Exhibit 3: 11/23/16 Eligibility Approval Notice for 2017 (10 pages)

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- Exhibit 4: 2/23/17 Eligibility Approval Notice for 2017 (12 pages)
- Exhibit 5: 3/20/17 Appeal (3 pages)
- Exhibit 6: 3/23/17 Acknowledgement Letter (3 pages)
- Exhibit 7: 2017 Eligibility Results for 2/22/17 Application (2 pages)
- Exhibit 8: Review Application Summary (2 pages)
- Exhibit 8A: 3/27/17 Hearing Notice (4 pages)
- Exhibit 9: 4/27/17 Appearance Sheet
- Exhibit 10: 4/27/17 Dismissal Notice (2 pages)
- Exhibit 11: 5/25/17 Dismissal Notice (3 pages)
- Exhibit 12: 5/25/15 Returned Notice (3 pages)
- Exhibit 13: 6/5/17 Request to Vacate Dismissal
- Exhibit 14: 6/13/17 Hearing Notice (4 pages)
- Exhibit 15: Call Center CSR Notes, 3/7, 3/8, 3/16, 5/19, 8/2/17, incoming calls (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant moved to Massachusetts in 2016. The Appellant had health insurance through her daughter's insurance coverage through October 2016. The Appellant did not have health insurance coverage in November and December 2016. (Appellant's testimony)
2. The Appellant created her online Health Connector account with the help of her daughter in November 2016 and applied for health insurance coverage online at that time. (Exhibit 13)
3. By letter dated November 23, 2016, the Connector notified the Appellant that she was eligible for ConnectorCare Plan Type 2A in 2016, with a first available start date of December 1, 2016. The letter stated that she could enroll now because she had told the Connector that she had an event that qualified her for a special enrollment period and that she had until January 22, 2017, to enroll in a health insurance plan. (Exhibit 2)
4. By a second letter dated November 23, 2016, the Connector notified the Appellant that she was eligible for ConnectorCare Plan Type 2A in 2017, with a first available start date of January 1, 2017. The letter stated that she could enroll in a plan at that time only if she had a qualifying event. The letter further explained what events are considered qualifying and how to go online to report a qualifying event. (Exhibit 3)
5. The Appellant did not enroll in any ConnectorCare Plan Type 2A health insurance plan for 2017 by January 22, 2017. (Exhibit 15)
6. By letter dated February 23, 2017, the Connector thanked the Appellant "for sending us the documents we needed as proof" and notified her that she qualified for ConnectorCare Plan Type 2A with a first available start date of March 1, 2017, and that her 60-day special enrollment period had expired on January 22, 2017. (Exhibit 4)
7. The Appellant first contacted the Health Connector call center and spoke with a Customer Service Representative (CSR) on March 7, 2017. The Appellant called and spoke with a CSR again on March 8, March 16, May 19, and August 2, 2017. (Appellant testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2017 was November 1, 2016, to January 31, 2017. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage. 45 CFR § 155.420.

The issue before me is the Connector's 2/23/17 determination that the Appellant, while otherwise eligible for ConnectorCare Plan Type 2A, was no longer eligible to enroll because her special enrollment period had expired on January 22, 2017. The Appellant was found eligible for ConnectorCare Plan Type 2A with APTC in 2017, on November 23, 2016, and was offered a special enrollment period of sixty days, until January 22, 2017, if the Appellant provided evidence that she had experienced an event that qualified her for a special enrollment period. The Appellant did not submit any such proof by January 22, 2017.

The Appellant testified that she had gone online to check out plans after receiving the 11/23/16 approval notice to check out plans; that she found the plans too expensive, so she called a Connector representative for more information; that she enrolled in a health insurance plan on November 23, 2016, by phone, with the assistance of a Connector Customer Service Representative; that the CSR told her that no payment was due at that time and that she was all set for coverage beginning on January 1, 2017; that she did not think that it was unusual that she did not receive an insurance card or other information about her insurance coverage later in November or December 2016; and, that she did not realize that she did not have coverage until early January 2017, when she went to get medication using her insurance card that had expired in October 2016. This testimony is not credible since there is no record of the Appellant contacting Connector Customer Service by phone in November 2016 or at any other time prior to March 2017; the program for which the Appellant qualified, ConnectorCare Plan Type 2A, could not have been too expensive, as plans were available at no cost to the Appellant; and, if the Appellant learned in the first week of January 2017 that she did not have coverage and the Appellant wanted to get coverage, she would have had at least two weeks to obtain the coverage before the January 22nd deadline for enrolling.

Therefore, the Health Connector correctly determined on February 23, 2017, that the Appellant was not eligible for a special enrollment period at that time, because her special enrollment period had expired.

ORDER

The appeal is denied.

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

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

Massachusetts Health Connector Appeals Unit

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans

Hearing Date: August 31, 2017

Decision Date: November 7, 2017

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 May 24, 2017, the Health Connector determined that Appellant was not eligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 1, 2017.

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

- Exhibit 1: Affidavit
- Exhibit 2: 5/24/17 Eligibility Denial Notice (6 pages)
- Exhibit 3: 6/16/17 Appeal
- Exhibit 4: 6/16/17 Appeal (Screenshot)
- Exhibit 5: 6/16/17 2017 Eligibility Results from 5/24/17 Application (4 pages)
- Exhibit 6: 6/16/17 AVV – View App, Program Determination (Screenshot)

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- Exhibit 7: Appeals Unit Outreach (3 pages)
- Exhibit 8: 6/21/17 Appeal Acknowledgment (3 pages)
- Exhibit 9: 5/19/17 Renewal Application (30 pages)
- Exhibit 10: 7/7/17 Cover Letter with Rep Form (4 pages)
- Exhibit 11: Birth Certificate (2 pages)
- Exhibit 12: 8/17/17 Hearing Notice (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant has had health insurance coverage through MassHealth throughout 2016 and continuing to the present. (Appellant's testimony)
2. On May 19, 2017, the Appellant submitted a renewal application for health insurance coverage to the Health Connector and MassHealth. In his application, the Appellant checked off "no" where he was asked if he was a U.S. citizen or U.S. national; and, failed to check either "yes" or "no" where he was asked, "if you are noncitizen, do you have an eligible immigration status." (Exhibit 9)
3. By letter dated May 24, 2017, the Health Connector notified the Appellant that he did not qualify for health insurance coverage through the Health Connector because the Connector's records indicated that he was not lawfully present in the United States. The letter further stated what the Appellant should do if he thought his immigration status was wrong. In addition, the letter stated that he may qualify for MassHealth and that he would be receiving a letter from MassHealth about that. (Exhibit 2)
4. On June 16, 2017, the Appellant submitted an appeal of the Connector's 5/24/17 determination, stating that he was born in Puerto Rico and was a legal US citizen. (Exhibit 3)
5. In late July 2017, the Appellant received a letter from MassHealth, along with a new MassHealth card. The letter stated that the Appellant continued to be enrolled in MassHealth. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

On May 19, 2016, the Appellant applied for health insurance through the Health Connector. As the Appellant indicated in his application that he was not a U.S. citizen or U.S. national and did not attest to being lawfully present, the Connector determined that the Appellant was ineligible for Health Connector plans. Because the Appellant failed to present any evidence of being lawfully present, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

Therefore, the Health Connector correctly determined on May 24, 2017, that the Appellant was not eligible for Health Connector plans, based on the Appellant's failure to establish lawful presence to the Health Connector. Accordingly, the appeal is denied.

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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

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility, failure to enroll within sixty days

Hearing Date: August 31, 2017

Decision Date: November 7, 2017

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 February 17, 2017, the Health Connector determined that the Appellants were eligible for ConnectorCare Plan Type 2A, as long as they enrolled in a plan within sixty days.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined in May 2017 that the Appellants were no longer eligible to enroll in ConnectorCare coverage based on the 2/17/17 eligibility determination.

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone on August 1, 2017. The Appellants were represented by counsel. At the end of the hearing, the record was closed.

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

- Exhibit 1: Affidavit
- Exhibit 2: 2/17/17 Eligibility Approval Notice (14 pages)
- Exhibit 3: 6/22/17 Appeal
- Exhibit 4: 6/22/17 Appeal (Screenshot)
- Exhibit 5: 5/17/17 Outreach Notes (2 pages)

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- Exhibit 6: Search Result
- Exhibit 7: 7/6/17 Appeal Ack. (3 pages)
- Exhibit 8: 7/5/17 Incoming Call Records (3 pages)
- Exhibit 9: 6/22/17 Eligibility Results from 2/15/17 Application (8 pages)
- Exhibit 10: 8/7/17 Hearing Notice (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On February 15, 2017, by telephone, the Appellants applied to the Health Connector for health insurance coverage. They were told by the customer service representative that they were approved and would be receiving an approval notice in a few days. (Appellants' testimony)
2. By letter dated February 17, 2017, the Health Connector notified the Appellants that they were approved for ConnectorCare Plan Type 2A, with a first available start date of March 1, 2017, and for an Advance Premium Tax Credit of \$437. The letter further stated that the Appellants had to enroll in a health insurance plan within sixty days, or by April 16, 2017, or risk having to wait until the next Open Enrollment period to get coverage. (Exhibit 2)
3. The Appellant/husband works as a long-haul truck driver. On Monday, February 20, 2017, the Appellant/husband left on a long-haul job that included driving to Alaska in mid-winter. The Appellant's wife accompanied him on the trip. They did not return home until about April 26, 2017. (Appellants' testimony)
4. The Appellants failed to enroll in a health insurance plan by April 16, 2017. (Appellant's testimony)
5. In May 2017, the Appellants tried to enroll in a ConnectorCare health insurance plan and pay the premium, without success. (Appellants' testimony; Exhibit 5)
6. On June 22, 2017, the Appellants appealed the Health Connector's denial of their attempt to enroll in coverage in May 2017, seeking reinstatement of their coverage because the late payment of their premium was beyond their control. (Exhibit 3)
7. On July 5, 2017, the Appeals Unit contacted the Appellants' representative and advised him that the Appellants had been approved for a special enrollment period and could now enroll in a plan by calling Customer Service or by going on the Connector website directly. (Exhibit 5)
8. On July 14, 2017, as the Appellants had not yet enrolled in a plan, the Appeals Unit tried to contact the Appellants' representative again and left a voice-mail message for him to contact the Appeals Unit. (Exhibit 5)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellants were found no longer eligible for ConnectorCare plans based on their failure to enroll in a ConnectorCare plan within sixty days following their 2/17/17 Notice of Eligibility Approval.

At hearing, the Appellants stated that they never received the 2/17/17 Notice of Eligibility Approval; that, when they arrived home from their trip to Alaska on April 26, 2017, they had received a bill for health insurance coverage but not the 2/17/17 Notice of Eligibility Approval; and, that they did not keep a copy of the bill. This

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testimony is not credible, since the Appellants would not have received a bill for a monthly premium unless they had enrolled in a plan and the Appellants had not enrolled in a plan. Moreover, I am not persuaded by the Appellants' argument that the Appellants failure to enroll in a ConnectorCare plan was beyond their control. They were responsible for applying to the Health Connector for coverage just days before leaving on an extended long-haul road trip that included a stop in Alaska and, as the weekend intervened, should have known that it was likely that they would not receive the Notice of Eligibility Approval until after they had left on their trip on Monday, April 20, 2017.

Therefore, I conclude that the Health Connector correctly determined in May 2017 that the Appellants were no longer eligible to enroll in ConnectorCare coverage based on the 2/17/17 eligibility determination.

Accordingly, the 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

Appeal Decision: Appeal Denied

Hearing Issue: Denial of Application for Premium Waiver or Reduction; Eligibility for ConnectorCare based on failure to reconcile prior tax credits

Hearing Date: September 11, 2017

Decision Date: October 31, 2017

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 March 10, 2017, Appellant was determined eligible for Health Connector plans with no financial help for plan year 2017. Thereafter, Appellant applied for a Premium Waiver or Reduction on May 1, 2017. The Application was denied on May 26, 2017. Appellant appealed the denial of the Premium Waiver or Reduction.

ISSUE

The issue addressed is whether the Health Connector correctly denied the Appellant's application for premium waiver or reduction. The subsidiary issue is whether the Health Connector correctly determined the Appellant was eligible for Health Connector plans with no financial assistance.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 11, 2017. The hearing was recorded. The record was left open to allow Appellant to submit a tax transcript showing the filing of the prior tax return and reconciliation. While Appellant appeared to make a good faith effort to obtain the tax transcript, Appellant was not able to do so. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection by Appellant:

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- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (8-17-17) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (7-13-17) (7 pages);
- Exhibit 4: Letter re 1095-A form (7-13-17) (3 pages);
- Exhibit 5: Letter re 1095-A form (1-27-16) (4 pages);
- Exhibit 6: Hearing Request form (6-26-17) (with documents) (8 pages);
- Exhibit 7: Information from application and results (9 pages);
- Exhibit 8: Denial of Application for Premium Waiver letter (5-26-17) (6 pages); and
- Exhibit 9: Application for waiver of premiums (5-1-17) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. In 2015 and 2016, Appellant had been covered by ConnectorCare (Exhibits 4, 5).
2. Appellant had failed to file an income tax return and reconcile receipt of advance premium tax credits prior to the date of the renewal determination.
3. On March 10, 2017, Appellant filed an application for 2017, and attested that prior tax credits had been reconciled.
4. Appellant was deemed eligible for Health Connector Plans without subsidies, due to failure to reconcile prior tax credits.
5. On May 1, 2017, Appellant filed an Application for Premium Waiver or Reduction (Exhibit 9).
6. On May 26, 2017, Appellant's application for premium waiver was denied (Exhibit 8).
7. On June 26, 2017, Appellant filed an appeal.
8. Appellant subsequently made a good faith effort to obtain the tax transcript indicating whether the tax return was filed prior to the attestation date on March 10, 2017. However, Appellant was unable to obtain it and did not submit the tax transcript pursuant to the open record.
9. Appellant was eligible for Health Connector plans without subsidies based upon information available to the Health Connector. Eligibility for premium waiver or reduction is available only for individuals who qualify for ConnectorCare plans.
10. The determination of the Connector was correct based upon the information available to the Connector.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans with no financial help for 2017. Appellant asserts that this determination was incorrect, because the Appellant will make income that qualifies him for subsidies. Under 26 CFR § 1.36B and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level (FPL). 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 § m12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

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On March 10, 2017, the Appellant was determined eligible for Health Connector plans without subsidies. In 2015 and 2016, the Appellant was eligible for ConnectorCare plans and received APTC. However, the Appellant did not file an income tax return for 2015 prior to the date that the Appellant attested to having filed it. Because the Appellant did not reconcile receipt of APTC prior to having attested to doing so, Appellant was deemed not eligible for APTC for 2017. 45 CFR § 155.305(f)(4). Appellant submitted an Application for Premium Waiver or Reduction on May 1, 2017. Appellant's application was denied on May 26, 2017. Individuals who are eligible for and on a ConnectorCare plan may apply for premium waiver or reduction. However, Appellant was deemed eligible only for Health Connector plans without subsidies, and, therefore was ineligible to apply for a premium waiver or reduction. Appellant had been sent the Form 1095A for both 2015, and 2016, which is sent to members who have received APTC.

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 2017 from the federal government will be reconciled when you file your taxes in 2018. 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 2017 (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 2017 (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 2017 will be paid to you when you file your taxes in 2018.

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NOTE: Appellant may want to contact Greater Boston Legal Services for tax assistance (or referral to low cost or no cost tax assistance Appellant may also call Customer Service for the Health Connector (1-877-MA ENROLL) and ask them to re-run his application, if he has not already done so.

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Appeal Decision: Appeal denied. The Appellant cannot enroll in health insurance through the Massachusetts Health Connector (Connector) until the next open enrollment period.

Hearing Issue: Whether in July 2017, the Massachusetts Health Connector (Connector) correctly determined the eligibility of the Appellant to enroll in health insurance through the Connector, outside an open enrollment period.

Hearing Date: September 7, 2017

Decision Date: October 30, 2017

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 CONNECTOR

In July 2017, the Connector determined that the Appellant could not enroll in coverage outside an Open Enrollment Period.

ISSUE

Whether in July 2017, the Connector correctly determined the eligibility of the Appellant to enroll in health insurance coverage through the Connector outside the Open Enrollment Period.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 7, 2017. Testimony was recorded electronically. The hearing record was left open until October 5, 2017 for the submission of additional documentation by the Appellant. The Appellant submitted additional documentation that was admitted into evidence as Exhibits 11 through 20.

The Hearing Record consists of the Appellant's testimony and the following documents, which were admitted into evidence.

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1. Affidavit of Record Verification
2. Letter from the Health Connector to the Appellant dated 7/7/2017, entitled "Special Enrollment Period"
3. Informal Dispute Resolution Notes
4. Letter from the Health Connector Appeals Unit to the Appellant dated 8/1/2017, acknowledging her Appeal
5. Letter to the Appellant from the Connector dated 12/15/2016 entitled Eligibility Approval
6. Connector Computer Printout of Appellant's Application Result for an application submitted 3/20/2017
7. Connector Computer Printout of Appellant's Application Summary
8. Notes from Appeals Data 1
9. The Connector's Computer Printout of Appellant's MMIS Search Results
10. Connector's Notice of Hearing dated 8/9/2017
11. Appellant's Fax Cover Sheet received by the Connector on 10/4/2017
12. Note from the Appellant to the Hearing Officer
13. Letter from the Appellant's employer to the Appellant dated 9/19/2017 regarding health insurance eligibility
14. Appellant's Employer's health insurance plan coverage
15. E-mail to the Appellant from her other employer dated 9/20/2017, regarding her eligibility for benefits
16. Benefit Offerings for Per Diem Employees from Appellant's other employer
17. Letter from the Health Connector to the Appellant dated 3/27/2017 entitled Invalid Documentation
18. Letter from MassHealth to the Appellant regarding her failure to qualify for MassHealth
19. Letter from MassHealth to the Appellant regarding her Form 1095-B and her Form MA 1099-HC
20. Appellant's 2016 Form 1095-B

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied to the Health Connector for health insurance for herself on March 20, 2017. (Exhibit 6)
2. Based on her application submitted on March 20, 2017, the Connector found that the Appellant did not have a qualifying event to allow her to enroll during a Special Enrollment Period; and that she had to wait until the next Open Enrollment Period to enroll in health insurance through the Connector. (Exhibit 6)

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3. In the Application Results, the Connector found that the Appellant's Federal Poverty Level was 351.89 %; that she was eligible for an Advance Premium Tax Credit; and that she needed to submit Proof of Residency. (Exhibit 6)
4. In a letter dated March 27, 2017, entitled "Invalid Documentation" the Appellant was informed that the documents she had sent could not be used, and that she needed to send new documents as soon as possible. (Exhibit 17)
5. In a letter dated July 7, 2017, from the Connector to the Appellant, entitled "Special Enrollment Period Decision" the Appellant was informed that she did not qualify for a Special Enrollment Period since she did not inform the Connector that she had a qualifying event. (Exhibit 2)
6. The Appellant appealed the Connector's decision regarding her ineligibility to enroll until the open enrollment period. (Exhibit 4)
7. In 2016 the Appellant had subsidized health insurance through the Health Connector, for which she paid \$149 per month. Her insurance was terminated beginning in August 2016. (Appellant testimony)
8. The Appellant works in home health care and her hours vary week to week. At the time of the hearing she had two employers. (Appellant testimony)
9. The Appellant was not eligible for health insurance through her first employer. In order to be eligible she would need to work an average of 30 hours a week for three months. Health insurance for the least expensive plan would have cost her \$83.27 weekly. (Exhibit 13)
10. The Appellant's other employer indicated that she was not eligible for health insurance until the open enrollment period that was in November. The cost would have be \$28.02 weekly. (Appellant testimony and Exhibit 15)
11. The Appellant moved frequently in the past three years. In February 2017 she moved to a town that was near to her prior residence. (Appellant testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly denied the Appellant's request to enroll in health insurance outside an open enrollment period. Pursuant to 45 CFR 155.410, the Massachusetts Health Connector must provide annual open enrollment periods during which a Qualified Individual may enroll in or change enrollment in Qualified Health Plans. Pursuant to 45 CFR 155.410 (e) (2) "beginning on January 1, 2016, on January 1, 2017, and on January 1, 2018, the annual open enrollment period begins on November 1 of the calendar year preceding the benefit year, and extends through January 31 of the benefit year.."

In order for an individual to enroll in a health plan through the marketplace outside the open enrollment period, the individual must qualify for a Special Enrollment Period. 45 CFR 155.420. A Special Enrollment Period is defined on the website www.HealthCare.gov as:

"A time outside of the open enrollment period during which you and your family have a right to sign up for health coverage. In the Marketplace, you

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qualify for a special enrollment period 60 days following certain life events that involve a change in family status (for example, marriage or birth of a child) or loss of other health coverage.”

Triggering events that allow an enrollee to be given a Special Enrollment Period are listed in 45 CFR 155.420 (d) (1)-(10). The Appellant did not provide evidence that she experienced a “triggering event” and therefore qualified for a Special Enrollment Period.

One of the events which would allow for a special enrollment period is if the individual gains access to new Health Connector Plans as the result of a permanent move. (Health Connector Policy NG-1E) The Appellant did note that she had moved in February 2017. However, the Appellant moved to a near-by town. She has not produced evidence that her move changed her qualification for Health Connector Plans. She needs to wait until the next open enrollment period that begins on November 1, 2017, in order to enroll in health insurance through the Health Connector.

ORDER

The Appellant’s appeal is denied. The Appellant cannot enroll in health insurance through the Health Connector outside an Open Enrollment Period.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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 decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; income

Hearing Date: September 11, 2017

Decision Date: October 16, 2017

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 July 6, 2017, Appellant was determined eligible for ConnectorCare Plan Type 2B.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for ConnectorCare Plan Type 2B, based on the information available to the Connector.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 11, 2017. The hearing was recorded. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (8-17-17) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (7-26-17) (3 pages);
- Exhibit 4: Outreach notes (3 pages);
- Exhibit 5: Hearing Request form (7-21-17) (with letter and documents) (23 pages);

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Exhibit 6: Information from application and results (10 pages); and
Exhibit 7: Eligibility Approval letter (7-6-17) (12 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in July 2017. The appellant had previously had Mass Health (Testimony and Exhibit 6).
2. Appellant was deemed eligible for ConnectorCare Plan Type 2B based upon the income reported, and the Federal Poverty Level resulting in 155.02%.
3. Appellant appealed and stated that they could not afford the premiums.
4. Appellant also reported that they had received their MassHealth cards.
5. Appellant confirmed that the amount of income listed in the application was correct, however, the income was not steady, and could end up being less than projected.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for ConnectorCare Plan Type 2B with subsidies, but he had been on Mass Health and wanted to continue on Mass Health. The Appellant asserts that he cannot afford the premiums and that the family's income was unsteady.

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

ConnectorCare is a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable. Pursuant to 956 CMR 12.09, in order to be eligible for ConnectorCare an individual must be a resident of Massachusetts and the individual's family's modified adjusted gross income cannot exceed 300% of the Federal Poverty Level. In this case, the FPL is under 300%, and, therefore, Appellant is eligible for the additional Massachusetts subsidy, as well as for the Advance Premium Tax Credits.

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

ORDER

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

Massachusetts Health Connector Appeals Unit

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 2017 from the federal government will be reconciled when you file your taxes in 2018. 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 2017 (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 2017 (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 2017 will be paid to you when you file your taxes in 2018.

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FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare

Hearing Date: September 13, 2017

Decision Date: November 27, 2017

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 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 June 3, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 2B.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plan Type 2B in 2017, based on the Appellant's income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 13, 2017.

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

- Exhibit 1: Affidavit
- Exhibit 2: 6/3/17 Eligibility Approval Notice (12 pages)
- Exhibit 3: 7/25/17 Appeal (3 pages)
- Exhibit 4: 7/25/17 Appeal (screenshot)
- Exhibit 5: 7/6/17 Envelope (copy)
- Exhibit 6: 7/6/17 Envelope (original)
- Exhibit 7: 7/24/17 Envelope (original)
- Exhibit 8: 7/27/17 Outreach Notes

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Exhibit 9: 7/27/17 2017 Eligibility Results (3 pages)
Exhibit 10: 7/27/17 Application Summary (2 pages)
Exhibit 11: 8/16/17 2017 Eligibility Results for 3/6/17 Application (2 pages)
Exhibit 12: 8/17/17 Hearing Notice (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By letter dated June 3, 2017, the Health Connector notified the Appellant that she was eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit of \$91, based on records indicating that her annual household income was 193.60% of the Federal Poverty Level for a household of one. The Notice also requested the Appellant to report any changes that may impact her coverage, including income changes, through her online account or by calling Customer Service. (Exhibit 2)
2. On July 25, 2017, the Appellant appealed the Connector's 6/3/17 determination, circling "Income" as the reason for her appeal and stating in the explanation section, "It will be hard for me to afford this monthly payment when I start school in the fall." (Exhibit 3)
3. The Appellant showed the same self-attested monthly income from the same employer on the application that she submitted on her 6/3/17 application as on the application that she had submitted to the Connector earlier in the year, on March 6, 2017. (Exhibit 9; Exhibit 11)
4. The Appellant started school, in an unpaid internship, in early September 2017. The Appellant has continued working for the same employer since school started but now works part time at significantly reduced hours. As a result, the Appellant projects that her income for 2017 will be significantly less than what she indicated on her 3/6//17 and 6/3/17 applications. (Appellant's testimony)
5. The Appellant intends to adjust on her Health Connector account her projected income for 2017 to reflect her reduced income as soon as possible following the hearing through Connector Customer Service or by doing it herself. (Appellant's testimony)

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. Households with income from 150% to 200% of FPL are eligible for ConnectorCare Type 2B, while those between 100% and 150% are eligible for ConnectorCare Type 2A, at significantly lower cost and possibly no cost.

In this case, the Appellant contends that she could not afford the cost of ConnectorCare Type 2B in 2017 because her income was going to drop substantially when she started school, and her unpaid internship, in September 2017. However, the Appellant failed to show this on her 6/3/17 application, the application at issue here. Rather, the Appellant's 6/3/17 application indicated that her income for 2017 had not changed from her projected income on her 3/6/17 application and would remain the same throughout 2017. It is the applicant's responsibility to make any changes in their expected annual income, during the year, through their online Connector account or with the assistance of a Health Connector Customer Service Representative, as stated in the Connector's 6/3/17 eligibility notice.

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Accordingly, I conclude that the Health Connector correctly determined that the Appellant was eligible for ConnectorCare Plan Type 2B in 2017, based on the Appellant's income.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Addendum: As the Appellant has indicated that her income may vary for the foreseeable future, due to her school obligations, I urge her to update her income information anytime changes occur during the year, through her online account or, if she does not have an online account, by calling Customer Service.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for a special enrollment period

Hearing Date: September 13, 2017

Decision Date: November 27, 2017

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 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 July 14, 2017, the Appellant was determined ineligible for a special enrollment period due to failure to have a qualifying life event.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 13, 2017. The Appellant offered testimony. At about thirty minutes into the hearing, while the Appellant was testifying, the line was disconnected. The Appellant failed to call back within ten minutes, and the record was closed.

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

- Exhibit 1: Affidavit
- Exhibit 2: 7/14/17 SEP Decision Notice (12 pages)
- Exhibit 3: 7/27/17 Appeal
- Exhibit 3A: 7/27/17 Appeal (Screenshot)
- Exhibit 4: 8/15/17 Outreach

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- Exhibit 5: 8/1/17 Eligibility Results for 3/15/17 Application (3 pages)
Exhibit 6: 8/1/17 Application Summary (3 pages)
Exhibit 7: 3/16/17 Eligibility Approval Notice (12 pages)
Exhibit 8: 8/17/17 Hearing Notice (7 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By letter dated July 14, 2017, the Health Connector notified the Appellant that he did not qualify to enroll in a new health insurance plan at that time because he had not stated that he had experienced a qualifying event for a special enrollment period. (Exhibit 2)
2. On July 27, 2017, the Appellant appealed the Connector's 7/14/17 determination, circling "residency" as the reason for his appeal and stating in the explanation section of the hearing request form that "changed/moved address and was never noticed of expired insurance." On the hearing request form, the Appellant provided a new mailing address—a post office box instead of the street address provided previously. (Exhibit 3; Exhibit 7; Exhibit 2)
3. On August 15, 2017, the Connector Appeals Unit notified the Appellant that the Connector had re-opened his application and that he could go and enroll in a plan now. The Appellant stated that he was looking for coverage retroactive to May 2017. The Appeals Unit advised him that he would need to go to hearing regarding his retroactivity request. (Exhibit 4)
4. The Appellant had health insurance coverage through the Health Connector in 2016. The Appellant had health insurance coverage through MassHealth from January 2017 through April 2017. (Exhibit 4)
5. The Appellant moved in February 2017. (Appellant's testimony)
6. By letter dated March 16, 2017, the Connector notified the Appellant that he qualified for ConnectorCare Plan Type 2B with a \$150 Advance Premium Tax Credit. The letter was mailed to the same address to which the Connector's 7/14/17 denial letter was later sent. The letter stated that the Appellant had sixty days to enroll in a new or different health insurance plan, "until May 14, 2017." (Exhibit 7)
7. The Appellant does not recall receiving the Connector's 3/16/17 eligibility approval notice. The Appellant did not enroll in a ConnectorCare plan by May 14, 2017. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

On July 14, 2017, the Health Connector determined that the Appellant could not enroll in a health insurance plan at that time because he had not experienced an event that qualified him for a special enrollment period. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, only if the individual experiences a qualifying life event, such as a change in household composition or loss of coverage. 45 CFR § 155.420. The Appellant does not assert here that he experienced such a qualifying life event. Rather, the Appellant contends that he should be eligible to enroll in a plan retroactively, back to May 2017, because he did not receive the Connector's 3/16/17 eligibility notice. However, the Appellant's testimony that he did not receive the 3/16/17 eligibility notice is not credible, since the 3/16/17 notice was mailed to the same address to which the 7/14/17 SEP decision notice and the Appellant received and responded to the 7/14/17 notice without any problem.

Massachusetts Health Connector Appeals Unit

Therefore, I conclude that the Health Connector correctly determined that the Appellant was not eligible for a special enrollment period, based on the Appellant's failure to have a qualifying life event, under 45 CFR § 155.420.

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

Appeal Decision: Denied

Hearing Issue: Eligibility for Health Connector Plan

Hearing Date: September 13, 2017

Decision Date: November 27, 2017

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 June 29, 2017, the Health Connector determined that the Appellant was no longer eligible for health insurance coverage through the Health Connector for failing to provide proof of residency.

ISSUE

Whether the Health Connector correctly determined on June 29, 2017, that the Appellant no longer qualified for Health Connector coverage, for failure to provide proof of residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 13, 2017. The Appellant testified under oath or affirmation. At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit
- Exhibit 2: 6/29/17 Eligibility Termination Notice (6 pages)
- Exhibit 3: 7/27/17 Appeal (5 pages)
- Exhibit 4: 7/28/17 Appeal Screenshot

Massachusetts Health Connector Appeals Unit

- Exhibit 5: Appeal Unit Outreach
- Exhibit 6: 8/1/17 2017 Eligibility Results for 6/29/17 Application (3 pages)
- Exhibit 7: 2/1/17 Request for Information (6 pages)
- Exhibit 8: 8/3/17 2017 Eligibility Results/ Application Summary (6 pages)
- Exhibit 9: 9/12/17 2017 Eligibility Results for 8/23/17 Application (4 pages)
- Exhibit 10: 8/15/17 Fax of Rent Receipt (2 pages)
- Exhibit 11: 8/17/17 Hearing Notice (7 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. By letter dated June 29, 2017, the Health Connector notified the Appellant that she no longer qualified for coverage through the Health Connector; and, that the Appellant's current eligibility for ConnectorCare Plan Type 2B would end on June 30, 2017, because the Connector had not received from the Appellant the information needed to verify her eligibility to purchase a Health Connector plan. (Exhibit 2)
2. On July 27, 2017, the Appellant appealed the Connector's 6/29/17 determination, circling "Income" and "Qualifying Event to Enroll" and stating "lack of notification," on the hearing request form. With her appeal, the Appellant submitted a copy of her residential lease agreement for 2017, as well as a 2016 W-2 from a former employer. (Exhibit 3)
3. On August 3, 2017, the Appeals Unit attempted to speak with the Appellant by phone and left a voice-mail message, stating that she needed to submit a copy of her rent payment in addition to her rental lease and that she could fax or mail a copy to the Appeals Unit. On August 22, 2017, the Appeals Unit received a copy of her rent receipt from the Appellant and forwarded it to the Connector verification unit for processing. (Exhibit 5)
4. On August 23, 2017, the Appellant submitted an application to the Health Connector, and the Connector qualified the Appellant for a Special Enrollment Period and for ConnectorCare Plan Type 2B with an eligibility effective date of September 1, 2017. (Exhibit 9)
5. On January 31, 2017, the Appellant submitted her application for health insurance coverage to the Health Connector. The Connector approved the Appellant for ConnectorCare Plan Type 2B with an Advance Premium Tax Credit of \$169, with an eligibility effective date of March 1, 2017, and informed her that she needed to provide proof of residency to the Connector. (Exhibit 8)
6. By Request for Information Notice dated February 1, 2017, the Health Connector notified the Appellant that she needed to submit Proof of Residency by May 1, 2017, so that the Health Connector could verify that she qualified to purchase a Health Connector plan. Attached to the Notice was a List of Acceptable Documents. One of the acceptable documents on the list was: "Copy of lease and record of most recent rent payment." The Notice informed the Appellant that, "If we do not get the information by the due date," the Appellant may lose her eligibility for coverage through the Health Connector. (Exhibit 7)
7. The Appellant overlooked the "we need proof of residency" section of her 1/31/17 eligibility notice. The Appellant does not recall receiving the 2/1/17 Request for Information. (Appellant's testimony)
8. The Appellant did not submit any proof of residence to the Connector by May 1, 2017. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

Massachusetts Health Connector Appeals Unit

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.

On January 31, 2017, the Appellant was determined eligible for ConnectorCare Plan Type 2B and was asked to verify her residency. By letter dated February 1, 2017, the Connector reminded the Appellant to send in residency verification documents no later than May 1, 2017, or risk losing her eligibility for coverage through the Connector. The Appellant failed to send in documents verifying her residency, and was determined ineligible for Health Connector plans on July 29, 2017. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and the Connector's determination was correct for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

While the Appellant has now sent in documents verifying her residency and eligibility, the Health Connector correctly found that the Appellant was no longer eligible for Health Connector plans on June 29, 2017, and that determination is upheld.

Accordingly, I affirm the Health Connector's determination on June 29, 2017, that the Appellant did not qualify for coverage through the Health Connector, under 26 IRC § 36B and 45 CFR § 155.305(f) and 956 CMR § 12.04.

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

Appeal Decision: Appeal denied. The Appellant cannot enroll in subsidized health insurance through the Massachusetts Health Connector (Connector) until the next open enrollment period.

Hearing Issue: Whether in July 2017, the Massachusetts Health Connector (Connector) correctly denied the eligibility of the Appellant to enroll in subsidized health insurance through the Connector, outside an open enrollment period.

Hearing Date: September 14, 2017

Decision Date: October 31, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE CONNECTOR

In July 2017, the Connector determined that the Appellant could not enroll in coverage outside an Open Enrollment Period, unless she qualified for a special enrollment period.

ISSUE

Whether in July 2017, the Massachusetts Health Connector (Connector) correctly denied the eligibility of the Appellant to enroll in subsidized health insurance through the Connector, outside an open enrollment period.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 14, 2017. Testimony was recorded electronically. The Hearing Record consists of the Appellant's testimony and the following documents, which were admitted into evidence.

1. Affidavit of Record Verification

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2. Letter from the Health Connector to the Appellant dated 5/18/2017, entitled "Termination Non Payment APTC"
3. Appellant's Hearing Request Form received by the Connector on 8/1/2017
4. Letter from the Health Connector Appeals Unit to the Appellant dated 8/3/2017, acknowledging her Appeal
5. Notice to the Appellant from the Connector Appeals Unit of Next Steps in the Appeal Process
6. Informal Dispute Resolution Notes
7. Health Connector Incoming Call 7/3/2017
8. Health Connector Incoming Call 7/17/2017
9. Health Connector Outgoing Call 7/18/2017
10. Health Connector Incoming Call 7/18/2017
11. Health Connector Outgoing Call 7/19/2017
12. Health Connector Outgoing Call 7/20/2017
13. Connector Computer Printout of Appellant's Application Result for an application submitted 7/18/2017
14. Connector Computer Printout of Appellant's Application Summary
15. Notice of Hearing dated 8/17/2017

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant had been enrolled in ConnectorCare Plan Type 3B until April 30, 2017. (Exhibit 2)
2. In a letter dated May 18, 2017, the Appellant was informed that her health insurance coverage through the Health Connector had ended on April 30, 2017 since she had not paid the monthly premiums owed. (Exhibit 2)
3. The Appellant had until June 23, 2017, to re-enroll in coverage with the health plan in which she had been enrolled. In order to re-enroll, the Appellant had to contact the Connector and pay her past-due amount, plus the monthly premium from the date her coverage ended until her re-enrollment date. Her past-due amount was \$124. (Exhibit 2)
4. The Appellant does not remember receiving the letter dated May 18, 2017. (Appellant testimony)
5. The Appellant contacted the Connector by telephone on July 3, 2017. She indicated that she was calling because she did not receive a bill. She was informed that her May payment was late and that she now owed for July and August. She was told to apply for a refund online and call to request reinstatement. (Exhibit 7)
6. On July 17, 2017, the Appellant called to request reinstatement. (Exhibit 8)
7. On July 17, 2017, after the Appellant contacted the Connector, she went to a hospital emergency room where she was informed that she had no insurance coverage. (Exhibit 3)

Massachusetts Health Connector Appeals Unit

8. On July 18, 2017, in a telephone conversation, a Connector representative informed the Appellant that her reinstatement request was out of the allowed timeframe. The Appellant requested a refund. (Exhibit 10).
9. The Appellant applied to the Connector for subsidized health insurance by telephone on July 18, 2017. Application Results, from the Connector indicate that her household's Federal Poverty Level was 277.78 %; and that she was eligible for ConnectorCare Plan Type 3B and an Advance Premium Tax Credit. (Exhibit 13)
10. In her Application Results, the Connector informed the Appellant that unless she had a qualifying event, she would have to wait until the next open enrollment period to enroll in a plan. (Exhibit 13)
11. The Appellant filed a Hearing Request Form that was received by the Connector on August 1, 2017. In her form she indicated that she was appealing "misinformation given by your (the Connector's) representative that I (the Appellant) am not covered by medical insurance." She stated that she had paid for coverage for July and August and that her insurance should be reinstated. (Exhibit 3)

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined that the Appellant had to wait until the next open enrollment period to enroll in subsidized health insurance through the Connector unless she qualified for a Special Enrollment Period. Pursuant to 45 CFR 155.410, the Massachusetts Health Connector must provide annual open enrollment periods during which a Qualified Individual may enroll in or change enrollment in Qualified Health Plans. Pursuant to 45 CFR 155.410 (e) (2) "beginning on January 1, 2016, on January 1, 2017, and on January 1, 2018, the annual open enrollment period begins on November 1 of the calendar year preceding the benefit year, and extends through January 31 of the benefit year.."

In order for an individual to enroll in a health plan through the marketplace outside the open enrollment period, the individual must qualify for a Special Enrollment Period. 45 CFR 155.420. A Special Enrollment Period is defined on the website www.HealthCare.gov as:

"A time outside of the open enrollment period during which you and your family have a right to sign up for health coverage. In the Marketplace, you qualify for a special enrollment period 60 days following certain life events that involve a change in family status (for example, marriage or birth of a child) or loss of other health coverage."

Triggering events that allow an enrollee to be given a Special Enrollment Period are listed in 45 CFR 155.420 (d) (1)-(10).

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The Appellant's health insurance coverage ended on April 30, 2017, due to non-payment of premiums. Pursuant to Health Connector Policy NG-6B, when an individual is terminated for non-payment of premiums, the individual has thirty-five days from the date of Notice of Termination to reinstate coverage. Requests for reinstatement can be made by contacting the Connector by email, phone, fax, mail or in-person.

The Appellant's Notice of Termination was dated May 18, 2017, and therefore she had until June 23, 2017 to reinstate coverage. The Appellant did not contact the Connector until July 3, 2017. Since she missed the deadline for reinstatement, she had to re-apply to the Connector for health insurance. When she re-applied, the Appellant was limited to enrollment during the next open enrollment period unless she had a "triggering event;" she was found to be newly eligible for a ConnectorCare Plan; she changed ConnectorCare Plan Types; she was approved for a hardship waiver; or her hardship waiver period ended. (956 CMR 12.11 (5))

The Appellant did not provide evidence that she experienced a "triggering event" and therefore qualified for a Special Enrollment Period. She also did not provide evidence of eligibility for a new plan type for ConnectorCare. She had been enrolled in Plan Type 3B and the results of her new application indicate that she was still eligible for Plan Type 3B. There was no evidence that the Appellant filed for a hardship waiver.

The Appellant stated that she did not recall receiving the Notice of Termination dated May 18, 2017. The address to which the notice was sent was different than the address on the Appellant's Request for Hearing. Pursuant to 956 CMR 12.10 (2), the Appellant is responsible to report changes, including change of address, to the Connector within 60 days or as soon as possible. She did not provide evidence of a change of address with the Connector prior to the mailing of the Notice of Termination.

The Appellant needs to wait until the next open enrollment period that begins on November 1, 2017, in order to enroll in subsidized health insurance through the Health Connector.

ORDER

The Appellant's appeal is denied. The Appellant cannot enroll in subsidized health insurance through the Health Connector outside an Open Enrollment Period.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Appeal Decision: Appeal denied. The Appellant cannot enroll in health insurance through the Massachusetts Health Connector (Connector) outside an open enrollment period.

Hearing Issue: Whether in August 2017, the Connector correctly denied the eligibility of the Appellant to enroll in health insurance through the Connector, outside an open enrollment period.

Hearing Date: September 14, 2017

Decision Date: November 1, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE CONNECTOR

In August 2017, the Connector determined that the Appellant could not enroll a Health Connector Plan outside an Open Enrollment Period.

ISSUE

Whether in August 2017, the Massachusetts Health Connector (Connector) correctly denied the eligibility of the Appellant to enroll in a Health Connector Plan outside an open enrollment period.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 14, 2017. Testimony was recorded electronically. The Hearing Record consists of the Appellant's testimony and the following documents, which were admitted into evidence.

1. Affidavit of Record Verification
2. Letter from the Health Connector to the Appellant dated 8/2/2017, entitled "Special Enrollment Period Decision"

Massachusetts Health Connector Appeals Unit

3. Letter from the Health Connector to the Appellant dated 6/24/2017, entitled "Eligibility Approval"
4. Letter from the Health Connector Appeals Unit to the Appellant dated 8/8/2017, acknowledging her Appeal
5. Informal Dispute Resolution Notes
6. Appellant Comments
7. E-mail from the Connector Appeals Unit to the Appellant dated 8/16/2017
8. Connector Computer Printout of Appellant's Application Result for an application submitted 6/23/2017
9. Connector Computer Printout of Appellant's Application Summary
10. Notice of Hearing dated 8/17/2017

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant moved to Massachusetts in August 2016. (Appellant testimony)
2. The Appellant began working in Massachusetts in August 2016, and she was offered health insurance by her employer. (Appellant testimony and Exhibit 6)
3. The Appellant did not enroll in her employer's health insurance in August 2016 since she thought she would have health insurance coverage through her ex-husband's retirement insurance. (Exhibit 6)
4. In September or October 2016, the Appellant was informed that she did not qualify for health insurance through her ex-husband. (Appellant testimony)
5. The Appellant has not had health insurance since July 2016. (Appellant testimony)
6. In May 2017, the Appellant was again eligible for her employer's health insurance, during her employer's open enrollment period. She did not enroll, since she thought she would be changing her place of employment. (Appellant testimony and Exhibit 6)
7. The Appellant did not change her place of employment, and she could not enroll in her employer's insurance since she missed the open enrollment period. (Appellant testimony and Exhibit 6)
8. The Appellant applied to the Connector for Health Connector for health insurance on June 23, 2017. The Connector found that the Appellant earned 385.92% of the Federal Poverty Level. (Exhibit 8)
9. In a letter dated June 24, 2017, the Appellant was informed that she was approved to enroll in Health Connector Plans, but could only enroll at this time if she had a "qualifying event." (Exhibit 3)
10. In a letter dated August 2, 2017, from the Health Connector, the Appellant was informed that she did not qualify for a Special Enrollment Period because she did not have a "qualifying event". (Exhibit 2)

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ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined that the Appellant had to wait until the next open enrollment period to enroll in health insurance through the Connector. Pursuant to 45 CFR 155.410, the Massachusetts Health Connector must provide annual open enrollment periods during which a Qualified Individual may enroll in or change enrollment in Qualified Health Plans. Pursuant to 45 CFR 155.410 (e) (2) “beginning on January 1, 2016, on January 1, 2017, and on January 1, 2018, the annual open enrollment period begins on November 1 of the calendar year preceding the benefit year, and extends through January 31 of the benefit year..”

In order for an individual to enroll in a health plan through the marketplace outside the open enrollment period, the individual must qualify for a Special Enrollment Period. 45 CFR 155.420. A Special Enrollment Period is defined on the website www.HealthCare.gov as:

“A time outside of the open enrollment period during which you and your family have a right to sign up for health coverage. In the Marketplace, you qualify for a special enrollment period 60 days following certain life events that involve a change in family status (for example, marriage or birth of a child) or loss of other health coverage.”

Triggering events that allow an enrollee to be given a Special Enrollment Period are listed in 45 CFR 155.420 (d) (1)-(10) and include: changes in health coverage, changes in household, changes in residence, and other qualifying events such as changes in income affecting eligibility for cost sharing, changes in immigration status. The qualified individual has 60 days from the date of the triggering event to select a qualified health plan. (45 CFR 155.420 (c) (1))

The Appellant’s health insurance coverage ended on in July 2016, when she moved to Massachusetts. She was eligible for her employer’s health insurance when she moved in 2016 and again in May 2017, but chose not to enroll. The Appellant has not provided evidence of a triggering event that would allow her to enroll in health insurance through the Connector outside an open enrollment period.

The Connector’s decision is upheld. The Appellant needs to enroll in health insurance through the Connector during an open enrollment period. Open enrollment began on November 1, 2017 and extends to January 31, 2018, for health insurance beginning in 2018.

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ORDER

The Appellant's appeal is denied. The Appellant cannot enroll in health insurance through the Health Connector outside an Open Enrollment Period.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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 decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Appeal Decision: Appeal denied.

Based on information from an application submitted by the Appellant in August 2017, the Massachusetts Health Connector (Connector) correctly determined the Appellant's eligibility for ConnectorCare with an Advance Premium Tax Credit.

Hearing Issue: Whether the Connector correctly determined the Appellant's eligibility for subsidized insurance through ConnectorCare and her eligibility for the Advance Premium Tax Credit (APTC), based on information it had at the time it made its decision.

Hearing Date: September 14, 2017 Decision Date: November 2, 2017

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 Massachusetts Health Connector (Connector) using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE CONNECTOR

Based on information submitted by the Appellant, in her application for health insurance submitted on August 9, 2017, the Connector found that the Appellant earned 218.86% of the Federal Poverty Level, and that the Appellant was eligible to enroll in ConnectorCare Plan Type 3A with an Advance Premium Tax Credit of \$49 monthly.

ISSUE

Whether the Connector correctly determined the Appellant's eligibility for subsidized insurance through ConnectorCare and her eligibility for and the amount of an Advance Premium Tax Credit.

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HEARING RECORD

The Appellant appeared at the hearing which was held on by telephone on September 14, 2017. Testimony was recorded electronically. The hearing record consists of the Appellant's testimony and the following documents, which were admitted into evidence:

1. Affidavit of Record Verification
2. Letter from the Connector to the Appellant dated 7/21/2017, entitled "Eligibility Approval"
3. Memorandum to the Appellant from the Connector Appeals Unit dated 8/9/2017 informing her that her Appeal had been received
4. Informal Dispute Resolution Notes
5. Appeals Data
6. Connector Computer Printout of Appellant's Application Result for 2017 based on an application submitted on 8/9/2017.
7. Connector Computer Printout of Appellant's Application Summary
8. Plan enrollments
9. Connector Computer Printout of Appellant's Application Result for 2017 based on an application submitted on 7/21/2017.
10. Connector Computer Printout of Appellant's Application Summary
11. Notice of Hearing dated 8/17/2017

FINDINGS OF FACT

The record shows, and I so find:

1. In August 2017, the Appellant submitted an application to the Connector for subsidized health insurance. In her application she indicated that she earned \$2,166.67 monthly and that her projected yearly income was \$26,000.00. (Exhibit 6)
2. Based on the information contained in the Appellant's application, dated August 9, 2017, the Connector found that the Appellant's income would be 218.86% of the Federal Poverty Level. (Exhibit 6)
3. The Connector found the Appellant eligible for ConnectorCare insurance Type 3A with an Advance Premium Tax Credit of \$49 monthly. Her monthly payments were to be \$168 monthly. (Exhibits 6 and 8)
4. The Appellant appealed the Connector's determination of her income in regard to her eligibility for subsidized health insurance. (Exhibits 3 and 4)
5. The Appellant started a new job in June 2017. Her gross pay was \$1,153 bi-weekly.
6. At the time of the hearing the Appellant was eligible for her employer's health insurance, and she had just enrolled. The cost of a single plan was \$107 bi-weekly. (Appellant testimony)

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7. The Appellant had been insured through MassHealth. Her MassHealth insurance was canceled at the end of July 2017. (Appellant testimony)
8. Prior to the hearing the Appellant enrolled in her employer's health insurance plan. (Appellant testimony)
9. The Appellant would like to have her MassHealth reinstated. (Appellant testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined the income eligibility of the Appellant for ConnectorCare and for the Advance Premium Tax Credit, based on her submission to the Connector on August 9, 2017. The Appellant's income eligibility for subsidized health insurance and health insurance subsidies is determined by his projected Modified Adjusted Gross Income (MAGI) for 2017. Modified Adjusted Gross Income (MAGI) is defined in 26 CFR 1.36B-1 (e) (2), as "adjusted gross income (within the meaning of section 62) increased by

- (i) Amounts excluded from gross income under section 911;
- (ii) Tax-exempt interest the taxpayer receives or accrues during the taxable year; and
- (iii) Social security benefits (within the meaning of section 86(d)) not included in gross income under section 86."

MAGI is usually equivalent to Adjusted Gross Income (Center for Labor Research and Education, University of California, Berkeley). On her application, the Appellant stated that her projected income for 2017 was \$26,000. The Connector found that the Appellant earned 218.86% of the Federal Poverty Level.

Under 26 IRC § 36B and 45 CFR § 155.305(f), applicants are eligible for an Advance Premium Tax Credit (APTC) if they meet qualifying income levels that are between 100% and 400% of the Federal Poverty level, and they meet other eligibility requirements. In order to be eligible for ConnectorCare, a Massachusetts-based program that provides additional subsidies to help make the cost of insurance more affordable, the Appellant must be eligible for the APTC, and her MAGI must be at or below 300% of the Federal Poverty Level. (956 CMR § 12.04).

Since the Appellant's projected income was between 200% and 250% of the Federal Poverty Level, she was eligible for ConnectorCare Plan Type 3A, pursuant to 956 CMR 12.05 (3) (c). She was also determined to be eligible for the Advance Premium Tax Credit, and would receive \$49 monthly.

The Appellant is no longer income eligible for MassHealth since her projected earnings are more than 110% of the Federal Poverty Level. Since her employer's

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health insurance is more than 9.66% of her gross salary, she remains eligible for subsidized health insurance and health insurance subsidies.

This appeal is limited to a determination of whether the Connector made the correct income eligibility decision in regard to the Appellant, based on the information it had at that time. The decisive factor in the determination of income eligibility for subsidized health insurance and health insurance subsidies is projected modified adjusted gross income. The Connector based its determination on the projected income in the Appellant's application for subsidized health insurance submitted in August 2017. If the Appellant's income changes she should report the change in income to the Connector, so the Connector can re-assess her eligibility for subsidized insurance and insurance subsidies.

ORDER

The Connector's decision is upheld and the Appellant's appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, 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 decision.

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: September 13, 2017

Decision Date: October 23, 2017

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 July 26, 2016, Appellant was determined eligible for Health Connector plans without subsidies.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 13, 2017. The record was left open for Appellant to provide documentation of filing tax reconciliation

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

- Exhibit 1: Health Connector notice of eligibility determination for 2017 (6 pages, dated July 26, 2017)
- Exhibit 2: Notice of Eligibility Termination Warning (6 pages, dated July 4, 2017)
- Exhibit 3: Appellant's appeal request form (13 pages, dated August 6, 2017)
- Exhibit 3: Health Connector's Determination Results & Review Computer Print Out (4 pages, dated September 11, 2017)

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- Exhibit 4: Health Connector's Determination Results & Review Computer Print Out (4 pages, dated July 26, 2017)
- Exhibit 4: Health Connector's Determination Results & Review Computer Print Out (6 pages, dated July 26, 2017)
- Exhibit 5: Health Connector's Determination Results & Review Computer Print Out (4 pages, dated July 5, 2017)
- Exhibit 6: Health Connector's Acknowledgment of Appeal (4 pages, dated August 16, 2017)
- Exhibit 7: Health Connector's Hearing Notice 4 pages, dated August 21, 2017)
- Exhibit 8: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 9: H1095A Instructions

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a single individual, who plans to file a federal income tax return as a single individual for tax year 2017. (Appellant testimony)
2. The Appellant is currently unemployed. Appellant was laid off in July of 2017. (Appellant testimony)
3. The Appellant is not eligible for employer-sponsored insurance that meets federal affordability standards. (Appellant Testimony)
4. The Appellant was initially approved for coverage on July 26, 2017. (Exhibit 1, Appellant Testimony)
5. The Appellant did file a federal income tax return for 2016 but did not reconcile receipt of advance premium tax credits received in 2016.
6. The Appeal was left open to allow Appellant to provide proof that Appellant reconciled Appellant's 2016 tax return but Appellant did not provide said information.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant is not currently employed and does not have present income, and is otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On July 26, 2017, the Appellant was determined eligible for Health Connector plans without subsidies. Appellant did file an income tax return for 2016, but did not reconcile Appellant's tax return and the Appellant's tax return is being reprocessed. Because the Appellant did not reconcile receipt of APTC from a prior year, the Appellant is not eligible to receive APTC in 2017. 45 CFR § 155.305(f)(4).

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The Appellant should comply with the requirement to reconcile receipt of 2016 premium tax credits by filing a 2016 federal income tax return, including Form 8962. The Appellant will need to use Form 1095A in order to complete Form 8962. Once the Appellant complies with the requirement to reconcile 2016 APTC, the Appellant can report a change to their 2017 application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2016 federal income tax return with Form 8962, and reconciling any APTC received in 2016.

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.

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 2017 from the federal government will be reconciled when you file your 2017 federal income tax return (usually in the spring of 2018). 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 2017 (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 2017 (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 2017 will be paid to you when you file your 2017 federal income tax return.

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FINAL APPEAL DECISION

Appeal Decision: Denied

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

Hearing Date: October 11, 2017

Decision Date: October 25, 2017

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 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

By notice dated August 17, 2017, the appellant was advised that he qualified for Health Connector Plans with no financial help with coverage beginning on September 1, 2017. The appellant filed an online appeal which was received on August 28, 2017 (Ex. 2) based on income and stated that his income for 2017 is \$22,300.00 which is less than 200% of the Federal Poverty Level (FPL). The matter was referred to a hearing after receipt of the appeal. (Ex.11)

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ISSUE

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on August 17, 2017, pursuant to 45 C.F.R. section 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 11, 2017, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Health Connector Notice of Eligibility Determination dated August 17, 2017 (12 pages)
- Ex. 2—Online Appeal Form received on August 28, 2017
- Ex. 3—Acknowledgment of Appeal dated September 5, 2017 (3 pages)
- Ex. 4—Appeals Unit Notes (2 pages)
- Ex. 5—Computer printout of Health Connector's Eligibility Determination Results with a verification date of December 13, 2016 (3 pages)
- Ex. 6—Computer printout of Health Connector's Review of Application (4 pages)
- Ex. 7—Computer printout of Health Connector's Eligibility Determination Results with a verification date of August 17, 2017 (4 pages)
- Ex. 8—Computer printout of Health Connector's Review of Application (4 pages)
- Ex. 9—Computer printout of Health Connector's Eligibility Determination Results with a verification date of September 20, 2017 (4 pages)
- Ex. 10—Computer printout of Health Connector's Review of Application (5 pages)
- Ex. 11—Notice of Hearing (4 pages)
- Ex. 12—Affidavit of Connector representative

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 56-years-old, is separated from his wife, and has a 20-year-old daughter. In 2016, they had a tax household size of three consisting of the appellant and his wife who were joint tax filers, and the daughter who was a tax dependent. (Testimony, Ex. 6) In 2017, the appellant has a tax household size of one, and he and his daughter plan to file individual tax returns. (Testimony, Exs. 8,10)
2. The appellant received unemployment insurance compensation from March, 2016 until September 23, 2016 in the amount of \$772.00/week. He did not have any

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additional income for 2016, and at the time of the instant hearing, had not earned or received any income in 2017. (Testimony)

3. Based on a Health Connector program determination on December 13, 2016, the appellant, his wife and his daughter were notified that they qualified for MassHealth. They were further notified that their annual household income was determined to be within 95.02% of the Federal Poverty Level (FPL). (Testimony, Ex. 5)

4. On the application connected with the December 13, 2016 program determination, the appellant entered a projected yearly income of \$14,109.00 derived solely from unemployment compensation. (Ex. 6)

5. The appellant was enrolled in MassHealth from January through July, 31, 2017, when he was notified that his coverage was terminated. (Testimony)

6. Based on a Health Connector program determination on August 17, 2017, the appellant was notified that he qualified for Health Connector Plans with eligibility beginning on September 1, 2017. He was further notified that his annual household income was determined to be within 324.78% of the Federal Poverty Level (FPL). (Exs. 1,7)

7. On the application connected with the August 17, 2017 program determination, the appellant entered a projected yearly income of \$38,584.00 derived from unemployment compensation verified at \$742.00/week. (Ex. 8)

8. The appellant appealed the Connector's August 17, 2017, on August 28, 2017. The reason for the appeal was based on income and the appellant stated that his 2017 income was less than 200% of the FPL. (Testimony, Ex. 2)

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 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 section 12.04.

The appellant was found eligible for Health Connector Plans based on having an income and family size equivalent to 324.78% of the FPL. The appellant argues that this determination was incorrect because he has not earned or received any income

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since the end of September, 2016, and should therefore have remained eligible for subsidized insurance.

The Health Connector attempts to verify an applicant's eligibility by checking electronic data sources to confirm the information provided them, including an applicant's income, in accordance with 45 CFR § 155.320(d). It is not known if MassHealth requested verifying information from the appellant in order to confirm his income prior to being terminated from the program, but the new eligibility determination issued by the Health Connector on August 17, 2017, found that he was eligible for Health Connector Plans based on a projected yearly income of \$38,584.00. Since the appellant testified credibly that he has had zero income for over a year, he was advised to report the income change to the Connector by either updating his application online at mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Based on the evidence in the record, it is concluded that the Connector's determination on August 17, 2017, regarding the appellant's eligibility for Health Connector Plans was correct at the time of application, and is therefore affirmed.

ORDER

The appeal is denied.

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

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

CONNECTOR APPEALS UNIT

Cc: Connector Appeals Unit

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Denied

Hearing Issue: Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit based on failure to reconcile prior tax credits

Hearing Date: October 11, 2017

Decision Date: October 29, 2017

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 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 August 18, 2017, the Health Connector advised the appellant that he qualified for Health Connector Plans (with no financial help) beginning on September 1, 2017. (Ex. 10) The appellant filed a Hearing Request Form dated August 28, 2017 (Ex. 2) based on income and stated that the premium is too high. The matter was referred to a hearing after receipt of the appeal. (Ex.14)

ISSUE

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans with no financial help correct at the time of its determination on August 18, 2017, pursuant to 45 C.F.R.section 155.305 and 956 CMR 12.05?

CONNECTOR APPEALS UNIT

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 11, 2017, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Health Connector’s Notice of Eligibility Determination dated September 12, 2017

Ex. 2—Hearing Request Form dated August 28, 2017

Ex. 3—Acknowledgment of Appeal dated September 7, 2017

Ex. 4—Appeals Unit Notes

Ex. 4A—Memo from the Appeals Unit regarding Clarification of the Record for the appellant and his wife dated October 11, 2017

Ex. 5—Health Connector’s Notice regarding Form 1095-A dated January 28, 2016 addressed to the appellant

Ex. 5A—Health Connector’s Notice regarding Form 1095-A dated January 28, 2016 addressed to the appellant’s wife

Ex. 6—Computer printout of Health Connector’s Eligibility Determination Results showing program determination for May 12, 2017

Ex. 7—Computer printout of Eligibility History

Ex. 7A—Computer printout of Health Connector’s Review of Application

Ex. 8—Computer printout of Health Connector’s Eligibility Determination Results showing program determination for May 12, 2017

Ex. 9—Computer printout of Health Connector’s Review of Application

Ex. 10—Computer printout of Health Connector’s Eligibility Determination results showing program determination for August 18, 2017

Ex. 11—Computer printout of Health Connector’s Review of Application

Ex. 12—Computer printout of Health Connector’s Eligibility Determination results showing program determination for September 12, 2017

Ex. 13—Computer printout of Health Connector’s Review of Application

Ex. 14—Notice of Hearing

Ex. 15—Affidavit of Connector representative

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. Specifically, the appellant was asked to submit a transcript from the Internal Revenue Service showing all tax transactions for the 2015 tax year. The appellant submitted the following documentation in a timely manner which was marked as follows:

Ex. 16—2015 Form 1095-A (appellant)

Ex. 17—2015 Form 1095-A (appellant’s wife)

CONNECTOR APPEALS UNIT

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 65-years-old and his wife is 66-years-old. They have one adult child. The appellant has a tax household size of three consisting of himself, his wife and his child. (Testimony, Exs. 7A, 9, 11)
2. In 2015, the appellant and his wife were enrolled in ConnectorCare Plans with an Advance Premium Tax Credit (APTC). They created two applications in the system, one with the appellant as head of household and one with the appellant's wife as head of household. The system indicated enrollments on both applications. (Testimony, Ex. 4A)
3. By letters dated January 28, 2016, the Health Connector sent the appellant and his wife two separate Form 1095-As for 2015 showing their enrollment in health insurance coverage through the Connector for the year. (Exs. 5,6)
4. The appellant and his wife filed a joint tax return for the 2015 tax year. (Testimony)
5. Based on two program determinations dated May 12, 2017, the Health Connector notified the appellant and his wife that 1) they qualified for ConnectorCare Plan Type 3A with an APTC of \$498.00, effective June 1, 2017; and 2) the appellant qualified for ConnectorCare Plan Type 3B with an APTC of \$79.00, effective June 1, 2017, and the appellant's wife was not eligible for Health Connector programs. (Exs. 6,8)
6. On the application on which the appellant and his wife were determined to be eligible for ConnectorCare Plan Type 3A, they reported a tax household size of three consisting of them and their son whom they reported as a dependent. (Ex. 9) On the application on which the appellant was determined to be eligible for ConnectorCare Plan Type 3B, he reported a tax household size of two consisting of himself and his wife. Their annual household income was determined to be within 278.81% of the Federal Poverty Level (FPL). (Ex. 7)
7. The appellant enrolled in a health insurance plan effective July 1, 2017, for which he pays a monthly premium of \$407.00. (Testimony)
8. Based on a program determination dated August 18, 2017, the Health Connector notified the appellant that he was determined eligible for Health Connector Plans, and that his wife and son were determined ineligible for insurance through the Health Connector. He was also advised that his annual household income was determined to be within 40.96% of the FPL. (Ex. 10)

CONNECTOR APPEALS UNIT

9. On the application on which the August 18, 2017 determination is based, the appellant and his wife attested that they had filed taxes and reconciled all past APTCs on July 24, 2017. (Ex. 11)

10. The appellant's wife has been enrolled in health insurance through Medicare since the end of last year. (Testimony, Ex. 13)

11. The appellant is employed. His employer does not offer health insurance. (Testimony)

12. The appellant will be eligible for health insurance through Medicare in January, 2018. (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.

Pursuant to the Connector's determination dated August 18, 2017, the appellant was found eligible for Health Connector Plans without subsidies for 2017, based on having an income and household size equivalent to 40.96% of the FPL. The only way to discern the basis for the determination is by eliminating all possible grounds for disqualification. Since the appellant's income was within 40.96% of the FPL, and the threshold for subsidies is income within 300% of the FPL, he was not disqualified because his income was too high. Likewise, inasmuch as the appellant did not have access to insurance from any other sources including his employer, he was not denied coverage for that reason. The last ground is connected with the matter of taxes. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year must file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR section 155.305(f)(4). The appellant testified that he and his wife filed a federal joint tax return for 2015 and reconciled the amount of APTC they received in 2015.

As part of the Open Record Request, the appellant was asked to obtain a transcript from the Internal Revenue Service showing all tax transactions for the 2015 tax year. In response, he submitted a Form 1095-A for himself and his wife. Apart from the fact that he had already submitted those forms with his appeal, they do not demonstrate

CONNECTOR APPEALS UNIT

either that they filed a joint tax return for 2015 or reconciled the amount of APTCs they received for that year. In light of the appellant's July 24, 2017 attestation regarding filing taxes and reconciliation of APTCs, it may be that since the appellant and his wife created two applications in the system in 2015, the attestations only apply to one of those applications, and the same attestations are necessary for the second application.

The appellant's eligibility for subsidized insurance will continued to be blocked if he cannot demonstrate compliance with the tax filing requirements. He is again advised to obtain a transcript from the IRS (see Addendum below) or to contact customer service at 1-877-623-6765 regarding the need for additional proof to verify compliance with the reconciliation requirement.

Based on the totality of evidence, it is concluded that the Connector's determination on August 18, 2017 regarding the appellant's eligibility for Health Connector Plans was correct at the time of the application, and is therefore affirmed.

ORDER

The appeal is denied.

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

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

CONNECTOR APPEALS UNIT

ADDENDUM

A transcript from the Internal Revenue Service can be obtained at www.IRS.gov or by calling 1-800-829-1040.

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Denied

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

Hearing Date: October 11, 2017

Decision Date: October 27, 2017

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; Title 801 of the Code of Massachusetts Regulations, section 1.02; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated July 31, 2017, the appellant was advised that he did not qualify for health insurance through the Health Connector because he had access to Medicare or was enrolled in Medicare. (Ex. 1) The appellant filed a Hearing Request Form which was received on August 31, 2017. (Ex. 2) The matter was referred to a hearing after receipt of the appeal. (Ex.8)

ISSUE

CONNECTOR APPEALS UNIT

Was the Connector's decision regarding the appellant's qualification for health insurance through the Health Connector correct at the time of its determination on July 31, 2017, pursuant to 42 U.S.C. 1395ss?

HEARING RECORD

The appellant's mother appeared on the appellant's behalf at the hearing which was held by telephone on October 11, 2017, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Health Connector Notice of Eligibility Determination dated July 31, 2017 (6 pages)

Ex. 2—Hearing Request Form received on August 31, 2017

Ex. 3—Acknowledgment of Appeal dated September 7, 2017 (5 pages)

Ex. 4—Appeals Unit Notes

Ex. 5—Computer printout of Health Connector's Eligibility Determination Results (3 pages)

Ex. 6—Computer printout of Health Connector's Review of Application (3 pages)

Ex. 7—Computer printout of Health Connector's "AVV" tool showing information from the application database for the appellant

Ex. 8—Notice of Hearing (4 pages)

Ex. 9—Affidavit of Connector representative

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 41-years-old and is single. (Testimony)
2. The appellant has been a recipient of social security disability benefits and has had health insurance through Medicare for approximately six years. He also has supplemental insurance with MassHealth. (Testimony, Exs.1,6,7)
3. The appellant is concerned about maintaining his MassHealth coverage and filed an appeal for that reason. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

CONNECTOR APPEALS UNIT

Pursuant to 42 USC 1395ss(d)(3)(A)(i), the Health Connector is not permitted to sell non-group health insurance to applicants who are eligible for Medicare.

The appellant does not dispute that he is the recipient of social security disability benefits and has health insurance through Medicare. His testimony was corroborated by information provided to the Health Connector from the federal government which established that he has access to or is enrolled in Medicare. His enrollment in Medicare makes him ineligible to shop at the Connector for subsidized or unsubsidized insurance pursuant to the aforesaid regulation.

Based upon the foregoing, it is concluded that the Connector's determination regarding the appellant's eligibility for health insurance through the Health Connector was correct at the time of the application, and is therefore affirmed.

ORDER

The appeal is denied.

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

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

CONNECTOR APPEALS UNIT

If the appellant needs additional information, he is advised to contact the SHINE (Serving the Health Insurance Needs of Everyone) program at 1-800-243-4636 for free health insurance information, counseling and assistance for Massachusetts residents with Medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: October 12, 2017

Decision Date: October 20, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 31, 2017, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied is because the Appellant has access to Medicare and veteran's benefits or is enrolled in Medicare or Veteran's Administration benefits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for a health plan, based on the Appellant's access to Medicare or Veteran's Administration benefits.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 12, 2017. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in. The following exhibits were marked and admitted into evidence with no objection from the Appellant. The Appellant testified.

Exhibit 1: Health Connector notice of eligibility determination (6 pages, dated August 31, 2017)

Massachusetts Health Connector Appeals Unit

- Exhibit 2: Appellant's appeal request form (2 pages dated September 11, 2017)
- Exhibit 3: Health Connector's Determination Results and Review Computer Printout (5 pages, dated August 31, 2017)
- Exhibit 4: Health Connector's Acknowledgement of Appeal (6 Pages dated September 14, 2017)
- Exhibit 5: Health Connector's Hearing Notice (4 pages, dated September 20, 2017)
- Exhibit 6: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 7: Health Connector's printout from the AVV tool, showing information from the Appellant's database for the Appellant

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on August 31, 2017, based on being eligible for Medicare and Veteran's benefits. (Exhibit 1, Exhibit 3, Exhibit 7)
2. The Appellant was not found eligible for health insurance through the Health Connector for plans starting on August 31, 2017, because the Appellant was eligible for Medicare and in fact had Medicare and Veteran's benefits. ((Exhibit 1, Exhibit 3, Exhibit 7, Appellant's testimony

ANALYSIS AND CONCLUSIONS OF LAW

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

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

When the Appellant's eligibility for 2017 coverage was determined on August 31, 2017, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare and Veteran's Administration benefits. The Appellant confirmed at hearing that he was eligible for Medicare and Veteran's benefits. Because the Appellant was eligible for Medicare and Veteran's Administration benefits, the Health Connector found that the Appellant was not eligible to receive Health insurance plans. This was the correct determination and the Appellant's appeal is therefore denied.

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.

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: October 30, 2017

Decision Date: November 7, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 24, 2017, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing which was held by telephone, on October 30, 2017.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (undated)
- Exhibit 2: Correspondence from Appeals Unit (9 pages)
- Exhibit 3: Notice of Appeal dated September 21, 2017 and support documents (4 pages)
- Exhibit 4: Health Connector Notice on Appeal, dated August 24, 2017 (6 pages)
- Exhibit 5: Eligibility Results and Application Summary (7 pages).

Massachusetts Health Connector Appeals Unit

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on August 24, 2017, based on having access to Medicare or being enrolled in Medicare (Exhibits 4 and 5)
2. At the time of Appellants' application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 5).
3. Appellant filed a Notice of Appeal on September 21, 2017, claiming that the denial was incorrect, due to a medical emergency and due to questions about income (Exhibit 3 and Testimony of Appellant).
4. Appellant was enrolled in Medicare (Testimony of Appellant).
5. Appellant had a medical emergency due to a defective knee replacement (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

When the Appellant's eligibility for 2017 coverage was determined on August 24, 2017, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. The Appellant received a notice dated August 24, 2017 that Appellant did not qualify for health insurance coverage through the Health Connector due to access to or enrollment in Medicare. Appellant was enrolled in Medicare. See Exhibits 3, 4, 5 and Testimony of Appellant, which I find to be credible.

When the Appellant's eligibility for 2017 coverage was determined on August 24, 2017, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare Part A. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I) 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

Massachusetts Health Connector Appeals Unit

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

ADDENDUM

Appellant was given information to contact SHINE (1-800 243-4636) in order to learn about other options for people who have Medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility to obtain health insurance through the Connector based on access to Medicare

Hearing Date: October 30, 2017

Decision Date: November 27, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 12, 2017, the appellant was determined ineligible to purchase Health Connector plans because Appellant had access to or was enrolled in Medicare.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the appellant was not eligible to obtain health insurance through the Connector based on Appellant's access to Medicare.

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 30, 2017. The procedures to be followed during the hearing were explained to the appellant. The appellant was sworn in. The documents in the appellant's appeals file were reviewed with the appellant. Each was marked as an exhibit and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was kept open until November 22, 2017 to give the appellant time to submit additional evidence. As of November 22nd, no additional evidence was received by the Connector from the appellant. The record is now closed.

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

Massachusetts Health Connector Appeals Unit

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 2, 2017 sent to Appellant
- Exhibit 3: Hearing Request Form dated September 25, 2017 submitted by Appellant on September 27, 2017
- Exhibit 4: Letter to Appellant from Connector Appeals Unit acknowledging receipt of appeal request dated October 2, 2017
- Exhibit 5: Health Connector's Results and Summary of Appellant's application computer print-out dated September 12, 2017
- Exhibit 6: Letter to Appellant dated September 12, 2017 from the Health Connector regarding ineligibility for purchase of health insurance plan
- Exhibit 7: Connector's "AVV" print-out regarding program determinations for Appellant from the application database for the appellant
- Exhibit 8: MassHealth member enrollment history

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance coverage through the Connector on September 12, 2017 (Exhibits 5, 6, and Testimony of Appellant).
2. On September 12, 2017, Appellant was found to be ineligible to purchase a Connector health plan because Appellant had access to Medicare or was enrolled in Medicare (Exhibits 5, 6, and 7; and Testimony of Appellant).
3. Appellant filed an appeal of the Connector's determination on September 27, 2017 (Exhibit 3).
4. Appellant was enrolled in Medicare when Appellant applied for Connector coverage. Appellant attested to this on Appellant's application (Testimony of Appellant, Exhibits 5, 7).
5. Appellant believes that she has lost her Medicare coverage (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant applied for health insurance in September, 2017. The Connector determined that Appellant was ineligible to enroll in coverage through the Connector because the appellant had access to Medicare or was already enrolled in the program. Appellant appealed the Connector's denial on September 27, 2017. See the testimony of the appellant and Exhibits 3, 5, 6.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain help paying for health insurance through an advance premium tax credit, an individual,

Massachusetts Health Connector Appeals Unit

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 September 12, 2017 application for a Connector Health plan that Appellant was enrolled in Medicare. At the hearing on October 30, 2017, Appellant testified that she had had MassHealth coverage and Medicare coverage, but she believed that she no longer had any coverage. See Exhibits 5 and 9, and the testimony of the appellant. The record of this hearing was left open to allow the appellant to submit evidence that she no longer had Medicare or MassHealth coverage. Appellant failed to produce any evidence of loss of coverage.

The Connector correctly determined that because she was enrolled in Medicare, Appellant was ineligible to purchase any health insurance plan through the Connector. 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

Appeal Decision: Appeal Denied.

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

Hearing Date: November 16, 2017

Decision Date: November 21, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On September 16, 2017, the Appellant was determined ineligible for Health Connector plans because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant and their Spouse attended the hearing, which was held by telephone, on November 16, 2017. The Appellant appointed their Spouse as their Authorized Representative for the hearing. The procedures to be followed during the hearing were reviewed with the Appellant and their Spouse who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the parties.

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

Massachusetts Health Connector Appeals Unit

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing with attachments dated October 18, 2017.
- Exhibit 3: Health Connector's Eligibility Denial notice dated September 16, 2017.
- Exhibit 4: The Appellant's Hearing Request Form with an attachment dated October 02, 2017.
- Exhibit 5: Health Connector's 2017 Eligibility Results computer printout with an Application Summary dated September 16, 2017.
- Exhibit 6: Health Connector's Printout from the "AVV" tool showing information from the application data base for the Appellant.
- Exhibit 7: Health Connector Appeals Unit Outreach Notes.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant submitted an eligibility review/application to the Health Connector on September 16, 2017 (Exhibit 5).
2. Information provided to the Health Connector from the federal government verified that the Appellant was eligible for Medicare (Exhibits 5, 6).
3. On September 16, 2017 the Health Connector determined that the Appellant was ineligible for Health Connector plans because the Appellant is eligible for Medicare (Exhibit 3).
4. The Appellant filed an appeal on October 2, 2017 citing financial need due to a rent increase (Exhibit 4).
5. The Appellant acknowledges that they are enrolled in Medicare. The Appellant's Spouse testified that the Appellant had been receiving a benefit through MassHealth and filed an appeal because they thought the MassHealth was being terminated.
6. The 2017 Health Connector Eligibility Results printout indicates that the Appellant may be eligible for a MassHealth benefit and would receive a separate notice from MassHealth (Exhibits 3, 5).
7. The Appellant was given the MassHealth customer service contact information.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant submitted an eligibility review/application to the Health Connector on September 16, 2017. The Health Connector received information from the federal government which indicated that the Appellant is eligible for Medicare. 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. Because the Appellant is eligible for Medicare, the Health Connector correctly determined on September 16, 2017 that the Appellant is not eligible for Health Connector Plans.

The Appellant, by their representative, acknowledges that the Appellant is a Medicare recipient and is therefore not eligible for Health Connector Plans. The Appellant and their spouse had questions regarding

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the Appellant's continued eligibility for a MassHealth benefit. As explained at the Hearing, the Health Connector does not have jurisdiction to determine the Appellant's MassHealth eligibility. 956 CMR 12.02.

The Health Connector correctly determined the Appellant's ineligibility for Health Connector Plans. This 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.

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Addendum

The Appellant is advised to contact MassHealth customer service at 1-800-841-2900. The Appellant may also contact 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.