

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: November 8, 2023

Decision Date: November 22, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 23, 2023, the Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant's Authorized Representative appeared at the hearing, which was held by telephone, on November 8, 2023.

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

Exhibit 1:	Health Connector's Hearing Record Affidavit	(1 P, undated)
Exhibit 2:	Appellant's Appeal Request Form	(4 PP, received 9/11/2023)

Exhibit 3:	Health Connector’s Acknowledgment of Appeal	(1 P, dated	9/18/ 2023)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	(1 P, dated	10/18/ 2023)
Exhibit 5:	Health Connector’s Application Summary	(3 PP, dated	8/23/ 2023)
Exhibit 6:	Health Connector’s Eligibility Results	(3 PP, dated	8/23/2023)
Exhibit 7:	Health Connector’s Eligibility Denial	(8 PP, dated	8/23/2023)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated	8/23/ 2023)
Exhibit 9:	Health Connector’s Appeals Unit Staff Notes	(1 P, dated	9/20/ 2023)
Exhibit 10:	Email from the Connector	(1 P, dated	9/20/ 2023)
Exhibit 11:	Health Connector’s Application Summary	(3 PP, dated	3/22/ 2023)
Exhibit 12:	Health Connector’s Eligibility Results	(3 PP, dated	3/22/2023)
Exhibit 13:	Medicaid Household Determination	(8 PP, dated	3/22/ 2023)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on August 23, 2023, based on being eligible for and enrolled in Medicare. (Exhibit 1, Exhibit 6, Exhibit 7, Exhibit 9).
2. The Appellant is age 65, single, is a non-tax filer, receives monthly Social Security, and is enrolled in Medicare. (Exhibits 1, 5-9).
3. The Appellant has never been enrolled in Connectorcare. (Exhibits 1 and 9).
4. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare and is in fact has been enrolled in Medicare(Exhibit 1, Exhibit 6, Exhibit 7, Exhibit 9, Authorized Representative Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on his appeal request form that he is now ineligible for MassHealth and that he can’t afford coverage without MassHealth. (Exhibits 1 and 2).

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

When the Appellant’s eligibility for 2023 coverage was determined on August 23, 2023, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant’s appeal is therefore denied.

ORDER

The appeal is denied.

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

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

Cc: Health Connector Appeals Unit

Addendum

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

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

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

Hearing Date: November 8, 2023,

Decision Date: November 22, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 23, 2023, the Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant's Authorized Representative appeared at the hearing, which was held by telephone, on November 8, 2023.

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

Exhibit 1:	Health Connector’s Hearing Record Affidavit	(1 P, undated)
Exhibit 2:	Appellant’s Appeal Request Form	(6 PP, received 9/11/2023)
Exhibit 3:	Health Connector’s Acknowledgment of Appeal	(1 P, dated 9/20/ 2023)
Exhibit 4:	Health Connector’s Notice of Appeal Hearing	(1 P, dated 10/18/ 2023)
Exhibit 5:	Health Connector’s Application Summary	(3 PP, dated 8/23/ 2023)
Exhibit 6:	Health Connector’s Eligibility Results	(3 PP, dated 8/23/2023)
Exhibit 7:	Health Connector’s Eligibility Denial	(8 PP, dated 8/23/2023)
Exhibit 8:	Medicaid Household Determination	(8 PP, dated 8/23/ 2023)
Exhibit 9:	Health Connector’s Appeals Unit Staff Notes	(1 P, dated 9/20/ 2023)
Exhibit 10:	Email from the Connector	(1 P, dated 9/20/ 2023)
Exhibit 11:	Health Connector’s Application Summary	(3 PP, dated 3/12/ 2023)
Exhibit 12:	Health Connector’s Eligibility Results	(3 PP, dated 3/12/2023)
Exhibit 13:	Medicaid Household Determination	(8 PP, dated 3/12/ 2023)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on August 23, 2023, based on being eligible for and enrolled in Medicare. (Exhibit 1, Exhibit 6, Exhibit 7, Exhibit 9).
2. The Appellant is age 65, single, is a tax filer, receives monthly Social Security, and is enrolled in Medicare. (Exhibits 1, 5-9).
3. The Appellant has never been enrolled in Connectorcare. (Exhibits 1 and 9).
4. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare and is in fact has been enrolled in Medicare (Exhibit 1, Exhibit 6, Exhibit 7, Exhibit 9, Authorized Representative Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on his appeal request form that he is now ineligible for MassHealth and that he can’t afford coverage without MassHealth. (Exhibits 1 and 2).

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

When the Appellant’s eligibility for 2023 coverage was determined on August 23, 2023, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant’s appeal is therefore denied.

ORDER

The appeal is denied.

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Cc: Health Connector Appeals Unit

Addendum

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

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Denial of eligibility for special enrollment period.

Hearing Date: November 1, 2023

Decision Date: November 10, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on August 22, 2023, that he was not eligible for a special enrollment period in which to purchase health insurance.

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was not eligible for a special enrollment period in which to purchase health insurance.

HEARING RECORD

Appellant and a family member appeared at the hearing, which was held by telephone on November 1, 2023. The hearing record consists of the testimony of Appellant and his family member, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (8/29/23) (7 pages)
- Exhibit 2: Health Connector Record Affidavit (2 pages)
- Exhibit 3: Eligibility Determination (8/22/23) (8 pages)
- Exhibit 4: Special Enrollment Period Denial Notice (8/22/23) (6 pages)

Massachusetts Health Connector Appeals Unit



- Exhibit 5: Screen Shot of eligibility determination (3 pages)
- Exhibit 6: Screen Shot of application summary (3 pages)
- Exhibit 7: Medicaid determination (8 pages)
- Exhibit 8: Appeals Unit database notes (1 page)
- Exhibit 9: Notice of Appeal Hearing (9/7/23) (3 pages)
- Exhibit 10: Acknowledgement of Appeal (1 page)
- Exhibit 11: OPP Application and Information (6 pages)

FINDINGS OF FACT

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

The record shows, and I so find:

1. At the start of 2023, Appellant was on an unpaid leave from his regular job. He received health insurance through that job, but during the period of his leave he had to pay for the insurance directly, because the premium was not being taken out of his paycheck.
2. Because of a late payment, the insurance was cancelled in March.
3. Appellant tried to re-enroll but, because of various lapses in communication, he missed the period during which he could re-enroll. He was told by his employer that he would not be able to re-enroll in insurance until July 2024.
4. After that happened, Applied applied in August 2023, for health insurance through the Health Connector. Exhibit 6.
5. At that time, the annual open enrollment period during which individuals could sign up for health insurance had already ended. The annual open enrollment period for 2023 ended on January 23, 2023. <https://www.mahealthconnector.org/help-center-answers/when-is-open-enrollment-and-when-do-health-connector-plans-start>
6. When he was asked in his application, Appellant did not provide any reasons for a special enrollment period that would permit him to enroll outside of open enrollment period. Thus, he was not permitted to enroll at that time.
7. He was notified of this fact by letter dated August 22, 2023. Exhibit 4.
8. Appellant filed a timely appeal of that notice. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible for a special enrollment period in which to purchase health insurance.

Massachusetts Health Connector Appeals Unit



Under federal and state law, enrollment in health insurance plans is limited to a certain time of the year, called open enrollment period. See 42 U.S.C. § 18031(c)(6)(B); 45 C.F.R. § 155.401(a). See also Mass. Gen. Laws ch. 176J, § 4. The annual open enrollment period for 2023 coverage ended on January 23, 2023.

There are exceptions to this rule, known as “special enrollment periods.” Special enrollment periods are allowed only under certain circumstances, known as “qualifying events.” Such events are situations in which an individual has lost other insurance coverage due to a move from another state, a recent loss of a job, or divorce. See 42 U.S.C. § 18031(c)(6)(C), incorporating 26 U.S.C. § 9801(f). See also 45 C.F.R. § 155.420. When such an event occurs, an individual has 60 days after the event within which to enroll. 45 C.F.R. § 155.420(c)(1).

In this case, Appellant did not meet these qualifications for a special enrollment period. He had lost his health insurance through his job because of non-payment of premiums. The regulations governing special enrollment periods specifically state that loss of insurance due to non-payment is *not* a reason for a special enrollment period. 45 C.F.R. § 155.420(e)(1). Further, Appellant lost his insurance in March, but did not seek to enroll through the Health Connector until August, which is longer than the 60-day period permitted under the regulations.

Appellant has the option of applying for a waiver of the open enrollment restriction. The waiver can be granted by the state’s Office of Patient Protection (OPP). See Mass. Gen. Laws c. 176J, § 4(a)(4). To apply for a waiver, an individual must complete and submit an application form that can be found at this website: <https://www.mass.gov/service-details/request-an-open-enrollment-waiver>.

Further, by the time of the hearing, a new open enrollment period had begun. The current open enrollment period runs from November 1, 2023 through January 23, 2024. See <https://www.mahealthconnector.org/help-center-answers/general-information/when-is-open-enrollment-and-when-do-health-connector-plans-start>. During that time period, Appellant can apply for insurance without stating a reason for a special enrollment period. If he enrolls in November or December, coverage will be effective January 1. If he enrolls in January, it will be effective February 1.

Because the Health Connector correctly determined that Appellant did not qualify for a special enrollment period after open enrollment ended, I am denying this appeal.

ORDER

The appeal is denied.

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

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

Massachusetts Health Connector Appeals Unit



Hearing Officer

Cc: Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Eligibility for health insurance and for special enrollment peri.

Hearing Date: November 1, 2023

Decision Date: November 10, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on July 21, 2023, that he was eligible to receive insurance through the Health Connector. He was further notified on August 21, 2023 that he was not eligible for a special enrollment period in which to purchase health insurance.

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for insurance and for a special enrollment period in which to purchase health insurance.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 1, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (9/5/23) (4 pages)
- Exhibit 2: Health Connector Record Affidavit (2 pages)
- Exhibit 3: Eligibility Determination (7/21/23) (4 pages)
- Exhibit 4: Special Enrollment Period Notice (8/21/23) (7 pages)

- Exhibit 5: Screen Shot of eligibility determination (3 pages)
- Exhibit 6: Screen Shot of application summary (3 pages)
- Exhibit 7: Medicaid determination (8 pages)
- Exhibit 8: Appeals Unit database notes (1 page)
- Exhibit 9: Email to Appellant (9/6/23) (1 page)
- Exhibit 10: Eligibility Denial Notice (9/23/22) (6 pages)
- Exhibit 11: Screen shot of eligibility determination (9/23/22) (2 pages)
- Exhibit 12: Screen shot of application summary (9/23/22) (3 pages)
- Exhibit 13: Medicaid determination (9/23/22) (6 pages)
- Exhibit 14: hearing Notice (10/12/23) (3 pages)
- Exhibit 15: Acknowledgement of Appeal (1 page)

FINDINGS OF FACT

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

The record shows, and I so find:

1. Appellant had applied for insurance in September 2022. At that time, he was determined eligible for the Health Safety Net, which is a program of limited health coverage for low-income individuals run by the Commonwealth's Executive Office of Health and Human Services. Exhibit 11. At the time, Appellant stated that his income was about \$7700 annually. Exhibit 12.
2. In July 2023, Appellant updated the information in his application. At that time, he stated that his income was about \$55,000 annually. Exhibit 6.
3. Based on that income, Appellant was determined to be no longer eligible for Health Safety Net. He received notice of that from the state office that ran that program. See Exhibit 1, page 3.
4. However, based on the information Appellant provided in July 2023, he was determined eligible to obtain health insurance through the Health Connector. Exhibit 5. Unlike the Health Safety Net, this would be comprehensive health insurance that covers a broad range of services. He was notified of that fact by notice dated July 21, 2023. Exhibit 3.
5. Further, he was determined eligible to purchase insurance even though the annual open enrollment period was over. He was notified of that fact on August 21, 2023. Exhibit 4. He was able to enroll in insurance through November 23, 2023. Exhibit 5.
6. Despite the fact that Appellant had received two favorable notices from the Health Connector, Appellant sent in a notice of appeal, which was received on September 5, 2023. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was eligible for health insurance and for a special enrollment period in which to purchase health insurance.

Massachusetts Health Connector Appeals Unit



It appears, based on the facts, that Appellant does not actually have a cause to appeal to the Health Connector. He received favorable notices of eligibility in July and August 2023, which permitted him to purchase health insurance. At the hearing, he stated that he did not have a grievance about either of these determinations. He confirmed that the income figure used by the Health Connector to determine the amount of financial assistance was correct. Accordingly there is no dispute between Appellant and the Health Connector to resolve.

Appellant was determined eligible to purchase health insurance with a subsidy. The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act. 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). The amount of APTCs is determined under a formula that depends on the calculation of the person's household income as a percent of the federal poverty limit (FPL). *Id.* The FPL is a threshold determined annually by the federal government based on household income and size; it is used to determine eligibility for a range of federal assistance programs. *See* 42 U.S.C. § 9902(2).

In 2023, when Appellant's eligibility calculation was made, the FPL for a household of one person, like Appellant's, was \$13,590. *See* [Federal Poverty Level \(FPL\) – Massachusetts Health Connector \(mahealthconnector.org\)](https://www.mahealthconnector.org/fpl). Thus, an income of \$55,000, which is what Appellant reported, is more than four times or over 400 percent of the federal poverty limit. Based on that percentage, the amount of APTCs for which an individual is eligible would be very low. That amount is reflected in the eligibility determination for Appellant made by the Health Connector. This determination was not an error, because it was correctly based on the information Appellant provided. Further, based on that income, Appellant would no longer be eligible for the Health Safety Net program that he had been receiving in the past when his income was lower.

Appellant was also determined eligible for a special enrollment period permitting him to enroll. Under federal and state law, enrollment in health insurance plans is limited to a certain time of the year, called open enrollment period. *See* 42 U.S.C. § 18031(c)(6)(B); 45 C.F.R. § 155.401(a). *See also* Mass. Gen. Laws ch. 176J, § 4. The annual open enrollment period for 2023 coverage ended on January 23, 2023. There are exceptions to this rule, known as "special enrollment periods." If an individual receives a special enrollment period, they can enroll outside of open enrollment.

In this case, Appellant was determined to qualify for a special enrollment period that will end on November 23, 2023. Exhibit 5. At the hearing, he was reminded of this fact and was urged to enroll in health insurance before that date. Appellant can enroll on-line at www.mahealthconnector.org or by calling the Health Connector's customer service line at 877-623-6765.

Further, by the time of the hearing, a new open enrollment period had begun. The current open enrollment period runs from November 1, 2023 through January 23, 2024. *See* <https://www.mahealthconnector.org/help-center-answers/general-information/when-is-open-enrollment-and-when-do-health-connector-plans-start>. During that time period, Appellant can apply for insurance without stating a reason for a special enrollment period. If he enrolls in November or December, coverage will be effective January 1. If he enrolls in January, it will be effective February 1.

Because the Health Connector correctly determined that Appellant qualified for insurance and for a special enrollment period after open enrollment ended, I am denying this appeal.

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 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

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Denial of eligibility based on household income.

Hearing Date: November 6, 2023

Decision Date: November 10, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on July 30, 2023, that she was not eligible for financial assistance to purchase health insurance plans through the Health Connector because her reported household income was below the federal poverty line.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for financial assistance to purchase health insurance plans through the Health Connector.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 6, 2023. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (7/30/23) (6 pages)
- Exhibit 2: Health Connector Record Affidavit (1 page)
- Exhibit 3: Eligibility Denial Notice (7/30/23) (8 pages)
- Exhibit 4: Screen Shot of Eligibility Determination (2 pages)

- Exhibit 5: Screen Shot of Application Summary (3 pages)
- Exhibit 6: Summary of Medicaid eligibility (6 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: Notice of Appeal Hearing (10/18/23) (3 pages)
- Exhibit 9: Acknowledgement of Appeal (1 page)
- Exhibit 10: Application for Seniors for Health Coverage (43 pages)

FINDINGS OF FACT

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

The record shows, and I so find:

1. Appellant is a single individual living in Norfolk County. Exhibit 5.
2. Appellant turned 65 in early 2023. Exhibit 5.
3. Appellant stated in her application for health insurance through the Health Connector that she has no income. Exhibit 5. She confirmed that fact at the hearing.
4. Prior to the spring of 2023, Appellant was receiving health coverage through MassHealth, which is the state's Medicaid program. This is a program of health coverage for low-income people. It is run by MassHealth, which is a state agency. MassHealth is a different entity than the Health Connector.
5. Not long after her 65th birthday, she was notified that she no longer satisfied the eligibility requirements for MassHealth and she needed to submit a new application designed for persons over 65.
6. At that time, she applied for coverage through the Health Connector. In her application, she stated that she had no income. Exhibit 5.
7. The Health Connector determined that she was not eligible for subsidized health coverage through the Health Connector's programs because her income was too low. Exhibit 4. The Health Connector notified her of this determination by notice dated July 30, 2023. Exhibit 3.
8. Appellant filed a timely appeal of that notice. Exhibit 1.

CONCLUSIONS OF LAW

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

The Health Connector determines eligibility of individuals to receive federal and state subsidies to purchase health insurance. Federal subsidies to purchase health insurance are provided under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). The ACA provides that APTCs are available to "applicable taxpayers." 26 U.S.C. § 36B(a). The phrase "applicable taxpayer" is defined in the statute to mean a taxpayer "whose household income for the taxable year equals or exceeds 100 percent but does not exceed 400 percent of an amount equal to the poverty line for a family of the size involved." *Id.* § 36B(c)(1)(a). The federal poverty line is a threshold determined annually by the federal government based on household size and income; it is used to determine eligibility for a range of federal assistance programs. See 42 U.S.C. § 9902(2).

Massachusetts Health Connector Appeals Unit



In 2023, the federal poverty line for a household of one person, like Appellant's, is \$14,580. See Federal Poverty Level Chart (available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.) As a consequence of these federal statutes, persons with incomes below \$14,580 are not eligible for APTCs. See also 45 C.F.R. § 155.305(f)(1)(i) (federal eligibility regulation stating that an individual will be determined eligible for APTCs if that individual's income is above 100 percent of FPL).

The Health Connector also determines eligibility for Connector Care, which is a program in which state subsidies are added to the APTCs in order to further reduce the cost of health insurance. To be eligible for Connector Care, an individual must qualify for APTCs. 956 CMR § 12.04.

In this case, Appellant is not eligible for APTCs because the income she reported in her application is zero, which of course is below the federal poverty line. She confirmed at the hearing that she did not have any income. The Health Connector is governed by federal law in determining eligibility to receive APTCs, which is a federally-funded benefit. Thus, the Health Connector was required to deny Appellant eligibility based on the clear requirements of the ACA and the undisputed fact that Appellant's reported income was below the federal poverty line. Further, because Appellant was not eligible for APTCs, she was not eligible to receive Connector Care either, under the governing regulation.

It may seem anomalous that having no income disqualifies a person from receiving subsidies. However, the ACA, which establishes this requirement, anticipated that persons with incomes below the federal poverty line would qualify for Medicaid, a joint federal-state program of free health care coverage for low-income persons.

Appellant may be eligible to receive MassHealth, which is the Medicaid program in Massachusetts. Appellant testified that she had MassHealth before her 65th birthday. She stated that she was told she no longer met eligibility requirements after that birthday.

The eligibility requirements for MassHealth are different for persons over 65 than for persons under 65, again as a consequence of federal law, which governs the program. In order to establish eligibility for MassHealth, persons over 65 must submit a written application detailing their income and assets. The Health Connector sent Appellant a copy of the MassHealth application. Exhibit 10. Appellant may also obtain a copy of the application at this website: [download \(mass.gov\)](#). If Appellant needs assistance in completing the application, she can seek the help of an enrollment assister, who has been certified by MassHealth to provide assistance in applying for that program. A list of enrollment assisters can be found at this website: [Enrollment Assister Search – Massachusetts Health Connector \(mahealthconnector.org\)](#). Finally, Appellant can seek assistance from SHINE ("Serving the Health Insurance Needs of Everyone"), a program available to provide cost-free assistance to seniors in obtaining health insurance. The number to call SHINE is 1-800-243-4636.

Appellant stated that she had completed and submitted the senior application for MassHealth. At the time of the hearing, she was awaiting a response from that agency. A determination of eligibility would be made by MassHealth, which is a different agency of the government than the Health Connector. If she were dissatisfied with that determination, she would have to appeal to MassHealth, not the Health Connector.

Because the Health Connector correctly determined that Appellant was not eligible to receive APTCs or Connector Care, I am denying the appeal.

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 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

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Denial of eligibility to obtain Health Connector insurance.

Hearing Date: November 6, 2023

Decision Date: November 10, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant was notified by the Health Connector on September 6, 2023, that he was not eligible for health insurance through the Health Connector.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for health insurance through the Health Connector.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on September 29, 2023. The hearing record consists of testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (9/14/2023) (5 pages)
- Exhibit 2: Health Connector Record Affidavit (2 page)
- Exhibit 3: Eligibility Denial Notice (9/6/23) (6 pages)
- Exhibit 4: Screen Shot of Eligibility Determination (3 pages)
- Exhibit 5: Screen Shot of Application Summary (4 pages)

- Exhibit 6: Medicaid eligibility determination (4 pages)
- Exhibit 7: MassHealth eligibility notice (9/6/2023) (6e pages)
- Exhibit 8: Appeals Unit database notes (1 page)
- Exhibit 9: Screen shot of eligibility determination (8/31/23) (3 pages)
- Exhibit 10: Screen shot of application summary (8/31/2023) (4 pages)
- Exhibit 11: Notice of Appeal Hearing (10/1823) (3 pages)
- Exhibit 12: Acknowledgement of Appeal (1 page)
- Exhibit 13: Medicare notice (1 page)

FINDINGS OF FACT

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

The record shows, and I so find:

1. Appellant turned 65 in August 2023.
2. At the time of his 65th birthday, Appellant applied for Medicare and was enrolled in Parts A and B, which provide coverage for hospitalization and other medical expenses. He did not, however, sign up for Part D, which provides coverage of prescription drug expenses. Medicare is a program of health insurance for persons over 65 run by the federal government.
3. In August, Appellant also applied for coverage through the Health Connector. Exhibit 5.
4. He was determined to be ineligible to receive coverage through the Health Connector because he was eligible for or receiving Medicare. Exhibit 4.
5. Appellant was notified of this determination by the Health Connector by notice dated September 6, 2023. Exhibit 3.
6. Appellant filed a timely appeal of this determination on September 14, 2023. Exhibit 1.

CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible to obtain health insurance through the Health Connector.

The Health Connector provides subsidized health insurance. To do that, the Health Connector determines eligibility of individuals to receive federal subsidies to purchase health insurance under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). The eligibility criteria for APTCs are established by federal law. 26 U.S.C. § 36B. That statute provides that an individual is not eligible for APTCs if that individual is eligible for “minimum essential coverage.” *Id.* § 36B(c)(2)(b). In turn, “minimum essential coverage” means coverage through certain designated programs, specifically including Medicare. *Id.* § 5000A(f)(1)(A)(i),(ii). Thus, an individual who is eligible for or receiving Medicare is *not* eligible under federal law for APTCs.

Massachusetts Health Connector Appeals Unit



Additionally, the Health Connector determines eligibility for Connector Care. That is a program under which state-funded subsidies are added to the APTCs for eligible individuals. To be eligible for Connector Care, an individual must be eligible to receive APTCs. 956 C.M.R. § 12.04. Thus, a person who is receiving Medicare is not eligible for Connector Care because they are not eligible for APTCs. Indeed, it is unlawful for any entity to provide a health insurance plan to anyone who is entitled to benefits under Medicare. 42 U.S.C. § 1395ss(d)(3)(a)(i).

In this case, Appellant is eligible for and receiving Medicare. Accordingly, he is not eligible for subsidized coverage through the Health Connector.

Appellant was enrolled in Medicare as of his 65th birthday. However, he had not enrolled in a prescription drug plan. As a result, he was experiencing difficulty paying for his prescriptions. Appellant is able to sign up for a drug plan during the annual Medicare open enrollment, which runs from October 15 through December 7. [See www.medicare.gov](http://www.medicare.gov). Appellant must act before December 7 or he will be unable to enroll in a drug plan until the following year.

If Appellant wants assistance in selecting and enrolling in a drug plan, he can obtain it through SHINE (Serving Health Insurance Needs of Everyone), which is a state-run program providing free counseling on health insurance benefits to seniors. To set up an appointment with a SHINE counselor, he can call 800-243-4636.

In this case, the Health Connector correctly determined that Appellant was not eligible for benefits through the Connector, because he was already receiving Medicare. Accordingly, I must deny this appeal.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA23-20116

Appeal Decision: Appeal Denied

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

Hearing Date: November 6, 2023

Decision Date: November 13, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 29, 2023, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was enrolled in Medicare.

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 6, 2023.

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

- Exhibit 1: Affidavit and Appeal Request dated August 27, 2023
- Exhibit 2: Eligibility Summary and results dated July 29, 2023
- Exhibit 3: Research and Resolution
- Exhibit 4: Historic Notes Eligibility dated March 23, 2023
- Exhibit 5: Recent Determination None
- Exhibit 6: Notices from Appeals Unit dated October 13, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was determined ineligible for 2023 Health Connector plans on July 29, 2023, based on having access to Medicare or being enrolled in Medicare (Exhibit 2)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 2).
3. At the time of the application for Health Connector plans, Appellant was enrolled in Medicare (Exhibit 2 and Testimony of Appellant).
4. Appellant filed a Notice of Appeal on August 27, 2023 (Exhibit 1).

ANALYSIS AND CONCLUSIONS OF LAW

When the Appellant's eligibility for coverage was determined on July 29, 2023, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. See Exhibits 1, 2 and 3. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for benefits under Medicare Part A or enrolled under Part B of Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I). Because the Appellant was enrolled in Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is therefore denied.

ORDER

The appeal is denied.

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

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

ADDENDUM

Appellant was given the phone numbers for Healthcare for All (1-800 272-4232) and SHINE so that Appellant can learn about other options for health insurance for people enrolled in medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA 23-20203

Appeal Decision: Denied

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

Hearing Date: November 7, 2023

Decision Date: November 9, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 12, 2023 Health Connector determined that the Appellant was not eligible for a Special Enrollment Period because the Appellant had failed to verify that they had a qualifying life event.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 7, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated October 18, 2023.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Special Enrollment Period (SEP) Decision Denial dated August 12, 2023.
- Exhibit 5: 2023 Eligibility Results with an Application Summary dated October 22, 2022.
- Exhibit 6: Health Connector Final Eligibility Renewal Notice dated October 10, 2022.
- Exhibit 7: The Appellant's Online appeal request dated September 8, 2023.

Exhibit 8: Health Connector Appeals Unit Outreach Email dated September 19, 2023 with a referral to the Office of Patient Protection to request a Waiver.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was enrolled in a Health Connector plan for the period of January 1, 2023 through May 31, 2023. The Appellant did not request financial assistance when they completed their 2023 Eligibility Renewal application on October 10, 2022 (Exhibits 3, 5).
2. The Appellant's Health Connector plan was terminated for non-payment of the full required monthly premium payment effective June 1, 2023 (Exhibit 3).
3. On August 12, 2023 Health Connector denied the Appellant's request for a Special Enrollment Period (SEP) to re-enroll in a plan because the Appellant failed to verify that they had experienced a Qualifying Life Event (Exhibit 4).
4. I take administrative notice of the fact that for tax year 2023 the Open Enrollment period to obtain health insurance through the Health Connector was November 1, 2022 through January 15, 2023.
5. The Appellant filed an Appeal on September 8, 2023 (Exhibit 7).
6. On September 19, 2023 the Health Connector Appeals Unit referred the Appellant to the Office of Patient Protection to request a Waiver (Exhibit 8).
7. The Appellant testified that they did not realize until August of 2023 that there was an issue with their Health Connector plan. The Appellant said that they apparently did not pay the full premium but did make monthly payments. The Appellant said that recently Health Connector returned the money paid prior to the termination on May 31, 2023. The Appellant said that they would not seek a Waiver at this time since there are only two months of potential eligibility for tax year 2023 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was enrolled in a Health Connector plan during the period of January 1, 2023 through May 31, 2023. The Appellant's eligibility was terminated because the Appellant failed to pay the full amount of the required monthly premium.

On August 12, 2023, Health Connector denied the Appellant's request for a special enrollment period to re-enroll in a plan because the Appellant had failed to verify that they experienced a qualifying life event in the sixty-day period preceding their attempted enrollment. Open Enrollment for tax year 2023 was from November 1, 2022 through January 15, 2023. The Appellant filed an appeal on September 8, 2023.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG-5. Qualifying life events include marriage, birth or adoption of a child,

loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances.

The evidence in this administrative record verifies that on August 12 2023 Health Connector correctly denied the Appellant's request for an SEP to enroll in a Health Connector plan because the Appellant lost coverage due to non-payment of their monthly premium and did not verify that they experienced a qualifying life event in the sixty-day period preceding the August 12, 2023 application and attempt to enroll in a Health Connector Plan. 45 CFR § 155 and 956 CMR 12.10(5).

ORDER

The Appeal is Denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded that Open Enrollment for tax year 2024 is currently in effect. The Appellant is advised to update their application for tax year 2024.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA23-20216

Appeal Decision: Appeal Denied

Hearing Issue: Denial of a Request for a Premium Waiver or Reduction.

Hearing Date: November 7, 2023

Decision Date: November 9, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 8, 2023, the Health Connector denied the Appellant's request for a Waiver or Reduction of the Appellant's monthly premium contribution.

ISSUE:

Did the Health Connector correctly deny the Appellant's July 24, 2023 Application for a Waiver of the Appellant's monthly ConnectorCare premium based on the Appellant's failure to submit required documentation in support of their request?

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 7, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated October 18, 2023.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Hardship Waiver Denial notice dated August 8, 2023.
- Exhibit 5: 2023 Eligibility Results with an Application Summary dated March 11, 2023.
- Exhibit 6: Medicaid Household Determination Printout dated March 11, 2023.

- Exhibit 7: The Appellant's Online Appeal Request received on September 10, 2023.
Exhibit 8: Health Connector Salesforce Unlimited Customer Service Operations Notes.
Exhibit 9: Health Connector Appeals Unit outreach Email dated September 19, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied for subsidized health insurance on March 11, 2023 for their household of four and reported income equal to 293.31% of the federal poverty level. The Appellant and their spouse were determined eligible for ConnectorCare 3B and the Appellant's two children were determined eligible for MassHealth (Exhibits 5, 6).
2. On July 24, 2023 the Appellant applied for a Waiver of their past due ConnectorCare monthly premium due to financial hardship. The Appellant indicated that the reason for the request was their household had received a utility shutoff notice. The Appellant submitted an Eversource notice dated March 27, 2023 (Exhibit 8).
3. Health Connector contacted the Appellant on July 26, 2023 and July 29, 2023 and left voice mail messages advising the Appellant that March 27, 2023 Eversource bill was too old to be acceptable verification and advised the Appellant to submit additional documentation of financial hardship dated within sixty days of their July 24, 2023 Waiver request (Exhibit 8).
4. On August 8, 2023, Health Connector issued a Hardship Waiver Denial Notice based on the Appellant's failure to submit required documentation to support the Appellant's Waiver Request statement alleging utility shut off notices as the basis of their Waiver request (Exhibit 4).
5. The Appellant filed an Appeal of the Premium Waiver or Reduction denial on September 10, 2023. The Appellant noted that they were able to reach a payment plan agreement with Eversource to avoid the utility shut off. The Appellant indicated high oil bills that resulted in the oil running out at their home (Exhibit 7).
6. The Appellant testified that they do not get voice mail messages at work and voice mail is not always reliably received. The Appellant said that they use oil heat and do not receive shut off notices. If the oil runs out the system shuts off and they must pay extra to have it restarted. The Appellant said that they submitted the March 2023 Eversource bill because this is when their oil bills are high. The Appellant said that they explained this to Customer Service and uploaded other documents. The Appellant said that because of warmer weather they do not have high oil bills dated within sixty days of July 24, 2023 when they requested the Waiver (Appellant Testimony).
7. The Appellant was advised that they could request a Waiver at any time and send in copies of their oil bills now that it is colder. The Appellant said that they have not paid a health insurance premium since March or April (Appellant Testimony).
8. Health Connector Salesforce Unlimited Customer Service kept detailed notes on the communications with the Appellant for the period of July 24, 2023 when the Waiver Request was received through August 8,

9. 2023 when the Request was denied. The only documentation verified to be submitted by the Appellant was the March 27, 2023 Eversource utility notice (Exhibit 8).

ANALYSIS AND CONCLUSIONS OF LAW

On March 11, 2023 the Appellant applied for subsidized health insurance for their household of four. Based on the Appellant's reporting income equal to 293.31% of the federal poverty level, the Appellant and their spouse were determined eligible for ConnectorCare and their two children eligible for MassHealth. On July 24, 2023 the Appellant applied for a Premium Waiver of past due health care premiums due to financial hardship. The Appellant's request was denied on August 8, 2023, and the Appellant filed this Appeal on September 10, 2023.

Under 956 CMR 12.11(5), individuals who are eligible for ConnectorCare and who experience extreme financial hardship may be eligible to have their premium payment waived or reduced. In accordance with Health Connector Policy NG-17 Health Connector, at its discretion, shall determine the amount of waiver or reduction *based on the proof of extreme financial hardship provided* (emphasis added).

The Appellant applied for the Waiver on July 24, 2023 and indicated the reason for the request was that they had received a utility shut off notice. In support of their request, the Appellant submitted a notice from Eversource dated March 27, 2023. On July 26, 2023 and July 29, 2023, Health Connector Customer Service contacted the Appellant and left detailed voice mail messages informing the Appellant that the March 27, 2023 bill was too old to verify current financial hardship and that the Appellant should submit updated documentation verifying their past due utility account. On August 8, 2023 Health Connector denied the Appellant's application for a premium waiver because the Appellant failed to provide required documentation.

The Appellant testified that they requested the Waiver in July, but this is when their utility bills are lower. The Appellant agreed that they had reached a payment agreement with Eversource and were able to stop any shut off of that utility. The Appellant said that they do not receive oil shut off notices but that they have run out of oil when financially unable to fill the oil tank. The Appellant said that their oil bill is not high in the warmer months so the bills in the sixty-day period prior to their Waiver request would not be high.

The Appellant applied for a Premium Waiver on July 24, 2023 alleging financial hardship due to receiving a utility shut off notice. As of August 8, 2023 the Appellant had submitted an Eversource notice dated March 27, 2023 as verification of financial hardship. Health Connector determined in accordance with Policy NG-17 that this was not sufficient to verify extreme financial hardship. The August 8, 2023 denial of the Appellant's application for a Premium Waiver or Reduction was correct.

ORDER

This Appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals) or write a letter requesting an appeal. Include your name, address, and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the

right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded that they may submit another application for a Premium Waiver at any time and submit the documentation needed to support their claim of financial hardship.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA23-20322

Appeal Decision: Appeal denied.

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

Hearing Date: November 9, 2023

Decision Date: November 20, 2023

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated September 13, 2023, the Connector advised the appellant that he did not qualify to enroll in a new or different insurance plan because he did not have a qualifying event. (Ex. 4) The appellant filed an appeal dated September 13, 2023. (Ex. 6) The matter was referred to a hearing after receipt of the appeal. (Ex. 10)

ISSUE

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 9, 2023, with his representative and they testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

- Ex. 1— Health Connector’s Eligibility Determination Results based on a program determination date of September 13, 2023 (3 pages)
- Ex. 2—Health Connector’s Review of Application (3 pages)
- Ex. 3—Health Connector’s Notice of Eligibility Approval dated September 13, 2023 (9 pages)
- Ex. 4— Health Connector’s Notice of Special Enrollment Period Decision dated September 13, 2023 (6 pages)
- Ex. 5— Medicaid Household Determination document (6 pages)

- Ex. 6—Online Appeal Form received on September 13, 2023 (6 pages)
- Ex. 7—Acknowledgment of Appeal dated September 21, 2023 (1page)
- Ex. 8—Health Connector letter with Office of Patient Protection Waiver Form and Instructions (7 pages)
- Ex. 9—Appeals Unit notes (1 page)
- Ex. 10--Notice of Hearing (3 pages)
- Ex. 11—Affidavit of Connector representative (1 page)
- Ex. 12—Authorized Designated Representative Form dated November 8, 2023 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 28 -years-old, is married and has a tax household size one. (Testimony, Ex. 2) ¹
2. The appellant worked with a case manager in or around April, 2023, whom he believed filed an application on his behalf for health insurance with the Health Connector. He believes that he was determined to be ineligible to apply because he was outside of the Open Enrollment Period. (Testimony of appellant)
3. The Connector does not have any record of an application for insurance having been filed by the appellant in or around the April, 2023, time frame. (Ex. 9)
4. The case manager filed an application to waive the Open Enrollment Period with the Office of Patient Protection (OPP) on May 19, 2023. The appellant did not receive a response and the case manager left several messages with the OPP regarding the status of the application. None of the messages was returned. (Testimony of current case manager)
5. The appellant applied for health insurance through the Health Connector on September 13, 2023. By notice of the same date, the Connector advised the appellant that he was eligible for a Health Connector Plan with an Advanced Premium Tax Credit (APTC). (Testimony of appellant, Ex. 3)
6. By notice dated September 13, 2023, the Connector advised the appellant that he did not qualify for health insurance because he did not have a qualifying life event that would allow him to enroll in or change plans outside of the Open Enrollment period. (Ex. 4)
7. The appellant filed an appeal of the Connector’s denial of a qualifying life event on September 13, 2023, and stated in part that he had had a recent change in his medical status and needed medication. (Testimony of appellant, Ex. 6)

ANALYSIS AND CONCLUSIONS OF LAW

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

¹ On his application, the appellant did not indicate he was married and did not list any other members of his household besides himself.

open enrollment an individual may be granted a SEP, during which the individual can enroll in coverage, because s/he experiences a qualifying life event, such as a change in household composition or loss of coverage.

I take administrative notice of the fact that the open enrollment period for health insurance for 2023 ended on January 23, 2023, for the commercial non-group market, and that closed enrollment runs from January 24, 2023 to October 31, 2023.

With respect to the application that the appellant alleges was filed by his former case manager in or around April, 2023, there is no evidence in the record to corroborate his claim. With respect to the application filed on September 13, 2023, the appellant did not enumerate any circumstances that fall within the parameters of the foregoing regulations and as such, did not establish a qualifying event which would entitle him to a SEP.

Based on the totality of the evidence, it is concluded that the appellant failed to establish that he qualified for a SEP.

ORDER

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant was advised to contact the Office of Patient Protection to request a waiver of the open enrollment period at <https://www.mass.gov/how-to/how-to-request-an-open-enrollment-waiver>, or by calling 800-436-7757. He was further advised to take notice of the time frame of the 2024 Open Enrollment Period which began on November 1, 2023.