

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Income amount used to determine eligibility for subsidized Health Connector plans

Hearing Date: September 28, 2017

Decision Date: October 06, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Appellant applied for subsidized health insurance on July 12, 2017. The Health Connector determined the Appellant to be eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credits.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is eligible for ConnectorCare Plan Type 3A, based on the information provided on the application.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 28, 2017. The Appellant's spouse and a social worker from the Council on Aging appeared as witnesses. The hearing record consists of the testimony of the parties 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 dated September 13, 2017.
- Exhibit 3: Health Connector Eligibility Approval Notice with attachments dated July 12, 2017.
- Exhibit 4: Hearing Request Form submitted by the Appellant on July 27, 2017.
- Exhibit 5: Health Connector Appeals Unit Outreach Notes.
- Exhibit 6: Health Connector's 2017 Eligibility Results computer printout with the Appellant's Application Summary dated July 12, 2017.
- Exhibit 7: Health Connector's 2017 Eligibility Results computer printout dated March 28, 2017.

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 62-year-old married person who applied for subsidized health insurance through the Health Connector on July 12, 2017 (Exhibit 6).
2. The Appellant has a tax household size of two (Exhibits 6, 7).
3. On their application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$33,387.54 for 2017 (Exhibit 6).
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place Appellant at approximately 208.41% of the 2017 Federal Poverty Level (FPL) (Exhibit 6).
5. The Health Connector correctly found that the Appellant was eligible for state subsidized health insurance ConnectorCare Plan Type 3A because the Appellant's self-attested projected income placed their household at more than 200% but less than 250% of the Federal Poverty Level. (Exhibits 3, 6).
6. The Health Connector correctly determined the Appellant eligible for APTC of \$230.00 based on the fact that there are good high-quality health insurance plans available to the Appellant through the Connector at an affordable premium given the appellant is a tax household of two with MAGI of \$33,387.54 (Exhibits 3, 6).
7. The Appellant testified that the income entered was correct. The Appellant explained that they and their spouse have multiple medical problems and require medical care with various providers on a regular basis. The Appellant said that after paying for monthly living expenses, they do not have sufficient funds to pay the monthly health insurance premium as well as all the copayments for provider visits and medication. I found the Appellant's testimony credible.
8. The social worker who attended the Hearing testified that the Appellant and their spouse have failed to attend multiple medical appointments because they cannot afford the copayments and meet their living expenses.

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on July 12, 2017. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these

## Massachusetts Health Connector Appeals Unit

premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant stated on their application that their projected MAGI for their tax household of two was \$33,387.54. This income is equivalent to approximately 208.41% of the Federal Poverty Level and renders the Appellant financially eligible for state subsidies. Since the Appellant's projected MAGI is more than 200% but less than 250% of the Federal Poverty Level the Health Connector correctly determined that the Appellant is eligible for Plan Type 3A. 956 CMR 12.04(3). Since the Appellant's projected income is less than 400% of the Federal Poverty Level, the Appellant was also determined eligible for APTC of \$230. The Appellant argues that they need additional assistance because they cannot afford to pay a monthly health insurance premium.

Tax credit amounts are determined by various factors, including household income, the number of persons in the tax household and the cost of the second least-expensive Silver Plan available in the market area. 26 IRC § 36B (2). The Appellant is a tax household of two with projected MAGI of \$33,387. The Connector determined that there are good high-quality health plans available to the Appellant through the Health Connector at an affordable premium with APTC of \$230. The Health Connector correctly determined that the appellant is eligible for an APTC amount of \$230.00.

### 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 was advised to contact Health Connector Customer Service to apply for a Waiver or Reduction of Enrollee Premium Contribution for Extreme Financial Hardship. 956 CMR 12.11(5).

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## FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Income amount used to determine eligibility for Health Connector plans

Hearing Date: October 3, 2017

Decision Date: October 10, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Appellant applied for subsidized health insurance on August 7, 2017. The Health Connector determined the Appellant to be eligible for Health Connector Plans with Advance Premium Tax Credits.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is eligible for Health Connector Plans with Advance Premium Tax Credits of \$37.00 based on the information provided on the application.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 03, 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.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated September 11, 2017.

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- Exhibit 3: Health Connector Eligibility Approval Notice dated August 7, 2017.
- Exhibit 4: Hearing Request Form submitted by the Appellant on August 14, 2017 with attachments.
- Exhibit 5: Health Connector Appeals Unit Outreach Notes.
- Exhibit 6: Health Connector's 2017 Eligibility Results computer printout with the Appellant's Application Summary dated August 7, 2017.
- Exhibit 7: Health Connector's 2016 Eligibility Results computer printout dated September 22, 2016.

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 57-year-old individual who applied for subsidized health insurance through the Health Connector on August 7, 2017 (Exhibit 6).
2. The Appellant has a tax household size of one (Exhibit 6).
3. On their application, the Appellant entered bi-weekly income of \$2,033.60<sup>1</sup> and a projected annual modified adjusted gross income (MAGI) of \$40,873.60 for 2017 (Exhibit 6).
4. The Health Connector found, based on the projected annual income and household size, that the Appellant's projected MAGI would place Appellant at approximately 344.05% of the 2017 Federal Poverty Level (FPL) (Exhibit 6).
5. The Health Connector found that the Appellant was not eligible for state subsidized health insurance because the Appellant's self-attested projected income placed their household at more than 300% of the Federal Poverty Level. (Exhibits 3, 6).
6. The Health Connector determined the Appellant eligible for APTC of \$37.00. based on a projected MAGI of \$40,873.60, which is less than 400% of the Federal Poverty Level for the Appellant's tax household of one (Exhibits 3, 6).
7. The Appellant testified that they did not report an annual income of \$40,873.60. The Appellant maintains this is a Health Connector error. The Appellant stated that the bi-weekly income of \$2,033.60 is correct. The Appellant acknowledges that their MAGI exceeds 400% of the federal poverty level, which is \$48,420 for a tax household of one person. The Appellant objects to the use of the MAGI standard and argues that the Health Connector should take into consideration the Appellant's monthly living and continuing education expenses. The Appellant argues that after paying for essential living and work-related expenses, they do not have sufficient funds to purchase health insurance (Exhibits 4, 5, 6 and Appellant Testimony).

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on August 7, 2017. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL

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<sup>1</sup> The bi-weekly income reported is equivalent to \$52,881 annually.

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qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant reported bi-weekly income of \$2,033.60 on their application. A projected yearly income figure of \$40,873.60 was also noted. The Health Connector used the annual income figure and found the income equivalent to approximately 344.05% of the Federal Poverty Level. The Appellant was correctly determined financially ineligible for state subsidies. The annual income figure was less than 400% of the Federal Poverty Level, which is \$48,240 for the Appellant's tax household of one. Based on this projected income figure, the Health Connector determined the Appellant eligible for APTC of \$37.00 per month.

The Appellant agrees that they correctly reported their bi-weekly income. The Appellant also agrees that their projected MAGI of \$52,881 exceeds 400% of the federal poverty level. The Appellant maintains the \$40,873.60 income figure was a Health Connector error. While the Appellant agrees that their projected MAGI exceeds 400% of the Federal Poverty Level, the Appellant argues that this should not be the standard used to determine eligibility for subsidies. The Appellant believes that living and continuing education expenses should be considered. The Appellant maintains that health insurance premiums are too costly and they cannot afford to purchase quality health insurance.

The Health Connector correctly determined that the Appellant is eligible for Health Connector Plans. Since the Appellant's MAGI exceeds 400% of the federal poverty level, the determination that the Appellant is eligible for APTC is incorrect.

### 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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: September 18, 2017 Decision Date: September 29, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 19, 2017, Appellant was determined ineligible for subsidized Health Connector plans, due to failure to verify income

### ISSUE

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on September 18, 2017.

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

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

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- Exhibit 2: Correspondence from Connector Appeals Unit
- Exhibit 3: Hearing Request Form and support documents, signed by Appellant on August 9, 2017
- Exhibit 4: Appeals Unit Outreach and customer service notes
- Exhibit 5: Notice on appeal, dated July 19, 2017
- Exhibit 6: Eligibility Results and Application Summary
- Exhibit 7: Historic Eligibility Results

### FINDINGS OF FACT

The record shows, and I so find:

1. In early 2017, Appellant had been covered by MassHealth (Testimony of Appellant).
2. On June 11, 2017, MassHealth requested further information about Appellant's income on or before July 10, 2017(Exhibit 7).
3. Appellant did not provide MassHealth with the further information about income by July 10, 2017 (Exhibit 5).
4. In an eligibility determination on July 19, 2017, Appellant was found eligible for Health Connector Plans without subsidies (Exhibit 5).
5. After Appellant received the July 19, 2017 notice, Appellant contacted MassHealth and the Health Connector and was informed that subsidies were denied since Appellant had not submitted the requested documents regarding income (Testimony of Appellant).
6. Appellant sent documents regarding income to MassHealth and the Health Connector in in early August 2017 (Testimony of Representative).
7. On or about August 7, 2017, Appellant was found eligible for a ConnectorCare Plan Type 2B with Advance Premium Tax Credit (Exhibit 6).
8. Appellant's income varies and the verification documents that Appellant sent in may be higher than Appellant's usual income (Testimony of Appellant).

### ANALYSIS AND CONCLUSIONS OF LAW

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

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The Appellant has now sent in documents verifying income and has received a new eligibility determination. However, on July 19, 2017, the Health Connector correctly found that the Appellant was eligible for Health Connector plans without subsidies, based on electronic data sources after the Appellant failed to verify income, and that determination is upheld.

### ORDER

The appeal is denied.

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

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

### ADDENDUM

Appellant was advised to log on or call customer service (1-877-623-6765) since Appellant believes that the income used in the new determination may be higher than Appellant's projected income.

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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Allowed.

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

Hearing Date: October 12, 2017

Decision Date: October 16, 2017

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## AUTHORITY

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

## JURISDICTION

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

## ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 28, 2016, Appellant was determined eligible for Health Connector plans without subsidies but was determined ineligible for a special enrollment period due to failure to have a life qualifying 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 life qualifying event.

## 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 (4 pages, dated June 6, 2017)

Exhibit 2: Appellant's appeal request form (2 pages dated 8/28/17)

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- Exhibit 3: Health Connector's Eligibility Determination Results & Review Computer Printout (3 pages, dated 8/28/16)
- Exhibit 5: Health Connector's Acknowledgement of Appeal (3 Pages dated September 12, 2017)
- Exhibit 6: Health Connector's Hearing Notice (4 pages, dated September 20, 2017)
- Exhibit 8: Health Connector's Hearing Record Affidavit (1 page, undated)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies on August 28, 2016. (Exhibit 3)
2. The Appellant testified that she failed to make payments timely. Appellant received a letter on June 6, 2017 indicating that she was dis-enrolled for failure to make payments but had until July 12, 2017 to enroll in coverage. Appellant called the Connector and was told to make her late payments. Appellant made her late payments. (Appellant testimony)
3. Appellant testified that she did not receive any further bills. Appellant testified that she did not know that she had to re-enroll in the Connector. Appellant testified that she did not receive a letter or any other communication from the Connector indicating that she need to re-enroll in her health plan. (Appellant testimony)
4. Appellant called the Connector in August, 2017 and was informed that she was terminated because she had failed to enroll in a health plan. (Appellant testimony)
5. Appellant tried to re-enroll but was told, she was ineligible because it was after the enrollment period ended. (Appellant testimony)

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans without subsidies but was not granted a special enrollment period and therefore could not enroll in coverage. The Appellant asserts that this determination was incorrect and that the Appellant should be permitted to enroll in coverage through the Health Connector. Under 45 CFR s. 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 event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420.

Appellant's testimony qualified as a qualifying event under the Health Connector's policy NG-1E s. 7, 'Was enrolled (or not enrolled in a QHP/QDP unintentionally, inadvertently, or as the result of the error, misrepresentation, misconduct, or inaction of an officer, employee or agent, of the Health Connector, the U.S. Department of Health and Human Services (HHS), or non-Exchange entities providing enrollment activities, as

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determined by the Health Connector. An error would include incorrect calculation of Advance Premium Tax Credits or Cost Sharing Reductions.’ (45 CFR s.155.420(d)(4)

The Appellant was enrolled in the Health Connector within the appropriate time period. Appellant was late in her payments and called the Connector and was told to make her late payments, which she made. Appellant was not told she had to enroll in the Health Connector nor did she receive notice concerning enrolling in the Health Connect nor did she receive any further bills from the Connector. Appellant was informed that it was too late to reapply to the Connector because it was outside the Open Enrollment period and she did not qualify for a Special Enrollment Period. This was an incorrect determination and the Appellant’s appeal is therefore allowed.

### ORDER

The appeal is Allowed. The Connector is ordered to allow the Appellant to enroll in an unsubsidized health insurance plan

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

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

Cc: Connector Appeals Unit

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### ADDENDUM

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** The Connector's determination of Appellants' eligibility to obtain a Health Connector plan with an advance premium tax credit is affirmed.

**Hearing Issue:** Whether the Connector correctly determined Appellants' eligibility to purchase a Health Connector plan with an advance premium tax credit based upon the information supplied by the appellants on their application.

**Hearing Date:** October 30, 2017      **Decision Date:** November 14, 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 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 Connector:** On July 29, 2017, the Connector determined Appellants to be eligible to purchase a Health Connector plan with an advance premium tax credit based upon information supplied by the appellants on their application for coverage.

**Hearing Record:** The appellants appeared at the hearing which was held by telephone on October 30, 2017. The procedures to be followed during the hearing were reviewed with the appellants who were sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellants testified.

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

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

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- Exhibit 2: Connector Appeals Unit Notice of Hearing dated October 2, 2017 sent to Appellant
- Exhibit 3: Hearing Request Form signed and dated by Appellant on August 27, 2017 received by the Connector on September 5, 2017
- Exhibit 4: Letter to Appellant from Connector Appeals Unit dated September 8, 2017 acknowledging receipt of request for hearing
- Exhibit 5: Health Connector's summary and results of Appellant's application dated March 13, 2017
- Exhibit 6: Health Connector's summary and results of Appellant's application dated July 29, 2017
- Exhibit 6a: Connector income verification form dated July 29, 2017
- Exhibit 7: Letter to Appellant dated July 29, 2017 from the Health Connector regarding eligibility for purchase of health insurance
- Exhibit 8: Connector Appeals Unit outreach notes

### Findings of Fact:

The record shows, and I so find:

1. Appellants applied to obtain health insurance for themselves and their minor child through the Connector on March 13, 2017. They attested to having a projected household income of \$43,514 which equaled 215.85% of the Federal poverty level. Based upon this information, the Connector determined that the appellants were eligible to enroll in a ConnectorCare Type 3A plan (Testimony of Appellant, Exhibit 5).
2. On July 29, 2017, the appellants amended their Connector application. They attested to having a projected household income of \$70,356 which equaled 348.99% of the Federal poverty level. Based up this attestation, the Connector determined the appellants to be eligible for a Connector Health plan with an advance premium tax credit. The appellants were notified by the Connector of this determination (Exhibits 6 and 7, Testimony of Appellant).
3. The Connector verified the income reported by the appellants on July 29th (Exhibit 6a).
4. As a result of the new determination, the cost of health insurance increased for the appellants (Testimony of the Appellant).

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5. On August 27, 2017, the appellant submitted a request for a hearing about the Connector's July 29th determination. The request was received on September 5th. Appellants stated that, given their expenses, they could not afford the premium payments (Testimony of Appellant, Exhibit 3).

### Analysis and Conclusions of Law:

The issue on appeal is whether the Connector correctly determined on July 29, 2017 that the appellants were eligible to purchase a Health Connector plan with an advance premium tax credit.

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

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

In March, 2017, the Connector determined that the appellants were eligible to enroll in a ConnectorCare Type 3A plan based upon the appellants' attestation that they had a projected household income of \$43,514. This income equaled 215.85% of the Federal poverty level. The appellants later (in July, 2017) attested to a projected household income of approximately \$70,000. This income amounted to 348.99%% of the Federal Poverty Level.

Based upon the information given by the appellants on July 29th, the Connector determined that the appellants were now eligible for a Connector Health plan with an advance premium tax credit. The appellants were notified of this determination in a letter from the Connector dated July 29, 2107. As a result of this determination, the cost of health insurance increased for the appellants. See the testimony of the Appellant, and Exhibits 3, 5, 6, and 7

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On September 5, 2017, the Connector received a request for an appeals hearing from the appellants. They claimed they could not afford the higher cost of health insurance. See Exhibit 3. A hearing was held on October 30, 2107.

What is at issue here is whether the determination made by the Connector was correct. The determination was based upon the information given by the appellants on their application. When the projected income was greater on the July application than on the March one, the type of plan the appellants were eligible for changed and the the cost of the monthly premium rose (taking into account the percentage of the Federal Poverty level and tax household size which did not change). See Exhibits 5 and 6. The exact amount of any premium depends upon a number of other factors, including which plan is chosen. No error was made by the Connector.

Appellants' appeal is denied; the determination of the Connector is upheld.

Order: Appellant's appeal is denied. The determination of the Connector is affirmed.

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Allowed. Eligibility determination Overturned.

Hearing Issue: Eligibility for Health Connector plans, based on being a United States Citizen. Eligibility for ConnectorCare, based on failure to verify income.

Hearing Date: August 28, 2017

Decision Date: September 15, 2017

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## AUTHORITY

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

## JURISDICTION

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

## ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 15, 2017, Appellant was determined ineligible for Health Connector plans, due to failure to establish lawful presence to the Health Connector and failure to verify income.

## 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 she is a United States Citizen and failure to verify income to the Health Connector.

## HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 28, 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. The hearing was left open for the Connector to provide further information regarding when the Appellant provided information regarding citizenship and income and what payment was received and when from the Appellant.

## Massachusetts Health Connector Appeals Unit

- Exhibit 1: Health Connector notice of eligibility determination (6 pages, dated June 15, 2017)
- Exhibit 2: Eligibility Request for Information Reminder (dated February 13, 2017, 8 pages)
- Exhibit 3: Appellant's appeal request form (28 pages dated June 29, 2017)
- Exhibit 4: Health Connector's Eligibility Determination Results and Review Computer Printout (6 pages, dated June 30, 2017)
- Exhibit 5: Health Connector's Eligibility Determination Results and Review Computer Printout (3 pages, dated 6/15/17)
- Exhibit 6: Health Connector's Acknowledgement of Appeal (3 pages, dated 7/24/17)
- Exhibit 7: Health Connector's Hearing Notice (4 pages, dated 4/14/17)
- Exhibit 8: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 9: Health Connector's Determination Results and Review Computer Printout (6 pages Dated 5/30/17)
- Exhibit 10: Health Connector's Documents regarding Appellant's citizenship and income and when received and payments made to the Health Connector

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was requested on April 18, 2017 to furnish information regarding her United States citizenship and income. (Exhibit 3)
2. The Appellant was determined ineligible for Health Connector plans on June 15, 2017, after failing to provide proof of citizenship and income to the Health Connector. (Exhibit 1, Exhibit 3)
3. The Appellant testified and provided the documentation sent in her appeal request that she had provided proof of citizenship and that she was currently unemployed on March 15, 2017 and May 4, 2017. The documentation provided by the Health Connector pursuant to the Open Record request confirmed that the Appellant had provide the required documentation twice in the time required ( Exhibit3, Exhibit 10, Appellant's Testimony)
4. The Connector has submitted documents showing that the Appellant has been reinstated retroactive to July 1, 2017 and has been given credit for all payments made. (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

## Massachusetts Health Connector Appeals Unit

Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants' income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

The Appellant did send in verifying information on March 15, 2017 & May 4, 2017 that she was unemployed.

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 or United States citizens may purchase health and dental insurance through the Health Connector.

On February 3, 2017, the Appellant applied for health insurance through the Health Connector but was requested to provide information regarding she being a United States citizen. Appellant did provide said information but she was determined ineligible for Health Connector plans. Because the Appellant did present evidence of being a United States citizen when requested, the Health Connector incorrectly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

The Appellant established that she is a United States citizen and is eligible for Health Connector plans, the Health Connector incorrectly found that the Appellant was not eligible for Health Connector plans on June 15, 2017, and that determination is overturned.

### ORDER

The appeal is allowed. The health Connector is ordered to grant the Appellant retroactive coverage from July 1, 2017, if it has not already done so.

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

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

Cc: Connector Appeals Unit

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# Massachusetts Health Connector Appeals Unit

ADDENDUM

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector Plans; special enrollment period

**Hearing Date:** August 22, 2017

**Decision Date:** October 5, 2017

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### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

### **JURISDICTION**

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

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On July 5, 2017, Appellant was deemed eligible for Health Connector Plans without subsidies. Appellant was deemed not eligible for a Special Enrollment Period. Appellant's previous health insurance through the Health Connector had been terminated due to nonpayment of premium. Appellant had an outstanding request for information for proof of residency as well. Finally, there was a second application from Appellant but that second application is not in issue at this time.

### **ISSUE**

Based upon the information provided by Appellant and available to the Connector, whether the Connector made the correct determination.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on August 22, 2017. The hearing was recorded. The record was left open to allow Appellant to submit documents showing that he had set up automatic payment from his checking account. No additional documents were received. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection by Appellant:

## Massachusetts Health Connector Appeals Unit

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (7-8-17) (4 pages);
- Exhibit 3: Hearing Request form (7-5-17) (1 page);
- Exhibit 4: Outreach Notes (2 pages);
- Exhibit 5: Request for Information letter (7-6-17) (6 pages);
- Exhibit 6: Information re two applications (1 page);
- Exhibit 7: Information re application and results (16 pages); and
- Exhibit 8: Termination Warning letter (3-30-17) (6 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 applied for health insurance in December 2016. The health insurance earlier in 2017 was terminated due to nonpayment of premium. Appellant applied again in July 2017. Appellant was asked to submit documents pursuant to a request for information in July 2017. (Exhibit 5).
2. Appellant was deemed not eligible for Special Enrollment period, as it had been more than 60 days since the date he had lost his prior health insurance.
3. Appellant appealed and stated that he had set up automatic payment of the prior health insurance so that he alleged it should not have been terminated.
4. Appellant did not present any evidence showing that a Special Enrollment Period should be granted.

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

The Appellant was found eligible for Health Connector Plans without subsidies, but was not granted a special enrollment period and therefore could not enroll in coverage. The Appellant asserts that this determination was incorrect, and that the Appellant should be permitted to enroll in coverage through the Health Connector. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which 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. Cancellation of coverage due to failure to pay premium is not a qualifying life event. 45 CFR § 155.420(e)(1).

On July 5, 2017, the Appellant was determined eligible for Health Connector plans without subsidies, but was found not eligible for a special enrollment period due to failure to have a qualifying life event. The Appellant's loss of insurance in May 2017, is not a qualifying life event, because that coverage was terminated due to failure to pay premiums. 45 CFR § 155.420(e)(1). Because the Appellant did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR § 155.420.

### **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

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### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Denied. Eligibility determination upheld.

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

Hearing Date: August 28, 2017

Decision Date: September 26, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 24, 2017, Appellant was determined eligible for ConnectorCare Plan 3B with subsidies but was later determined ineligible for a special enrollment period due to failure to have a life qualifying 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 life qualifying event.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 28, 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. The record was kept open for the Connector to provide documentation of call records and payment attempts. The Connector has no record of either.

Exhibit 1: Health Connector notice of eligibility determination. (12 pages, dated February 21, 2017)

# Massachusetts Health Connector Appeals Unit

- Exhibit 2: Appellant's appeal request form (1 page undated)
- Exhibit 3: Health Connector's Determination Results and Review Computer Printout (5 pages, dated May 23, 2017 )
- Exhibit 4: Health Connector's Acknowledgement of Appeal (2 Pages dated July 18, 2017)
- Exhibit 5: Health Connector's Hearing Notice (4 pages, dated July 24, 2017)
- Exhibit 6: Health Connector's Hearing Record Affidavit (1 page, undated )
- Exhibit 7: Health Connector's Open Record documents regarding telephone calls made by Appellant or Enrollment or payment by Appellant.

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for ConnectorCare plan 2B with subsidies on February 21, 2017, but denied coverage based on not having a qualifying life event. (Exhibit 1, Exhibit 3)
2. Appellant was covered under her parent's insurance plan in 2017, until April 2017. Appellant testified that she tried to enroll in the Health Connector but had technical difficulty. Appellant testified that she tried to pay for her plan but was not allowed to do so. (Appellant's testimony)
3. The documents provided from the Connector indicated that the Connector had no record of any call being made to the Connector nor any enrollment or payment being made by the Appellant. (Exhibit 7)
4. The Appellant has not experienced a life qualifying event. (Appellant testimony)

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for ConnectorCare plan 3B with subsidies but was not granted a special enrollment period and therefore could not enroll in coverage. The Appellant asserts that this determination was incorrect and that the Appellant should be permitted to enroll in coverage through the Health Connector. Under 45 CFR s. 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 event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420. Appellant has never enrolled in the Health Connector. Appellant submitted an application on May 23, 2017.

On February 21, 2017, the Appellant was determined eligible for Health Connector plans with APTC, but never enrolled in a Health Plan. Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. The Appellant testified to not experiencing any qualifying life event. Because the Appellant

## Massachusetts Health Connector Appeals Unit

did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR s. 155.

### 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

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### ADDENDUM

## Massachusetts Health Connector Appeals Unit

Appeal Decision: Appeal denied

The decision of the Health Connector finding that the Appellant did not qualify for a Special Enrollment Period on June 21, 2017, is upheld. His qualifying event took place on March 10, 2017, and he did not apply to the Health Connector for health insurance until June 21, 2017.

Hearing Issue: Whether the Connector correctly determined in June 2017, that the Appellant was not eligible to enroll in a qualified health plan outside an Open Enrollment Period.

Hearing Date: September 7, 2017

Decision Date: October 2, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE CONNECTOR

On June 21, 2017, the Health Connector found that the Appellant was eligible to enroll in Health Connector Plans but was not eligible for a Special Enrollment Period.

### ISSUE

Whether the Connector correctly determined in June 2017, that the Appellant was not eligible to enroll in a qualified health plan outside an 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 consists of the Appellant's testimony and the following documents, which were admitted into evidence.

1. Affidavit of Record Verification

## Massachusetts Health Connector Appeals Unit

2. Letter from the Connector to the Appellant dated 6/21/2017 and entitled “Special Enrollment Period Decision”
3. Appellant’s Hearing Request Form received by the Connector on 7/21/2017
4. Letter from the Health Connector Appeals Unit to the Appellant dated 7/25/2017, acknowledging his Appeal
5. Informal Dispute Resolution Documentation
6. Memorandum to the Appellant from the Connector Appeals Unit entitled “Next Steps in the Appeal Process”
7. Connector Computer Printout of Appellant’s 2017 Eligibility Results based on Application submitted on 6/21/2017
8. Appellant’s Application Summary
9. Notice of Hearing dated 8/9/2017

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant began a new job on March 13, 2017. He had health insurance through his former employer until March 10, 2017. (Appellant testimony)
2. When the Appellant’s health insurance coverage ended, he received a letter of termination of insurance. (Appellant testimony)
3. At the end of March 2017, the Appellant purchased a house and he moved to an adjacent town. In the process of moving, he misplaced the document stating that his insurance had ended. (Appellant testimony and Exhibit 3)
4. The Appellant’s current employer does not offer health insurance. (Appellant testimony)
5. The Appellant applied health insurance through the Health Connector on June 21, 2017; he did not apply for health insurance subsidies or subsidized health insurance. (Appellant testimony and Exhibits 7 and 8)
6. In a letter dated June 21, 2017, the Appellant was informed by the Connector that he did not qualify for a “Special Enrollment Period.” (Exhibit 2)
7. The Appellant filed a Request for Hearing appealing the Connector’s determination that he was not eligible for a “Special Enrollment Period”. (Exhibit 3)

### ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined the Appellant’s eligibility to enroll in Health Connector Plans outside an Open Enrollment Period. In order for an individual to enroll in a health plan through the Connector outside the open enrollment period, the individual must qualify for a “Special Enrollment Period”. Pursuant to 45 CFR 155.420 (d) (1) (i), the Connector must allow an enrollee to enroll in a Qualified Health Plan if the qualified individual loses “minimum essential coverage.” The qualified individual has 60 days from the date of

## Massachusetts Health Connector Appeals Unit

the triggering event, which in this case was loss of employer-sponsored health insurance, to select a Qualified Health Plan pursuant to 45 CFR 155.420 (c) (1).

The Appellant lost employer-sponsored insurance on March 10, 2017, when he changed jobs. He had sixty (60) days from that date to enroll in a Qualified Health Plan. His sixty (60) day period ended on or about May 9, 2017. The Appellant did not apply to the Connector for health insurance until June 21, 2017. Since the Appellant did not apply during the Special Enrollment Period, he cannot enroll in a Qualified Health Plan until the next open enrollment period begins on November 1, 2017.

### ORDER

The Health Connector's decision on June 21, 2017, denying the Appellant eligibility for a Special Enrollment Period, is upheld. At that time the Appellant's Special Enrollment Period had expired.

### 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

Addendum: The Appellant may want to enroll in health insurance during the next Open Enrollment Period, which extends from November 1, 2017 until December 15, 2017, for insurance beginning January 1, 2018.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector Plans; income

Hearing Date: September 6, 2017

Decision Date: October 6, 2017

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### AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 965 of the code of Massachusetts Regulations, Section 12.00

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 15, 2017, Appellant was deemed eligible for ConnectorCare Plan Type 3B with subsidies.

### ISSUE

Based upon the information provided by Appellant and available to the Connector, whether the Connector made the correct determination.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 6, 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 (8-9-17) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (7-25-17) (5 pages);
- Exhibit 4: Hearing Request form (7-22-17) (2 pages);
- Exhibit 5: Outreach Notes (3 pages);

# Massachusetts Health Connector Appeals Unit

Exhibit 6: Eligibility Approval letter (7-15-17) (10 pages); and  
Exhibit 7: Information re application and results (11 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 (Exhibit 7).
2. Appellant was deemed eligible for ConnectorCare Plan Type 3B based upon the income reported, and the Federal Poverty Level resulting in 273.23%.
3. Appellant appealed and stated that she has a medical disability and could not afford the premiums and additional costs. Appellant also reported that she has received a MassHealth card, but she also received a bill for premium payment from MassHealth.
4. Appellant confirmed that the amount of income listed in the application was correct.

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for ConnectorCare Plan Type 3B with subsidies, but she had been on Mass Health and wanted to continue on Mass Health. The Appellant asserts that she cannot afford the premiums and additional medical costs.

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

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### ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 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.

## Massachusetts Health Connector Appeals Unit

### FINAL APPEAL DECISION

**Appeal Decision:** The Connector's determination of Appellant's eligibility to obtain a ConnectorCare plan during the next open enrollment period or when Appellant had a qualifying life event is affirmed.

**Hearing Issue:** Whether the Connector correctly determined Appellant's eligibility to enroll in a ConnectorCare plan during the next open enrollment period or upon Appellant having a qualifying life event based upon the information supplied by the appellant on the application.

**Hearing Date:** August 15, 2017      **Decision Date:** October 17, 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 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 Connector:** On July 25, 2017, the Connector determined Appellant to be eligible to enroll in a ConnectorCare plan during the next open enrollment period or when the appellant had a qualifying life event.

**Hearing Record:** The appellant appeared at the hearing which was held by telephone on August 15, 2017. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. The appellant testified. At the end of the hearing, the record was kept open until September 1, 2017 to give the appellant time to submit additional evidence. No documents were received as of the date of this writing. The record is now closed.

The hearing record consists of the testimony of Appellant 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 August 9, 2017 sent to Appellant for a hearing on August 10, 2017 and notice sent on August 11, 2017 for hearing on August 15, 2017
- Exhibit 3: Hearing Request Form dated by Appellant on July 30, 2017, received by Connector on August 2, 2017
- Exhibit 4: Letter to Appellant dated August 9, 2017 from Connector Appeals Unit acknowledging receipt of appeal request
- Exhibit 5: Health Connector's Summary and Results of Appellant's July 25, 2017 application computer print-out
- Exhibit 6: Letter to Appellant dated July 25, 2017 from the Health Connector regarding ineligibility for purchase of health insurance in 2017 outside of the open enrollment period
- Exhibit 7: Health Connector Enrollment bills addressed to Appellant dated March 29, 2017 and May 3, 2017
- Exhibit 8: Appellant's Connector Payment and Transaction History, November 30, 2016 through May 26, 2017 and AutoPay set-up print-out
- Exhibit 9: Connector Appeals Unit outreach notes and e-mails to Appellant
- Exhibit 10: Customer Service notes of contacts with Appellant

### Findings of Fact:

The record shows, and I so find:

1. Appellant had ConnectorCare coverage in 2016 and in early 2017. Her premium payments increased as of April, 2017 when Appellant went from a ConnectorCare plan Type 2 to a Type 3 (Exhibits 5, 7, 8, 9, and 10; Testimony of Appellant)
2. Appellant received a bill for her portion of the premium payment in March, 2017. Appellant had set up an automatic payment plan with the Connector (Exhibits 7 and 8; Testimony of Appellant).
3. Appellant's automatic payment in May, 2017 was not received. Appellant did not understand why her payment had not been received. She lost her coverage (Testimony of Appellant, Exhibit 8 and 10).
4. On July 25, 2017, Appellant tried to enroll again in a plan. The Connector determined that while Appellant was eligible for a ConnectorCare plan, she was ineligible to enroll outside of an open enrollment period because the appellant had not indicated that she had a qualifying life event (Exhibits 5 and 6).

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5. Appellant filed an appeal in August, 2017 (Exhibits 3 and 4).
6. Appellant did not have a qualifying life event which would have allowed her to enroll outside of the open enrollment period (Testimony of Appellant).

### Analysis and Conclusions of Law:

The issue on appeal is whether the Connector correctly determined on July 25, 2017 that the appellant was eligible to enroll in a ConnectorCare plan, but not until the next open enrollment period or until Appellant had a qualifying event. Appellant has appealed this determination. See Exhibits 3, 5, 6.

Eligibility to purchase health insurance through the Connector is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. Among other requirements, an individual must have a projected income between 100% and 400% of the Federal Poverty Level in order to be eligible for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. 45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event.

Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period.

Appellant had ConnectorCare coverage in 2016 and early 2017. After missing a payment, Appellant lost coverage. She attempted to enroll again in July, 2017. She was found to be eligible for a plan, but not for a special enrollment period (a period outside of the open enrollment period). See Exhibits 5, 6, 8, and 10 and the testimony of the appellant.

What is at issue here is whether the Connector correctly determined that Appellant was eligible to purchase health insurance, but not until the next open enrollment period, or when Appellant had a qualifying life event. That determination was based

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upon the information given by the appellant on the Connector application. See Exhibits 5 and 6. Appellant applied in July, 2017 after losing coverage for non-payment of the premium. There is no evidence in the record that Appellant had a qualifying life event, such as moving into the Commonwealth, getting married or divorced at the time the application was made. In fact, Appellant testified about whether she had a qualifying life event. She did not. No error, therefore, was made by the Connector.

The determination of the Connector is affirmed.

Order: Appellant's appeal is denied. The determination of the Connector is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. 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 next open enrollment period starts on November 1, 2017 and ends January 23, 2018. Appellant may wish to reapply for coverage for 2018 by applying on-line at [MAhealthconnector.org](http://MAhealthconnector.org) or by calling Customer Service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Income amount used to determine eligibility for Health Connector plans

Hearing Date: October 3, 2017

Decision Date: October 10, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Appellant applied for subsidized health insurance on July 5, 2017. The Health Connector determined the Appellant to be eligible for Health Connector Plans without subsidies.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is eligible for Health Connector Plans without subsidies based on the information provided on the application.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 03, 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.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated September 11, 2017.

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- Exhibit 3: Health Connector Eligibility Approval Notice dated July 6, 2017.
- Exhibit 4: Health Connector Notice of Approval of a Special Enrollment Period dated July 6, 2017.
- Exhibit 5: Appellant's Hearing Request Form dated August 11, 2017.
- Exhibit 6: Health Connector Appeals Unit Outreach Notes.
- Exhibit 7: Health Connector's 2017 Eligibility Results computer printout with an Application Summary dated July 5, 2017.
- Exhibit 8: Health Connector Agent Portal Enrollment information for the Appellant.

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 57-year-old individual who applied for subsidized health insurance through the Health Connector on July 5, 2017 (Exhibit 7).
2. The Appellant has a tax household size of one (Exhibit 7).
3. On their application, the Appellant entered current weekly unemployment income of \$742 and a projected annual modified adjusted gross income (MAGI) of \$82,500 for 2017 (Exhibit 7).
4. The Health Connector found, based on the projected annual income and household size, that the Appellant's projected MAGI would place Appellant at approximately 694.44% of the 2017 Federal Poverty Level (FPL) (Exhibit 7).
5. The Health Connector found that the Appellant was not eligible for state subsidized health insurance or APTC because the Appellant's self-attested projected income placed their household at more than 400% of the Federal Poverty Level (Exhibits 3, 7).
6. The Appellant testified that their current weekly unemployment compensation income was reported correctly. The Appellant said the MAGI of \$82,500 projected for 2017 is also correct based on the fact that the Appellant did have higher earned income for the first four months of tax year 2017. The Appellant said that paying the monthly premium with their limited income is difficult (Exhibit 5 and Appellant Testimony).
7. The Appellant was advised to report the change in income on their Application so that eligibility could be adjusted for the period beginning January 1, 2018.

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on July 5, 2017. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant reported current weekly income of \$742 on their application. A projected yearly income figure of \$82,500 was also noted. The Health Connector used the annual income figure and found the

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income equivalent to approximately 694.44% of the Federal Poverty Level. The Appellant was correctly determined financially ineligible for state subsidies as well as APTC.

The Appellant agrees that they correctly reported their current weekly income and their projected annual income. The annual income includes the first four months of tax year 2017 when the Appellant was receiving earned income. The Appellant acknowledges that their projected MAGI of \$82,500 exceeds 400% of the federal poverty level. The Appellant filed an appeal because they find it difficult to afford the current monthly health care premium with their limited monthly income. The Appellant was advised to report a change in income on their application so that their eligibility could be reviewed for the period beginning January 1, 2018.

The Health Connector correctly determined that the Appellant is eligible for Health Connector Plans. Since the Appellant's MAGI exceeds 400% of the federal poverty level, the determination that the Appellant is not eligible for APTC is also correct.

### ORDER

The appeal is denied.

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Income amount used to determine eligibility for subsidized Health Connector plans

Hearing Date: September 27, 2017

Decision Date: October 06, 2017

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Appellant applied for subsidized health insurance on July 14, 2017. The Health Connector determined the Appellant to be eligible for Health Connector Plans with Advance Premium Tax Credits.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is eligible for Health Connector Plans with Advance Premium Tax Credits of \$0.00 based on the information provided on the application.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 27, 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.

Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated August 30, 2017.

## Massachusetts Health Connector Appeals Unit

- Exhibit 3: Health Connector Eligibility Approval Notice dated July 14, 2017.
- Exhibit 4: Hearing Request Form submitted by the Appellant on August 14, 2017.
- Exhibit 5: Health Connector Appeals Unit Outreach Notes.
- Exhibit 6: Health Connector's 2017 Eligibility Results computer printout with the Appellant's Application Summary dated July 14, 2017.
- Exhibit 7: Health Connector's 2016 Eligibility Results computer printout dated February 17, 2016.

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 28-year-old individual who applied for subsidized health insurance through the Health Connector on July 14, 2017 (Exhibit 6).
2. The Appellant has a tax household size of one (Exhibit 6).
3. On their application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$39,000 for 2017 (Exhibit 6).
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place Appellant at approximately 328.28% of the 2017 Federal Poverty Level (FPL) (Exhibit 6).
5. The Health Connector correctly found that the Appellant was not eligible for state subsidized health insurance because the Appellant's self-attested projected income placed their household at more than 300% but less than 400% of the Federal Poverty Level. (Exhibits 3, 6).
6. The Health Connector correctly determined the Appellant eligible for APTC of \$0.00 based on the fact that there are good high-quality health insurance plans available to the Appellant through the Connector at an affordable premium given the appellant is a tax household of one with MAGI of \$39,000 (Exhibits 3, 6).
7. The Appellant testified that the income entered was correct. The Appellant objects to the use of the MAGI standard and argues that the Health Connector should take into consideration the Appellant's monthly living expenses. The Appellant argues that after paying for essential living and work-related expenses, they do not have sufficient funds to purchase health insurance.

### ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for subsidized health insurance through the Health Connector on July 14, 2017. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain taxpayers are eligible for a premium tax credit if their household MAGI is at or below 400% of the Federal Poverty Level. The law also permits these premium tax credits to be paid in advance on an applicant's behalf, based on projected yearly MAGI. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

The Appellant stated on their application that their projected MAGI for their tax household of one was \$39,000. This income is equivalent to approximately 328.28% of the Federal Poverty Level and renders

## Massachusetts Health Connector Appeals Unit

the Appellant financially ineligible for state subsidies. The Appellant's projected income is less than 400% of the Federal Poverty Level. Based on this fact, the Appellant argues that they should be eligible for some type of APTC.

Tax credit amounts are determined by various factors, including household income, the number of persons in the tax household and the cost of the second least-expensive Silver Plan available in the market area. 26 IRC § 36B (2). The Appellant is a tax household of one with projected MAGI of \$39,000. The Connector determined that there are good high-quality health plans available to the Appellant through the Health Connector at an affordable premium without any extra help. The Health Connector correctly determined that the appellant is eligible for an APTC amount of \$0.00.

### 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

## Massachusetts Health Connector Appeals Unit

Appeal Decision: Appeal denied.

Based on an application for subsidized health insurance submitted by the Appellant on July 28, 2017, the Massachusetts Health Connector (Connector) correctly determined that the Appellant's household was not eligible for the Advance Premium Tax Credit (APTC), and subsidized health insurance because they had minimum essential coverage.

Hearing Issue: Based on an application for subsidized health insurance submitted by the Appellant on July 28, 2017, whether the Connector correctly determined that the Appellant's household was not eligible for the Advance Premium Tax Credit (APTC), and subsidized health insurance because they had minimum essential coverage.

Hearing Date: September 7, 2017

Decision Date: October 4, 2017

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### AUTHORITY

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

### JURISDICTION

Applicants and Enrollees are entitled to a hearing with the 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 an application for subsidized health insurance submitted by the Appellant on July 28, 2017, the Connector denied eligibility to the Appellant's household for the Advance Premium Tax Credit (APTC), and subsidized health insurance based on their enrollment in minimum essential coverage.

### ISSUE

Based on an application for subsidized health insurance submitted by the Appellant on July 28, 2017, whether the Connector correctly determined that the Appellant's household was not eligible for the Advance Premium Tax Credit (APTC), and subsidized health insurance because they had minimum essential coverage.

## Massachusetts Health Connector Appeals Unit

### HEARING RECORD

The Appellant appeared at the hearing which was held by telephone on September 7, 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 8/4/2017 with notice of Special Enrollment Period Decision
3. Appellant's Hearing Request Form received by the Connector on 8/17/2017
4. Letter to the Appellant from the Connector Appeals Unit, dated 8/21/2017, acknowledging receipt of her appeal.
5. Connector Computer Printout of Appellant's Application Result for 2017 based on an application submitted on 7/28/2017.
6. Connector Computer Printout of Appellant's Application Summary
7. Connector AVV Computer Printouts
8. Notice of Hearing dated 8/21/2017

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied to the Connector for subsidized health insurance for herself and her two children on July 28, 2017. (Exhibit 5)
2. The Connector found that the Appellant's household income was 223.41% of the Federal Poverty Level. The Appellant and her two children were approved for enrollment in Health Connector Plans. (Exhibit 5)
3. The Appellant filed a Hearing Request Form appealing the Connector's decision. On her Hearing Request Form she stated that the reason for her appeal was "income"; and that she thought she should have more affordable health insurance available to her. (Exhibit 3)
4. On her application, the Appellant indicated that her attested monthly income was \$3,319.98 monthly and her projected yearly income was \$39,839. The Appellant indicated that her daughter's attested monthly income was \$433.33 and her projected yearly income was \$5,200. Her son had no income. (Exhibit 6)
5. The Appellant is employed by a Massachusetts town. At the time she applied to the Connector for health insurance, she had health insurance through her employer. She paid \$395.40 every two weeks for a family plan. (Appellant testimony)
6. An individual plan for health insurance through the Appellant's employer would have cost the Appellant \$307.32 monthly. (Appellant testimony)
7. Both of the Appellant's children are over 18 years of age and both are students. (Appellant testimony)

## Massachusetts Health Connector Appeals Unit

### ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Connector correctly determined that the Appellant and her children were not eligible for the Advance Premium Tax Credit (APTC), and subsidized health insurance because they had minimum essential coverage. At the time she applied to the Connector for subsidized health insurance, the Appellant had health insurance through her employer. Since, the insurance offered by the Appellant's employer provides minimum value and is considered to be affordable for the Appellant, pursuant to 26 CFR 1.36B-2 (a) and (c), the Appellant's household is not eligible for the Advance Premium Tax Credit (APTC). Since the Appellant's household is not eligible for the Advance Premium Tax Credit (APTC), they are not eligible for ConnectorCare. The decision of the Connector is upheld.

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. Other eligibility requirements include the applicant not being eligible for minimum essential coverage. The Connector must determine that the Appellant is not eligible for minimum essential coverage, pursuant to 26 CFR 1.36 B-2(a) and (c) (1). An employee enrolled in or who may enroll in an employer-sponsored health plan that provides minimum value and is affordable, is eligible for or has Minimum Essential Coverage. 26 CFR 1.36 B-2 (c) (1). The Appellant's employer's insurance meets the requirements for minimum value, and is considered to be affordable, therefore the Appellant and her household have minimum essential coverage are not eligible for Advance Premium Tax Credits, pursuant to 26 CFR §1.36 B-2. If the Appellant's household is not eligible for Advance Premium Tax Credits, they are also not eligible for ConnectorCare, pursuant 956 CMR 12.09 (1) (b).

Affordability is determined by the portion of the annual premium an employee must pay for self-only coverage. If that portion does not exceed 9.69% of the employee's household income the employer's health insurance is considered to be affordable. 26 CFR 1.36 B-2 (c) (3) (v) (A) (1). A single plan offered by the Appellant's employer is \$307.32 monthly. The Appellant's attested monthly income in her application was \$3,319.98 monthly or \$39,839 annually. She can afford to pay \$321.71 monthly. Her employer's single plan is \$307.32 and is therefore affordable.

### ORDER

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

## Massachusetts Health Connector Appeals Unit

### 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