

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5562

Appeal Decision: Appeal Denied
Hearing Issue: Determination of Premium Amount
Hearing Date: 8/1/2018
Decision Date: 9/30/2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Health Connector increased the amount of the Appellant's health insurance based on her attestation of income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the amount of the Appellant's premium based on the information provided.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 8/1/2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Keeper of the Record Affidavit
Exhibit 2: Request for Hearing
Exhibit 3: Notice of Hearing
Exhibit 4: Email to Appellant
Exhibit 5: Acknowledgement of Appeal
Exhibit 6: Email to Appellant
Exhibit 7: Eligibility Approval
Exhibit 8: Eligibility Details

Exhibit 9: Eligibility Details
Exhibit 10: Account Dashboard

FINDINGS OF FACT

The record shows, and I so find:

1. On March 30, 2018, the Appellant submitted an application to the Massachusetts Health Connector to determine whether she was eligible for health care benefits. At that time, the Connector determined that the Appellant was eligible for ConnectorCare Plan Type 3A, and that another person in her household was eligible for MassHealth Family Assistance. At that time, the Connector determined that she was not eligible for a special enrollment period, and could not apply for a health plan until the next open enrollment. (Exhibit 9)
2. On June 15, 2018, the Appellant submitted another application to the Connector. At that time, the Connector determined that she and her family member were eligible to obtain health benefits effective July 1, and that she had until July 29, 2018 to enroll in a plan. (Exhibit #8)
3. The amount of the Appellant's premium was derived from the amount of her income, which was determined to be 349.27% of the Federal Poverty Level. (Exhibit 7)
4. The Appellant had provided the evidence of the amount of her 2017 income to the Connector.
5. The Appellant has been self-employed since the very end of 2017. (Testimony, Statement of Appellant in her Request for Appeal, Exhibit 2)
6. The Appellant credibly testified that she had provided evidence of her 2017 income to the Connector, and that her 2018 income had decreased. Accordingly, the Appellant argues, the premium needs to be adjusted to reflect her current income. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

The Connector correctly determined the cost of the Appellant's health care based on the information the Appellant provided at the time of her application. See, 45 CFR § 155.315(f).

The Connector determination is upheld.

ORDER

The Appellant's Appeal is denied.

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

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

Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Addendum:

As advised at the hearing, the Appellant should contact the Connector Customer Service line to report her correct income.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5993

Appeal Decision: Appeal Denied
Hearing Issue: Demonstration of Lawful Presence
Hearing Date: 9/7/2018
Decision Date: 10/1/2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Health Connector determined that the Appellant and her family were not eligible for health care coverage through the Connector.

ISSUE

Whether the Appellant demonstrated lawful presence at the time the Health Connector determined that she and her family were not eligible.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 9/7/2018. The Appellant and the Hearing Officer communicated through the use of an interpreter, who also appeared by telephone. (Interpreter #258846) The hearing record was left open for two weeks to allow the Appellant to submit evidence supporting her claim that she submitted proof of lawful presence at the time the Connector made its determination. The Appellant submitted documents within the time period, and the Connector submitted a document. All documents submitted by the parties have been incorporated into the hearing record and the hearing record is now closed.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence. The documents supplied after the hearing have been marked as Exhibits 10 and 11 :

Exhibit 1: Affidavit of the Keeper of the Records

Exhibit 2: Account Dashboard

Exhibit 3: Notice of Hearing

Exhibit 4: Acknowledgement of Appeal

Exhibit 5: Request for Hearing

Exhibit 6: Eligibility Denial

Exhibit 7: Eligibility Details

Exhibit 8: Application Summary

Exhibit 9: Fax from Defendant dated 9/8/18

Exhibit 10: Memo from a Connector Appeal Research Assistant to the Hearing Officer

FINDINGS OF FACT

The record shows, and I so find:

1. On July 6, 2018 the Appellant submitted an application to the Massachusetts Health Connector (Connector) to determine whether she, her husband and the children in their household were eligible for health care benefits. On that same date, the Connector notified the Appellant that her application was denied, but also informed her that the family would be eligible for health care coverage if they demonstrate lawful presence in the United States. (Exhibits 6, 7)
2. The Appellant appealed the decision and also provided a copy of her families' formal request to the United States government for asylum. (Exhibit 9) The status of the request was not discernable.
3. At the hearing, the Appellant indicated that she had several documents that would prove that her family is lawfully in the United States, including passports and visas. (Testimony)
4. The record was left open for two weeks to permit the Appellant to submit that information. (Exhibit 10)
5. On September 8, 2018, the Health Connector received information from the Appellant demonstrating that the family was lawfully present. The documentation established lawful presence, but did not demonstrate that such information was available to the Connector as of July 6, 2018. Nevertheless, the Connector had evidence in September that the family was eligible. The Appellant was determined eligible for ConnectorCare Plan type 1, the children were found eligible for MassHealth. (The husband was not eligible for subsidies because he has access to MassHealth.) (Exhibit 11)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant and her family were initially found to be ineligible for Health Connector Plans because there was no evidence establishing lawful presence in the United States. Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Connector. At the time of her application, documentation of the families' status was not available to the Connector. Because the Appellant did not present evidence of lawful presence, the Health Connector correctly found that the Appellant and her family were not eligible for Health Connector plans at that time. 45 CFR § 155.305(a)(1). The Appellant has now established lawful presence for herself and her family, and she and her family have been determined to be eligible for services, as described above.

ORDER

The Appellant's Appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5249

Appeal Decision Appeal allowed

Hearing Issue: Eligibility for Health Connector plans, based on failure to validate social security number

Hearing Date: September 24, 2018

Decision Date: October 31, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On May 22, 2018, Appellant was determined ineligible for Health Connector plans, due to failure to provide proof of social security number.

ISSUE

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

HEARING RECORD

The Appellant and a family member appeared at the hearing, which was held by telephone, on September 24, 2018.

The hearing record consists of the Appellant's and family member'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
- Exhibit 2: Communications from Appeals Unit of Health Connector
- Exhibit 3: Hearing Request Form and support documents dated May 29, 2018
- Exhibit 4: Notice on Appeal
- Exhibit 5: Historical Notices and printouts
- Exhibit 6: Customer service Notes

Exhibit 7: New determination

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for Health Connector Plans in December 2017 (Testimony of Appellant).
2. In December 2017, Appellant was notified that Appellant was required to provide proof of social security number for coverage by the Health Connector (Exhibit 4).
3. Appellant sent in information regarding social security number on January 16, 2018 and re-sent the documents on several other occasions (Exhibit 2, 4, 6 and Testimony of Appellant).
4. On May 22 2018, Appellant was determined ineligible for Health Connector plans for failure to send in documents verifying social security number (Exhibit 4).
5. Appellant filed an appeal on May 29, 2018 (Exhibit 3).
6. On or about May 29, 2018, the Health Connector determined that the required documents had been sent in on a timely basis in January 2018 (Exhibit 6).
7. On or about May 29, 2018, Appellant's record was updated to reflect that the required documents had been received and processed (Exhibit 6 and 7).
8. Appellant was covered by a Health Connector plan continuously from January 2018 through the date of the hearing (Exhibit 6).
9. Appellant was aware that the Health Connector plan was in full force and effect and Appellant continued to pay all premiums (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant was found ineligible for Health Connector Plans as Health Connector records indicated that Appellant did not provide proof of social security number. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' social security number, in accordance with 45 CFR § 155.315(b). Where the Health Connector cannot verify applicants' social security number electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

In December 2017, Appellant was determined eligible for Health Connector Plans and was asked to send proof of Appellant's social security number. Appellant sent in the social security number documents on January 16, 2018 and on several other occasions. On May 22, 2018, 2018, Appellant was determined ineligible for Health Connector plans for failure to send in documents verifying the social security number. On May 29, 2018, Appellant provided proof that the information had previously been sent on a timely basis. The Health Connector corrected the records and Appellant's health insurance was reinstated and there was no lapse in coverage.

The decision by the Health Connector on May 29, 2018 was incorrect as Appellant had provided the requested information regarding the social security number on a timely basis.

ORDER

The appeal is allowed

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

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

ADDENDUM

This appeal has been allowed. However, no action is needed as the Health Connector already corrected the record with the social security information. Appellant has been continuously enrolled in a Health Connector Plan.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5559

Appeal Decision: Appeal denied

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

Hearing Date: July 25, 2018

Decision Date: September 28, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated May 17, 2018, the appellant was advised that she qualified for Health Connector Plans (with no financial help) with eligibility effective on June 1, 2018. (Exs. 1,2) The appellant filed an appeal which was received on June 25, 2018 (Ex. 8) in which she stated in part that although she had made a premium payment on March 17, 2018, her coverage was terminated. The matter was referred to a hearing after receipt of the appeal. (Ex.11)

ISSUE

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on May 17, 2018, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 25, 2018, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence:

- Ex. 1—Health Connector's Notice of Eligibility Approval dated May 17, 2018 (12 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for May 17,2018 (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (2 pages)

- Ex. 4—Computer printout of the Health Connector’s “AVV tool” showing information from the application database for the appellant (1 page)
- Ex. 5— Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for February 17, 2018 (2 pages)
- Ex. 6— Computer printout of Health Connector’s Review of Application (2 pages)
- Ex. 7—Computer printout of enrollment information(1 page)
- Ex. 7A—Health Connector’s Notice of Termination for Non Payment dated March 7, 2018 (4 pages)
- Ex. 8—Online Appeal Form received on June 25, 2018 (3 pages)
- Ex. 9—Acknowledgement of Appeal dated June 27, 2018 (4 pages)
- Ex. 10—Appeals Unit notes (1 page)
- Ex. 12—Notice of Hearing (5 pages)
- Ex. 13—Affidavit of Connector representative(1 page)

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer from both the appellant and the Connector. The documentation from the Connector was received in a timely manner and was marked as follows:

- Ex. 14—Employer-sponsored Health Insurance Form dated August 28, 2018 (1 page)

The appellant did not submit the documentation requested of her by the filing deadline, and the record was subsequently closed.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 25 years-old, is single, and has a tax household size of one. (Testimony, Exs. 3,6)
2. The appellant enrolled in a ConnectorCare plan with Advanced Premium Tax Credits (APTC) for 2018 for which she paid a monthly premium of \$13.00. She paid her premium for the month of January, 2018. (Testimony, Exs. 5,7)
3. Subsequent to January, the appellant thought she was making monthly payments through automatic withdrawal, and later discovered a banking issue with her account number. By notice dated March 7, 2018, the Health Connector notified the appellant that her coverage ended on or about January 31, 2018, because it did not get full payment of the amount due for her monthly premium. She was further advised that she had until April 6, 2018 to re-enroll in coverage with her current plan. (Testimony, Ex. 7A)
4. At the time that the appellant enrolled in health insurance through the Health Connector, she was employed and her employer offered health insurance. She did not enroll because she had missed the open enrollment period and did not believe she could afford the cost. (Testimony)
5. By notice dated May 17, 2018, the Health Connector notified the appellant that she qualified for Health Connector Plans (with no financial help) for 2018. The appellant was further notified that among the possible reasons she did not qualify for subsidized insurance was access to health insurance through another source, such as an employer. (Exs. 1,2)
6. On the appellant’s application for health insurance, she indicated that she had the option to enroll in employer health coverage. (Exs. 3,6)

7. The lowest cost individual plan that the appellant could enroll in through her employer for 2018 costs \$129.98/month. She is eligible to enroll in employer insurance beginning on January 1, 2019. (Ex.14)

ANALYSIS AND CONCLUSIONS OF LAW

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an APTC (advanced premium tax credit) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if a) their household income does not exceed 300 percent of the FPL and b) they are eligible for an APTC. See 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2017 is considered to be affordable if the employee's contribution for an individual plan is 9.56 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

Pursuant to the information provided by the employer, the appellant is not eligible to enroll in employer health insurance until January 1, 2019, and is therefore considered to be in a waiting period. As such, in light of her lack of current access to employer insurance, her eligibility for health insurance should be redetermined for the remaining months of 2018.

Based upon the totality of the evidence, it is concluded that the Connector's determination on May 17, 2018, regarding the appellant's eligibility for Health Connector Plans without subsidies was correct based on her attestation that she had the option to enroll in employer health insurance. However, the Connector is directed to redetermine the appellant's eligibility for the remainder of 2018 based on the fact that she is in a waiting period for employer insurance until January 1, 2019.

ORDER

The appeal is denied. The Connector is ordered to redetermine the appellant's eligibility for insurance for the remainder of 2018.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5885

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; timeclock expiration income

Hearing Date: August 28, 2018

Decision Date: October 12, 2018

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 June 17, 2018, Appellant was determined eligible for Health Connector plans with no financial assistance based on Appellant's failure to verify Appellant's income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no financial assistance, based on the Appellant's failure to verify Appellant's income.

HEARING RECORD

The Appellant appeared at the hearing, with a Navigator, which was held by telephone, on August 28, 2018. The hearing was recorded. The hearing record consists of the Appellant's and the Navigator's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification and procedure (1 page);
- Exhibit 2: Notice of Hearing (7-30-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal and notice of bifurcation (7-20-18) (3 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (7-16-18) (1 page);

- Exhibit 6: Eligibility Approval letter (6-17-18) (10 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (8 pages);
- Exhibit 8: Request for information letter (12-19-17) (4 pages);
- Exhibit 9: Workspace form with documents sent by Appellant (4 pages); and
- Exhibit 10: Eligibility and enrollment information (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector.
2. On December 19, 2017, Appellant was asked to submit documents of proof of income to confirm eligibility.
3. Appellant did not submit the documentation of proof of income within the time required as requested.
4. Appellant was on MassHealth from December 2017 until July 1, 2018.
5. On June 17, 2018, Appellant was deemed eligible for Health Connector Plans without financial assistance based on failure to submit the required documents.
6. On July 16, 2018, Appellant filed for an appeal.
7. Appellant testified that Appellant had sent in documents but the documents were not complete.
8. Appellant also has a MassHealth appeal pending regarding loss of the MassHealth benefits.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant applied for health insurance coverage through the Connector. Appellant was required to submit documentation of proof of income. Appellant did not submit the documentation requested within the appropriate time period. On June 17, 2018, Appellant was notified that Appellant was eligible for Health Connector plans without financial assistance based on failure to submit the required documentation of proof of income.

Thereafter, Appellant indicated in the hearing that she did submit the documentation but it was not complete. Appellant indicated that she would send in the complete documentation.

The Connector made the correct determination based on the information available to the Connector. When Appellant did not supply the required documentation, the Connector correctly determined that Appellant was eligible for Health Connector plans without financial assistance at that time.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5979

Appeal Decision: Appeal Denied
Hearing Issue: Eligibility for Connector Coverage
Hearing Date: 9/7/2018
Decision Date: 9/30/2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

The Health Connector determined that the Appellant was not eligible for a Health Connector Plan.

ISSUE

Whether the Health Connector correctly determined that the Appellant was ineligible to obtain a health care plan through the Connector.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 9/7/2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit of the Keeper of the Records
- Exhibit 2: Notice of Hearing
- Exhibit 3: Connector Acknowledgement of Appeal
- Exhibit 4: Account Dashboard
- Exhibit 5: Health Connector Record of Contact with Appellant
- Exhibit 6: Hearing Request Form
- Exhibit 7: Eligibility Denial
- Exhibit 8: Eligibility Details
- Exhibit 9: Application Summary
- Exhibit 10: Disability Information History

FINDINGS OF FACT

The record shows, and I so find:

1. On June 12, 2018 the Appellant was notified that he was ineligible for health insurance through the Massachusetts Health Connector (Connector) because he has access to Medicare. (Exhibit 7)
2. The Appellant has been determined to be eligible for partial Health Safety Net, a program that is not administered by the Connector, but is administered through MassHealth. (Exhibit 8)
3. The Appellant is enrolled in Medicare Part A, but is not eligible for Medicare Part B. (Testimony, Exhibit 6)
4. The Appellant has access to services through the Veteran's administration. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

Under 42 USC 1395ss(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare. That Federal law does not differentiate between people who are eligible for either or both Medicare Part A or Part B.

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

ORDER

The Appellant's Appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum:

The Appellant indicated that he had consulted with the Shine program (**Serving the Health Insurance Needs of Everyone**), which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare. The Appellant may wish to consult with the program again, and provide a copy of this decision if the SHINE representative has any questions about the Appellant's eligibility for Connector services.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5984

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for Health Connector plans; Special Enrollment Period

Hearing Date: September 4, 2018

Decision Date: October 23, 2018

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 June 29, 2018, Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credit, but did not qualify to enroll at that time. On July 27, 2018, Appellant was determined to not qualify for a special enrollment period due to failure to have a qualifying life event.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 4, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (8-3-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (7-27-18) (2 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (7-23-18) (2 pages);

- Exhibit 6: Eligibility Approval letter (6-29-18) (10 pages);
Exhibit 7: Eligibility detail printout and application summary printout (3 pages);
Exhibit 8: Special Enrollment decision letter (7-27-18) (8 pages); and
Exhibit 9: Termination for non-payment letter (4-9-18) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance through the Health Connector for January and February 2018.
2. In March 2018, after updating her income with the Health Connector, the premiums increased and Appellant decided she could not afford it.
3. Appellant received a Termination for non-payment letter on or about April 9, 2018, which indicated she could reinstate her insurance if she paid by May 9, 2018.
4. Appellant did not reinstate her insurance.
5. Due to health issues, Appellant applied for health insurance on or about June 29, 2018, and was found eligible for Health Connector Plans with Advance Premium Tax Credit, but was determined not to be eligible to enroll due to not qualifying for a Special Enrollment Period.
6. On July 23, 2018, Appellant filed for an appeal.
7. As of June 29, 2018, Appellant had not experienced a qualifying life event.

ANALYSIS AND CONCLUSIONS OF LAW

Appellant was found eligible for Health Connector Plans with Advance Premium Tax Credit (APTC), but was not granted a special enrollment period and therefore could not enroll in coverage. The Appellant asserts that she is in need of health insurance due to health issues.

Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2017 was November 1, 2017 to January 31, 2018. 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 (e)(1).

On June 29, 2018, Appellant was determined eligible for Health Connector plans with APTC, but was found not eligible for a special enrollment period due to failure to have a qualifying life event. The Appellant's health issues is not a qualifying life event, and the termination for non-payment of premiums is also not a qualifying life event. Appellant did not qualify for any qualifying life events, and therefore, the Health Connector's determination that Appellant was not eligible for a special enrollment period was correct.

Appellant was advised to file an application with the Office of Patient Protection for a waiver.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6009

Appeal Decision: Appeal
Hearing Issue: Required Proof
Hearing Date: 9/7/2018
Decision Date: 10/1/2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Whether the Health Connector appropriately determined that the Appellant was not eligible for its services on July 12, 2018.

ISSUE

Whether the Massachusetts Health Connector correctly determined the Appellant to be ineligible for its programs, based on the information available to it at the time.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on 9/7/2018.

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

- Exhibit 1: Affidavit of the Keeper of the Records
- Exhibit 2: Fax from Appellant
- Exhibit 3: Account Dashboard
- Exhibit 4: Notice of Hearing
- Exhibit 5: Eligibility Denial

- Exhibit 6: Eligibility Details
- Exhibit 7: Application Summary
- Exhibit 8: Request for Appeal
- Exhibit 9: Request for Information
- Exhibit 10: Virtual Gateway Printout and Copies of Appellant's Verifications
- Exhibit 11: Request for Proof of Identity
- Exhibit 12: Eligibility Details
- Exhibit 13: Application Summary
- Exhibit 14: Eligibility Approval

FINDINGS OF FACT

The record shows, and I so find:

1. On July 12, 2018, the Appellant submitted an application to the Massachusetts Health Connector (Connector) to determine whether she was eligible for health care benefits. On that same date, the Connector notified the Appellant that she did not qualify for health insurance benefits through the Connector at that time, because there was insufficient information available to determine her eligibility. (Exhibit 5)
2. The Appellant submitted her request for appeal of the July 12 decision on July 26, 2018, stating that the reason for the appeal is that she had provided the necessary information. (Exhibit 8).
3. On August 6, 2018, the Appellant faxed to the Health Connector Appeals Unit a packet of documents. (Exhibit 2)
4. On August 16, 2018, Connector notified the Appellant that her documentation was received and that she was now eligible for a Health Connector Plan. (Exhibit 14)

ANALYSIS AND CONCLUSIONS OF LAW

The Connector is required to verify the information necessary to determine an applicant's eligibility for services under the Affordable Care Act. See, 45 CFR 155.320 (c)(1)(i) and (c)(3). If the Connector is unable to verify the information from the sources available to it, the applicant is required to provide the information necessary to determine eligibility. 956 CMR 12.06 The record demonstrates that the Appellant provided the requested information on August 6, 2018, several weeks after the July 12, 2018 decision. Accordingly, the Connector properly determined that the Appellant was not eligible on July 12, 2018.

ORDER

The Appellant's Appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum:

The Appellant is reminded to notify Customer Service if her income or other circumstances change since the date of approval. The telephone number is 877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6041

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; Medicare

Hearing Date: September 4, 2018

Decision Date: October 23, 2018

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 24, 2018, the Appellant was deemed ineligible for Health Connector Plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 4, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (8-13-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (7-31-18) (6 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (7-27-18) (2 pages);
- Exhibit 6: Eligibility Denial letter (7-24-18) (6 pages);

Exhibit 7: Eligibility detail printout and application summary printout (4 pages); and
Exhibit 8: AVV form (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on or about July 24, 2018.
2. Appellant was determined ineligible for Health Connector plans on July 25, 2018, based on being eligible for Medicare.
3. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on the appeal that medical insurance and expenses were too expensive and he would like to have subsidized health insurance.

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

When the Appellant's eligibility for 2018 coverage was determined on July 24, 2018, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at the hearing eligibility for Medicare. Because the Appellant is eligible for Medicare, the Health Connector found that the Appellant was not eligible for Health Connector plans. This was the correct determination and the Appellant's appeal is denied.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Note: Appellant was advised to contact Mass Health or a certified application counselor at the local hospital for assistance with Mass Health programs.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6229

Appeal Decision: Appeal denied

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

Hearing Date: September 25, 2018

Decision Date: October 26, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated June 13, 2018, the appellants were advised that they qualified for Health Connector Plans (with no financial help) because the Connector did not get the information it needed to verify their eligibility. (Ex. 1) The appellant husband filed an appeal which was received on August 17, 2018 based on income. (Ex. 11) The matter was referred to a hearing after receipt of the appeal. (Ex.14)

ISSUE

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on June 13, 2018, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant husband appeared at the hearing which was held by telephone on September 25, 2018, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence:

- Ex. 1—Health Connector's Notice of Eligibility Approval dated June 13, 2018 (8 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for June 13, 2018 (3 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (4 pages)
- Ex. 4—Letter from MassHealth dated December 20, 2017 (4 pages)

- Ex. 5--Computer printout of Health Connector's Eligibility Determination Results showing a program determination for November 20, 2017 (3 pages)
- Ex. 6— Computer printout of Health Connector's Review of Application (4 pages)
- Ex. 7—Computer printout of MyWorkSpace results (5 pages)
- Ex. 8—Computer printout of Health Connector's Eligibility Determination Results showing a program determination of June 26, 2018 (4 pages)
- Ex. 9—Computer printout of Health Connector's Review of Application (5 pages)
- Ex. 10—Health Connector's Notice of Termination for Nonpayment dated August 9, 2018
- Ex. 11—Online Appeal Form received on August 17, 2018 (2 pages)
- Ex. 12—Acknowledgement of Appeal dated August 20, 2018 (3 pages)
- Ex. 13—Appeals Unit notes (1 page)
- Ex. 14—Notice of Hearing (5 pages)
- Ex. 15—Affidavit of Connector representative (1 page)

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer from the Connector. The documentation was received in a timely manner and was marked as follows:

- Ex. 16— Health Connector's Notice of Eligibility Approval dated June 13, 2018 (8 pages)
- Ex. 17—List of notices sent by the Health Connector to the appellant(s) for the period 12/10/2014-9/10/2018 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant husband is 49-years-old and has a tax household size of three consisting of himself, his wife and his child. (Testimony, Exs. 3,6,9)
2. By notice dated December 20, 2017, the Health Connector notified the appellant that he and his wife qualified for Health Connector Plans and Health Safety Net Partial, and their son qualified for MassHealth Family Assistance for 2018. In a separate notification from MassHealth of the same date, the appellant husband and wife were asked to submit proof of income by March 20, 2018. (Exs. 4,5)
3. The appellants were enrolled in a subsidized plan for the first few months of 2018 for which they paid approximately \$4.00/month. At some point thereafter, their eligibility was redetermined and their premium increased to \$172.00/month. (Testimony)
4. By letter dated June 13, 2018, the Health Connector notified the appellants and their son that they were eligible for Health Connector Plans (with no financial help) because it did not get the proof it needed. The letter further stated that the Connector's determination was based on "data from other sources" because it did not receive the documents it had requested. (Exs. 1,2)
5. On June 25, 2018, the appellant husband submitted one paystub for himself and his wife to MassHealth. (Testimony, Ex. 7)
6. On June 26, 2018, the Health Connector notified the appellant that he and his wife qualified for ConnectorCare Plan Type 3B with an APTC of \$488.00, and their son qualified for MassHealth Family Assistance, effective August 1, 2018. (Testimony, Ex. 8)

7. At some point at the end of July, the appellant looked at his bill online and saw that he owed two premiums—one in the amount of \$172.00 and the other in the amount of \$882.00. He called the Health Connector for an explanation and believed he was told that the correct premium was \$172.00. (Testimony)

8. By letter dated August 9, 2018, the Health Connector notified the appellant and his wife that their coverage ended on July 31, 2018, because they did not make full payment of the amount due for their monthly premium bills. (Ex. 10)

9. The appellant appealed the Connector's August 9, 2018 determination on August 17, 2018, based on income. He stated in part that he did not have the option of paying one premium or the other and the Health Connector advised him that his premium was set at \$172.00 going forward, but to file an appeal for July's premium. (Testimony, Ex. 11)

10. At the time of the instant hearing, the appellant had paid the premium of \$172.00 for the month of September. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

On June 13, 2018, the appellants were advised that they qualified for Health Connector Plans (with no financial help) because they failed to provide the documentation requested of them to verify their continued eligibility. The appellants argue that they submitted proof of income to the Connector as requested, and do not understand why they were billed \$882.00 for the month of July.

By notice dated December 20, 2017, the appellants were asked to submit proof of income to MassHealth by March 20, 2018. (The request originated with MassHealth because the appellants' household contained a MassHealth eligible member and is considered a mixed household.) It is recognized that the appellants were able to enroll in two different subsidized plans after the December 20th notification without complying with the March 20, 2018 deadline for income proof. However, since MassHealth did not receive the information that it requested, on June 13, 2018, the Connector advised the appellants that they were only eligible to purchase Health Connector plans (with no financial help) pursuant to 45 CFR 155.315(f). Since the appellants failed to provide the requested verification, the Connector relied on data it had available from other sources to issue its determination.

Subsequent to the June 13, 2018 determination, the appellants submitted documentation to verify their income, and on June 26, 2018, they were determined eligible for ConnectorCare Plan Type 3B with APTC, effective August 1, 2018.

Based upon the totality of the evidence, it is concluded that the Connector's determination on June 13, 2018, regarding the appellants' eligibility for Health Connector Plans without subsidies due to failure to provide requested information, was correct and is therefore affirmed.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellants are reminded that the June 13, 2018 notice from the Health Connector requested that they submit proof of residence by September 11, 2018.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6234

Appeal Decision: Appeal Approved.

Hearing Issue: Eligibility for subsidies based on failure to verify income.

Hearing Date: September 26, 2018

Decision Date: October 2, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 22, 2018, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after the Health Connector determined that the Appellant failed to verify income in a timely manner.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellant's household eligible for Health Connector plans without Advance Premium Tax Credits based on the Appellant's failure to verify income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 26, 2018. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The issue of a record open period was discussed but a more thorough review of the exhibits in the appeal record made this unnecessary.

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

Exhibit 1: Health Connector's Hearing Record Affidavit.

Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated August 27, 2018.

- Exhibit 3: An Access printout of the Appellant's on-line appeal request dated August 19, 2018.
- Exhibit 4: Health Connector's Eligibility Approval Notice with an application summary dated June 22, 2018.
- Exhibit 5: Health Connector's Request for Information with an application summary dated February 18, 2018.
- Exhibit 6: Health Connector's Notes from Customer Service Interactions Salesforce.
- Exhibit 7: Health Connector's Eligibility Approval Notice with an application summary dated August 3, 2018.
- Exhibit 8: My Workspace printout of documents received and processed on May 2, 2018.
- Exhibit 9: My Workspace printout of documents received and processed on July 30, 2018.
- Exhibit 10: Documents submitted by the Appellant to the Health Connector Appeals Unit on August 20, 2018 with attachments.
- Exhibit 11: Appeals Unit e-mails with documents forwarded to Customer Service.
- Exhibit 12: Account Dashboard Printout of the Appellant's current eligibility

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to February 2018 the Appellant, their spouse and one child were determined eligible for Health Connector Plans with Advance Premium Tax Credits.
2. On February 2, 2018 the Appellant submitted an updated application for health insurance for their reported household of three (Exhibit 5)
3. On February 2, 2018 the Health Connector issued a Request for Information. The Appellant was asked to provide updated income verification for their spouse and child by May 3, 2018 (Exhibit 5).
4. On June 22, 2018 the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial help effective July 1, 2018 because the Health Connector was unable to verify the Appellant's household income (Exhibit 4).
5. On July 12, 2018 the Appellant telephoned Health Connector Customer Service to ask why their monthly premium increased. The Appellant was informed that they had lost their subsidies because they failed to send in proof of their child's income as requested. The Appellant was informed that their spouse's income had been verified. The Appellant's premium increased from \$908.76 to \$1,567.76 effective July 2018 (Exhibit 6).
6. The Appellant submitted updated income information to the Health Connector on July 23, 2018. This included income for the Appellant's child (Exhibit 9).
7. On August 3, 2018 the Appellant's household of three was determined eligible for a Health Connector Plans with Advance Premium Tax Credits. This determination is based on the Appellant's verifying that the household of three has income equal to 377% of the federal poverty level (Exhibit 7).
8. The Appellant filed an appeal on August 19, 2018. The Appellant disputes the increase in their healthcare premiums for the months of July and August 2018 (Exhibit 3 and Appellant Testimony).
9. The Appellant testified that they met several times with a representative from the Community Action Committee of Cape Cod in Hyannis and submitted proof of income for all household members prior to the May 2, 2018 deadline. The representative sent the information on their behalf. The Appellant explained that their daughter is a student and works only between semesters. The wage stub does not represent income received on a regular basis and the Appellant said that this was explained (Exhibit 6 and Appellant Testimony).
10. My Workspace documents support the Appellant's testimony. Documentation submitted verified that information was received by the Health Connector on February 26, 2018 and processed on May 2, 2018.

Attached to this was a wage stub of the Appellant's spouse dated January 24, 2018. Also attached was a wage stub for the Appellant's child dated March 16, 2018 that had been faxed on April 10, 2018. It appears that the Health Connector did not create separate task IDs for the documentation submitted on February 26, 2018 and April 10, 2018 and this may have caused some confusion (Exhibit 8).

11. The Appellant submitted verification of income for their spouse and child prior to May 3, 2018 as requested by the Health Connector on February 2, 2018 (Exhibits 5, 8 and Appellant Testimony).

ANALYSIS AND CONCLUSION OF LAW

Prior to January 2018, the Appellant's household of three was determined eligible for Health Connector Plans with Advance Premium Tax Credits. On February 2, 2018 the Appellant updated their application. On February 2, 2018 the Health Connector issued a Request for Information. The Appellant was informed, in writing that updated income information for their spouse and child must be submitted to the Health Connector by May 3, 2018. According to the Customer Service notes, the Health Connector received verification of the income of the Appellant's spouse prior to the May 3, 2018 deadline, but the Health Connector maintains that the income of the Appellant's child was not verified by May 3, 2018. On June 22, 2018 the Appellant was informed that their household of three was eligible for Health Connector Plans without subsidies for the period beginning July 1, 2018.

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).

The Appellant submitted additional income verification to the Health Connector and on August 3, 2018 and was notified that they were eligible for Health Connector Plans with Advance Premium Tax Credits of \$674.00 effective September 1, 2018. The Appellant filed an appeal on August 19, 2018. The Appellant disputes the loss of subsidies for the months of July and August. The Appellant maintains that all income verifications were sent to the Health Connector by the deadline date of May 3, 2018.

Two My Workspace printouts with documents attached were submitted at the hearing. One of the printouts verifies that the income of the Appellant's spouse was received on February 26, 2018 and processed on May 2, 2018. Attached to this was a copy of a wage stub for the Appellant's child dated March 16, 2018. Printed on the top of the document is a fax date of April 10, 2018. It is unclear why the Health Connector did not create a second task ID for this income verification. This processing error resulted in the Health Connector incorrectly determining that the income of the Appellant's child had not been verified prior to May 3, 2018 as requested. The Health Connector had the verifications needed to determine the Appellant's financial eligibility as of May 3, 2018. The Appellant's income was greater than 300% but less than 400% of the federal poverty level. The Health Connector's June 22, 2018 determination that the Appellant was not eligible for Health Connector Plans with Advance Premium Tax Credits was incorrect.

ORDER

This appeal is Approved.

NOTIFICATION OF YOUR RIGHT TO ELECT RETROACTIVE COVERAGE

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

If you do not want retroactive coverage, you may instead have coverage starting on the first day of the month following the implementation of your correct eligibility, in accordance with Health Connector enrollment rules. You may opt to take the Advance Premium Tax Credits you did not receive but were entitled to as an adjustment on your 2018 income tax return.

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

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6245

Appeal Decision: Appeal approved

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

Hearing Date: September 25, 2018

Decision Date: October 24, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated June 22, 2018, the appellant was advised that she qualified for Health Connector Plans (with no financial help) because the Connector did not get the information it needed to verify her eligibility. (Ex. 4) The appellant filed an appeal which was received on August 15, 2018 (Ex. 10) in which she requested that she be reimbursed. The matter was referred to a hearing after receipt of the appeal. (Ex.13)

ISSUE

Was the Connector's decision regarding the appellant's qualification for Health Connector Plans correct at the time of its determination on June 22, 2018, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 25, 2018, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence:

- Ex. 1—Health Connector's Request for Information dated November 2, 2017 (6 pages)
- Ex. 2— Computer printout of Health Connector's Eligibility Determination Results showing a program determination for September 7, 2017 (2 pages)
- Ex. 3— Computer printout of Health Connector's Review of Application (3 pages)
- Ex. 4—Health Connector's Notice of Eligibility Approval dated June 22, 2018 (10 pages)

- Ex. 5— Computer printout of Health Connector’s Eligibility Determination Results showing a program determination for June 22, 2018 (2 pages)
- Ex. 6— Computer printout of Health Connector’s Review of Application (3 pages)
- Ex. 7—Computer printout of Health Connector’s Eligibility Determination Results showing a program determination of July 30, 2018 (2 pages)
- Ex. 8—Computer printout of Health Connector’s Review of Application (3 pages)
- Ex. 9—Customer service log of communication with the appellant (3 pages)
- Ex. 10—Hearing Request Form received on August 15, 2018 (10 pages)
- Ex. 11—Acknowledgement of Appeal dated August 22, 2018 (4 pages)
- Ex. 12—Appeals Unit notes (1 page)
- Ex. 13—Notice of Hearing (5 pages)
- Ex. 14—Affidavit of Connector representative

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer from the Connector. The documentation from the Connector was received in a timely manner and was marked as follows:

- Ex. 15—Customer service log of communications with the appellant from November 2, 2017-August 28, 2018
- Ex. 16—Memo from the Manager of the Appeals Unit dated September 26, 2018 (1 page)

The appellant responded to the Connector’s submission which was marked as follows:

- Ex. 17—Letter from the appellant dated October 1, 2018 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 62 years-old, is married, and has a tax household size of two. (Testimony, Exs. 3,6,8)
2. The appellant was enrolled in a ConnectorCare plan with Advanced Premium Tax Credits (APTC) in 2017. (Testimony)
3. By notice dated November 2, 2017, the Health Connector sent the appellant a Request for Information notifying her that it could not verify that she qualified to purchase a Health Connector Plan and requesting that she submit proof of income for her husband by January 31, 2018. (Ex. 1)
4. The appellant contacted customer service on November 2, 2017 and enrolled in a subsidized insurance plan for 2018 with a monthly premium of \$61.00. During the conversation, she was “informed of time frames, deadlines and proofs.” (Testimony, Ex. 15)
5. In lieu of paper notices, the appellant opted to receive notices from the Connector electronically. (Ex. 16)
6. On March 31, 2018, the Connector determined the appellant eligible for ConnectorCare Plan Type 2B with an APTC of \$402.00/month. She was further advised to submit proof of income for her husband. (Ex. 2)
7. It is not known whether the appellant received the March 31, 2018 determination from the Connector.

8. For members who choose to receive electronic notices, the Connector publishes the notices on the Health Connector website and an email is sent alerting the member that there is a new notice to view. Although notices were published and viewable on the website between April 8, 2018 and July 14, 2018, the Health Connector did not send out emails alerting members to the new notices during that time frame. (Ex. 16)
9. The Connector determined that the appellant was on the list of members who was not sent email alerts of new published notices from April 8, 2018-July 14, 2018. (Ex. 16)
10. By letter dated June 22, 2018, the Health Connector notified the appellant that she was eligible for Health Connector Plans (with no financial help) because it did not get the proof it needed. The letter further stated that the Connector's determination was based on "data from other sources" because it did not receive the documents it had requested. (Exs. 4,5)
11. The appellant had arranged for her monthly premium to be automatically withdrawn from her bank account by the Connector. On July 30, 2018, she noticed that \$1029.88 had been withdrawn instead of the usual withdrawal of \$61.00. The appellant called the Connector for an explanation and was advised that notices and bills had been sent alerting her to the situation and the reasons for the changes. The appellant indicated that she had not received any requests or notices from the Connector prior to July 30, 2018. The appellant was asked to submit proof of her husband's income, and she faxed her husband's 2017 Form 1099 to the Connector on that day. (Testimony)
12. The appellant called the Connector on July 31, 2018 and was advised that her policy would be \$61.00/month beginning on September 1, 2018. She was further advised that she would not be refunded for the charges on her account. (Ex. 15)
13. The appellant called the Connector on August 2, 2018, and requested that something be done about the \$1000.00 that was withdrawn from her account. She was told that she would not be able to get a refund and was advised to file an appeal. (Testimony, Ex. 15)
14. On August 10, 2018, the appellant received the following paper notices in the mail from the Health Connector: 1) June 22, 2018 letter (Ex. 1) in an envelope postmarked August 7, 2018; and 2) Termination Warning dated July 17, 2018 notifying her that in order to keep her insurance coverage, she must pay \$1029.88 by August 22, 2018, in an envelope postmarked August 7, 2018. ¹ On August 10, 2018, she also received a letter from MassHealth dated July 30, 2018 notifying her that she did not qualify for MassHealth, in an envelope postmarked August 7, 2018. (Testimony, Ex. 10)
15. On August 15, 2018, the appellant filed a Hearing Request Form and requested that she be reimbursed for the \$1029.88 that had been withdrawn from her account on July 30, 2018. She stated that she had never received any notifications from the Connector regarding changes or termination of her coverage. She included the notices referenced in Finding No. 14. She stated that she called the Connector on August 13, 2018 regarding her August bill which she had not yet received and asked why the notices in Finding No. 14 were mailed to her. Finally, she stated that she believes the "something has gone terribly wrong at the health connector and my bills and letters are not being sent to me when they should be....I believe that these postmarked August 7 2018 letters were sent to me as they were found...and had not been mailed..." (Ex. 10)

¹ It is not clear why \$1029.88 was withdrawn from the appellant's bank account on July 30, 2018, when the July 17, 2018 notice indicates that the appellant had until August 22, 2018 to make that payment.

16. The appellant responded to the Connector's Open Record submission by letter dated October 1, 2018 and stated in part that: "The website would not let me open my bills. I called the health connector and informed them of this. They tried to open it with me on the phone and they could not. I was not using the website because of this reason. I don't see my call on the activity list regarding this..." (Testimony, Ex. 17)

ANALYSIS AND CONCLUSIONS OF LAW

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

On June 22, 2018, the appellant was advised that she qualified for Health Connector Plans (with no financial help) because she failed to provide the documentation requested of her to verify her continued eligibility. The appellant argues that she never received the Connector's June 22, 2018 letter or the July 17, 2018 termination waning, and as a result, the premium of \$1029. 88 for unsubsidized insurance should be adjusted.

The Connector provided credible information following the hearing which indicated that the appellant was a member of a group who was not sent email alerts of new published notices from April 8, 2018-July 14, 2018. Consequently, it is assumed that she did not receive email alerts for the June 22nd or July 17th letters, and was unaware of the requests and deadlines made by the Connector. The request for proof of her husband's income goes back to November, 2017, and it appears that although she enrolled in subsidized insurance for 2018, she was advised in her conversation of November 2, 2017, of "time frames, deadlines and proofs". In addition, the Connector also requested proof of her husband's income by letter dated March 31, 2018. However, it would not be unreasonable to assume that she did not get an email alert for that notice either, given the proximity of that date to April 8, 2018, when the email alert issue began.

Based upon the totality of the evidence, it is concluded that because the appellant did not receive any notices from the Connector from April 8, 2018-July 14, 2018, she was unaware of the agency's outstanding requests and should not be penalized for its technical problems. Therefore, the Connector's determination on June 22, 2018, regarding the appellant's eligibility for Health Connector Plans without subsidies due to failure to provide requested information, was incorrect and is overturned.

ORDER

The appeal is **approved**.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

NOTIFICATION OF YOUR RIGHT TO ELECT RETROACTIVE COVERAGE

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

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6255

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility for subsidized insurance based on enrollment in insurance through The Veteran's Administration

Hearing Date: September 26, 2018

Decision Date: October 2, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 5, 2018, the Appellant was determined eligible for Health Connector plans without subsidies because the Appellant is enrolled in health insurance through the Veteran's Administration.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant's enrollment in a health plan offered by the Veteran's Administration.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 26, 2018. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing with attachments dated August 27, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.

- Exhibit 4: The Appellant's Hearing Request Form dated August 20, 2018.
- Exhibit 5: Health Connector's 2018 Eligibility Approval notice with an Application Summary dated July 12, 2018.
- Exhibit 6: Health Connector Account Dashboard printout.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant submitted an eligibility application to the Health Connector on July 12, 2018. The Appellant reported income equal to 182.89% of the federal poverty level. The Appellant also reported that they have health insurance coverage through the Veterans Administration (VA) (Exhibit 5).
2. On July 12, 2018 the Health Connector determined that the Appellant was eligible for Health Connector plans without subsidies because the Appellant has VA insurance coverage (Exhibit 5).
3. The Appellant enrolled in a health plan and paid a monthly premium of \$736.00 (Appellant Testimony).
4. The Appellant filed an appeal on August 20, 2018 (Exhibit 4).
5. The Appellant testified that they were diagnosed with a serious illness and applied for MassHealth as a disabled person. The Appellant said that the MassHealth representative advised the Appellant to apply at the Health Connector also because sometimes it takes several months to receive a MassHealth approval on the basis of disability. The Appellant said that they were approved for disability quickly and filed an appeal to try and get a refund for the insurance they purchased because MassHealth coverage was effective retroactively (Appellant Testimony).
6. The Appellant testified that they are enrolled in health coverage through the VA but prefer to be treated elsewhere (Appellant Testimony).
7. The Appellant acknowledges that they applied for health insurance through the Health Connector, chose a health plan, were given a quote, paid the monthly premium and enrolled in coverage (Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant submitted an application for health insurance to the Health Connector on July 12, 2018. The Appellant reported income equivalent to 182.89% of the federal poverty level. The Appellant also reported that they were enrolled in health insurance at the VA. The Appellant was advised that since they have minimum creditable coverage insurance coverage through the VA, they were not eligible for additional financial subsidies, but could purchase a Health Connector Plan. 26 CFR § 1.36B-2 and 956 CMR 12.04. The Appellant chose a plan, received a premium quote, paid a premium of \$736.00 and enrolled in a health plan. The Appellant filed an appeal to seek a refund of the insurance purchased.

The Appellant explained that they applied for MassHealth disability insurance coverage after being diagnosed with a serious illness. The Appellant said that the MassHealth representative advised that it could take several months for MassHealth to review the Appellant's application and it would be advisable for the Appellant to apply for other insurance through the Health Connector. MassHealth apparently approved the Appellant's application quickly and coverage was retroactive. The Appellant argues that since they were covered by MassHealth, they did not need the insurance they purchased and hoped the money paid could be refunded in part.

As explained at the Hearing, actions by MassHealth are not reviewable by the Health Connector. In addition, the issue of a refund is not an appealable issue. 956 CMR 12.02. As noted above, the Appellant applied for, chose and purchased a health plan. There is nothing in the regulations that would require the Health Connector to issue

a refund because the Appellant later determined that they did not use or need the insurance they purchased. This appeal is therefore denied.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6270

Appeal Decision Appeal Denied. The Connector's determination of Appellant's ineligibility for a Special Enrollment Period outside of Open Enrollment is upheld.

Hearing Issue: Whether the Connector correctly determined that Appellant did not meet the criteria for a Special Enrollment Period so that Appellant could enroll outside of Open Enrollment.

Hearing Date: September 27, 2018

Decision Date: October 25, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 20, 2018, Appellant was determined not eligible for a Special Enrollment Period and was not permitted to enroll in a different health plan.

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant did not meet the criteria for a Special Enrollment Period so that Appellant could enroll in a different plan outside of Open Enrollment Period.

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on September 27, 2018. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file
- Exhibit 2: Correspondence from Appeals Unit
- Exhibit 3: Hearing Request Form and supporting documents, signed by Appellant on August 20, 2018

Exhibit 4: Eligibility Letters on appeal

Exhibit 5: Eligibility Results and Application summary

FINDINGS OF FACT

The record shows, and I so find:

- 1 Appellant had been enrolled in a ConnectorCare plan for several years (Exhibit 4 and Testimony of Appellant).
2. Appellant moved to a different area in Massachusetts in 2015 (Testimony of Appellant).
3. Appellant was switched to a different ConnectorCare plan in 2018, based on Appellant's place of residence (Testimony of Appellant).
4. Appellant believed that Appellant's doctors would be covered by the new plan (Testimony of Appellant).
5. Appellant had surgery in early 2018 that was covered by the new plan so Appellant thought that the plan would cover Appellant's providers (Testimony of Appellant).
6. Appellant has a serious illness and wants to be covered by the same health care providers that had been treating Appellant since Appellant's diagnosis in 2014 (Exhibit 3 and Testimony of Appellant).
7. In late July, Appellant was notified that the same providers could not care for Appellant as they weren't included in the new health plan (Testimony of Appellant).
8. On August 20, 2018, Appellant applied to the Health Connector to change enrollment to the former health plan.
9. On August 20, 2018, Appellant was notified that Appellant was not eligible to enroll in a new plan because Appellant did not have a qualifying event and that Appellant would need to wait until the next open enrollment period to shop for a new plan (Exhibit 4).
10. Appellant would not be able to enroll in the plan that insured him previously since Appellant lives in a different area and the health plan that covers Appellant's doctors is not offered in Appellant's current location (Exhibit 2 and Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

In general, qualified individuals must enroll in health plans or change health plans during open enrollment periods, unless the individual meets one of the criteria to qualify for a special enrollment period. When Appellant tried to change Health Connector Plans on August 20, 2018, it was outside of the open enrollment period. Appellant did not have any of the changes in circumstances that would qualify Appellant for a special enrollment period. Appellant was correctly found not to meet any of the grounds for enrolling outside of the open enrollment period. See 45 CFR 155.410, 155.420 and Exhibits 3, 4, 5 and Testimony of Appellant, which I find to be credible.

However, even if Appellant were found eligible for a Special Enrollment Period, Appellant would not be eligible for the health plan that covered Appellant's doctors since the subsidized plan was not offered to Applicants who lived in Appellant's area .

ORDER

Appellant's appeal is denied.

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

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

ADDENDUM

Appellant was provided with information regarding contacting the current health plan to ask if Appellant would qualify for a Continuity of Care exception so that Appellant could continue to see Appellant's doctors.

Appellant was also provided information that the plan that Appellant desired was offered on an unsubsidized basis and that Appellant might be able to get premium tax credits when Appellant filed taxes for 2018.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6274

Appeal Decision: Appeal Denied

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

Hearing Date: September 27, 2018

Decision Date: October 26, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 6, 2018, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was found ineligible is because Appellant had access to Medicare or was enrolled in Medicare.

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing which was held by telephone, on September 27, 2018.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (undated)
- Exhibit 2: Correspondence from Appeals Unit (12 pages)
- Exhibit 3: Notice of Appeal and support documents (3 pages)
- Exhibit 4: Health Connector Notices on Appeal (7 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on August 6, 2018, based on having access to Medicare or being enrolled in Medicare (Exhibit 4)
2. At the time of Appellant's application, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare (Exhibit 4).
3. Appellant filed a Notice of Appeal on August 20, 2018, claiming that Appellant was looking to enroll in a special program for Medicare (Exhibit 3 and Testimony of Appellant).
4. Appellant is enrolled in Medicare (Testimony of Appellant).
5. Appellant is also enrolled in a program to supplement Medicare. Appellant was seeking a more affordable program (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

When the Appellant's eligibility for 2018 coverage was determined August 6, 2018, the federal government provided information to the Health Connector that the Appellant was enrolled in or eligible for Medicare. Appellant was enrolled in Medicare. Appellant was seeing an affordable program to supplement Medicare. See Exhibits 3, 4 and Testimony of Appellant which I find to be credible. The Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible or enrolled in Medicare. See Social Security Act at 42 USC 1395ss(d)(3)(A)(i)(I).

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

ORDER

The appeal is denied.

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

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

ADDENDUM

Appellant was provided with the phone number for SHINE (1-800 841-2900) and MassHealth (1-800 841-2900) to get information about other insurance options available for people who are covered by Medicare.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6484

Appeal Decision: Appeal Denied

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

Hearing Date: September 26, 2018

Decision Date: October 2, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 28, 2018 the Appellant was determined ineligible for a special enrollment period.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 26, 2018. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated September 13, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form with attachments dated September 10, 2018.
- Exhibit 5: Health Connector's Special Enrollment Period Decision of denial dated August 28, 2018.
- Exhibit 6: 2018 Eligibility Results computer printout with an application summary dated August 21, 2018.
- Exhibit 7: An AVV computer printout.

Exhibit 8: Health Connector's Payment Portal printout.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant and their family had employer sponsored health insurance that ended in January 2018. The Appellant's employment ended, and the Appellant has been self-employed since that period of time (Appellant testimony).
2. On August 21, 2018 the Appellant applied for health insurance through the Health Connector for their reported household of four. The Appellant was determined financially eligible for Health Connector Plans with Advance Premium Tax Credits based on their reported income equal to 375% of the federal poverty level (Exhibit 6).
3. By notice dated August 28, 2018 the Appellant's request for a Special Enrollment Period was denied for failing to document a qualifying life event (Exhibit 5 and Appellant Testimony).
4. The Appellant filed an appeal on September 10, 2018 (Exhibit 4).
5. The Appellant testified that they tried to apply for MassHealth but were denied. The Appellant said that they were not aware that there was a sixty-day period to obtain insurance after their insurance ended in January. The Appellant also testified that they reported their self-employment income incorrectly and that their income is substantially less (Appellant Testimony).
6. It is undisputed that in the sixty-day period prior to the Appellant's August 21, 2018 application, the Appellant did not experience a qualifying life event such as a change in household composition, moving to the state or losing employer-based health insurance as outlined in Health Connector's Policy NG 1E (Exhibit 4; Appellant Testimony).
7. The Appellant was advised that they could update their application with correct income information and a new determination would be made based on the reported income.

ANALYSIS AND CONCLUSIONS OF LAW

Prior to the end of January 2018 the Appellant was enrolled in an employer sponsored health insurance program. The employment ended, and the Appellant is now self-employed. The Appellant did not contact the Health Connector to enroll in an insurance plan until August 21, 2018. The Health Connector denied the Appellant's request for a special enrollment period on August 28, 2018 and the Appellant appealed that determination on September 10, 2018.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG 1E. Qualifying life events include marriage, birth or adoption of a child, loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances. The Appellant experienced a qualifying life event in January 2018 when they lost employer sponsored health insurance. The Appellant was eligible for a special enrollment period (SPE) at that time. The SPE is a sixty-day open enrollment period. The Appellant did not contact the Health Connector until August 21, 2018. By the time the Appellant attempted to enroll in a health insurance plan, the sixty-day SPE had expired.

The Appellant argues that they did not know that there was a sixty-day time limit to obtain insurance after their insurance ended in January 2018. The Appellant also explained that they reported their income incorrectly on their application. As explained at the hearing, the Appellant may update their application at any time and report their correct income.

It is undisputed that the Appellant did not experience a second qualifying life event within the sixty-day period prior to August 21, 2018. Because the Appellant did not experience a qualifying life event, the Health Connector correctly determined on August 28, 2018 that the Appellant is not eligible for a special enrollment period 45 CFR § 155.420.

ORDER

This Appeal is Denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant was advised that they could contact the Office of Patient Protection at 1-800-436-7757 and request a Waiver of the open enrollment regulations.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6624

Appeal Decision: Appeal Denied.

Hearing Issue: Eligibility for Health Connector Plans with subsidies based on failure to verify income.

Hearing Date: October 18, 2018

Decision Date: October 22, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 9, 2018, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant eligible for Health Connector plans without subsidies, based on the Appellant's failure to verify income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 18, 2018. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated September 13, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form with attachments submitted on September 26, 2018.
- Exhibit 5: Documentation sent by the Appellant to the Health Connector Appeals Unit on October 9, 2018.
- Exhibit 6: Health Connector's Eligibility Approval notice dated June 9, 2018 with an application summary.

- Exhibit 7: Health Connector's Data Source Determination printout for the Appellant's case dated June 9, 2019.
- Exhibit 8: Health Connector's Request for Information dated February 26, 2018 with an application summary.
- Exhibit 9: Health Connector's Customer Service Interactions-SalesForce notes.
- Exhibit 10: A My Workspace printout of documents received dated September 26, 2018.
- Exhibit 11: Health Connector's Notice of Termination for Non-Payment dated September 4, 2018.
- Exhibit 12: 2018 eligibility results with an application summary dated September 13, 2018.
- Exhibit 13: Health Connector Appeals Unit Manager Notes regarding the timeliness of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to July 1, 2018, the Appellant's household of three was determined eligible for Health Connector Plans with Advance Premium Tax Credits (Exhibits 4, 6, 8 and Appellant Testimony).
2. On February 26, 2018 the Health Connector issued a Request for Information. The Appellant was asked to provide updated income verification for their spouse by May 27, 2018. The Notice advised the Appellant of the types of documents needed to verify income as well as the contact information to submit the documentation requested by mail or fax (Exhibit 8).
3. The Appellant did not submit updated income verification to the Health Connector and on June 9, 2018 the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial help effective July 1, 2018 because the Health Connector had used third party data sources to determine that the Appellant's household had income equal to 405.32% of the federal poverty level (Exhibits 6, 7).
4. On July 27, 2018 the Appellant submitted verification of their spouse's unemployment income to the Health Connector (Exhibit 10).
5. On September 4, 2018 the Appellant was notified that their insurance coverage ended on August 31, 2018 because the Appellant had failed to pay their full monthly premiums (Exhibit 11).
6. On September 11, 2018 the Appellant submitted a copy of their spouse's paycheck dated August 31, 2018 (Exhibit 10).
7. On September 13, 2018 the Appellant was determined eligible for Health Connector Plans with Advance Premium Tax Credits effective October 1, 2018. This determination is based on the Appellant's verifying that the household of three has income equal to 392.43% of the federal poverty level (Exhibit 12).
8. The Appellant submitted a Hearing Request Form on September 26, 2018 (Exhibit 4).
9. Although the Appellant's Hearing Request was not filed timely, the Health Connector Appeals Unit allowed the Appellant's appeal to go forward. The Appellant had filed an appeal with the MassHealth Board of Hearings in error (Exhibits 3, 4, 5, 13).
10. The Appellant testified that an employee at their place of work faxed all income documentation to MassHealth in February 2018 when it was requested (Appellant Testimony).
11. The Appellant did not submit any evidence to indicate that income verification was as submitted to the Health Connector prior to July 27, 2018 when the Health Connector received the Appellant's proof of their spouse's unemployment income (Exhibit 10).

ANALYSIS AND CONCLUSION OF LAW

Prior to February 26, 2018 the Appellant's family of three had been determined eligible for Health Connector Plans with Advance Premium Tax Credits. On February 26, 2018 the Health Connector issued a Request for Information. The Appellant was informed, in writing, that updated income information for their spouse was required to be submitted to the Health Connector by May 27, 2018. As of June 9, 2018, the Appellant had not submitted the information requested. The Health Connector resorted to third party data sources for information. On June 9, 2018 the Appellant was notified that they were eligible for Health Connector Plans without subsidies for the period beginning July 1, 2018.

The Appellant filed an appeal on September 26, 2018. To be timely, an appeal request must be received by the Health Connector Appeals Unit within thirty days of the receipt of the eligibility notice issued by the Health Connector. 956 CMR 12.13. Although the Appellant's request was not timely, the Health Connector allowed the Appellant's appeal to proceed. The Appellant testified that a person at their place of employment faxed income information to MassHealth on the Appellant's behalf in February when requested. As explained at the Hearing, the Appellant was insured through the Health Connector, not MassHealth. The February 26, 2018 request for information issued by the Health Connector contained a list of appropriate documentation to submit as well as the mailing address and fax number for submission to the Health Connector. While it is unfortunate that the Appellant confused the Health Connector with MassHealth, the Health Connector Customer Service business records verify that the Health Connector did not receive documents from the Appellant until July 27, 2018.

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

On June 9, 2018, because the Appellant's income had not been verified, the Health Connector reverted to electronic data sources, and determined that the Appellant's household had income equal to 405.32% of the federal poverty level. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). The Appellant was correctly found eligible for Health Connector plans, without subsidy for the period beginning July 1, 2018. The Appellant submitted proof of household income on July 27, 2018 and again on September 11, 2018. The Appellant's eligibility was terminated for non-payment by notice dated September 4, 2018. The billing issue is not reviewable for this appeal. 956 CMR 12.02. On September 13, 2018 the Appellant's household was determined eligible for Health Connector Plans with Advance Premium Tax Credits effective October 1, 2018 after verifying income equal to 392.43% of the federal poverty level.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6474

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility for Health Connector plans based on Medicare eligibility.

Hearing Date: October 26, 2018

Decision Date: October 30, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 27, 2018, the Appellant was determined ineligible for Health Connector plans because the Appellant is eligible for Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 26, 2018. The Appellant's spouse appeared as a witness. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the testimony of the Appellant and their spouse, as well as the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing with attachments dated October 12, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form with attachments dated September 7, 2018.
- Exhibit 5: Health Connector's Eligibility Denial Notice with an Application Summary dated August 27, 2018.
- Exhibit 6: A Denial Notice issued by MassHealth on August 27, 2018.

Exhibit 7: A Payment Portal Printout.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 69, submitted an eligibility application to the Health Connector on August 27, 2018 (Exhibit 5).
2. Information provided to the Health Connector from the federal government verified that the Appellant is eligible for Medicare (Exhibits 5, 6).
3. On August 27, 2018 the Health Connector determined that the Appellant was ineligible for Health Connector plans because the Appellant is eligible for Medicare (Exhibit 5).
4. The Appellant filed an appeal on September 7, 2018 (Exhibit 4).
5. The Appellant testified that they went to the Social Security office to enroll in Medicare Part B in May 2018. The Appellant said that they were advised to continue the COBRA health insurance coverage they had through their spouse's former employer. The COBRA coverage ended in October 2018 and the Appellant was told that they must wait until January 2019 to enroll in Medicare Part B, but coverage would not begin until July 2019. The Appellant said that they have a serious medical condition but are unable to purchase health insurance because they are eligible for Medicare (Exhibit 4; Appellant and Spouse Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant applied for health insurance to the Health Connector on August 27, 2018. The Health Connector received information from the federal government which indicated that the Appellant is eligible for Medicare. Under 42 USC 1395ss(d)(3)(A)(i), the Health Connector is not permitted to sell its non-group health insurance to applicants who are eligible for Medicare. While it is unfortunate that the Appellant may have been given incorrect information regarding their COBRA coverage and the regulations for the Medicare Part B enrollment period, because the Appellant is eligible for Medicare, the Health Connector correctly determined on August 27, 2018 that the Appellant is not eligible for Health Connector Plans. This appeal is therefore denied.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6315

Appeal Decision: Denied

Hearing Issue: Eligibility for ConnectorCare and Advance Premium Tax Credits.

Hearing Date: October 26, 2018

Decision Date: October 30, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 15, the Appellant and their Spouse were determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined the Appellants' financial eligibility based on the income information provided.

HEARING RECORD

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

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing with attachments dated September 18, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Internet Appeal Request submitted on August 24, 2018.
- Exhibit 5: Health Connector's Eligibility Approval notice with an application summary dated August 15, 2018.
- Exhibit 6: 2017 Eligibility Results with an application summary dated April 25, 2017.
- Exhibit 7: An MMIS printout of the Appellants' eligibility history
- Exhibit 8: Verification of the Appellants' current enrollment in a ConnectorCare Plan.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants and eight dependents were determined eligible for MassHealth Standard in April 2017. This determination was based on the Appellants' having an income equal to 30.07% of the federal poverty level (Exhibit 6).
2. Prior to August 2015, the Appellants were asked to submit updated income information to MassHealth. The Appellants were advised that based on the income verification submitted, the two adult household members were no longer eligible for MassHealth but could apply for ConnectorCare coverage (Exhibit 4; Appellant Testimony).
3. The Appellant Head of Household completed an application for ConnectorCare on August 15, 2018. On their application, the Appellant entered a projected annual modified adjusted gross income (MAGI) of \$91,000 for 2018 (Exhibit 5)
4. On August 15, 2018 the Health Connector found, based on this projected income and household size, that the Appellants' projected MAGI would place Appellants at approximately 183.17% of the 2018 Federal Poverty Level (FPL) (Exhibit 5).
5. The Health Connector correctly found that the Appellant and their spouse were eligible for state subsidized health insurance ConnectorCare Plan Type 2B because the Appellants' self-attested projected income placed their household at more than 150% but less than 200% of the Federal Poverty Level. The tax dependents were determined eligible for MassHealth Family Assistance (Exhibit 5).
6. On August 24, 2018 the Appellant and their spouse submitted a Health Connector Hearing Request Form to the Health Connector Appeals Unit (Exhibit 4).
7. The Appellant and their spouse enrolled in a ConnectorCare Plan effective 10/01/18. Their monthly premium is \$88.00 (Exhibit 8).
8. At the Hearing held on October 26, 2018 the Appellant and their spouse testified that they meant to appeal the termination of their MassHealth eligibility. The Appellant spouse maintains that their income is less than is reflected in the wage stubs they submitted prior to August 15, 2018 (Exhibit 4; Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellants applied for subsidized health insurance for their household of ten through the Health Connector on August 15, 2018. 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 was \$91,000. This income is equivalent to approximately 183.17% of the Federal Poverty Level and renders the Appellant and their spouse financially eligible for state subsidies. Since the Appellants' projected MAGI is more than 150% but less than 200% of the Federal Poverty Level the Health Connector correctly determined that the Appellant and their spouse are eligible for Plan Type 2B. 956 CMR 12.04(3). The Appellants were also determined eligible for Advance Premium Tax Credit of \$269.00 monthly.

The Appellants filed an appeal on August 24, 2018. At the Hearing, the Appellant and their spouse testified that they meant to appeal the determination made by MassHealth that they are no longer eligible for MassHealth Standard. The Appellant maintains that their income was not reported correctly. As explained at the Hearing, the Health Connector does not have the authority to review decisions made by MassHealth. 956 CMR.12.02. The Appellant was advised that they should update their income information if they feel the income reported on August 15, 2018 was incorrect. 956 CMR 12.09(2). The Health Connector's August 15, 2018 eligibility determination was correct.

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellants may contact Health Connector Customer Service at 1-877-623-6765.
The Appellants may contact MassHealth Customer Service at 1-800-841-2900.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA186328

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

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

Hearing Date: October 2, 2018

Decision Date: October 29, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 20, 2018, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector until the next open enrollment period.

ISSUE

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 2, 2018. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant testified.

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

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

Exhibit 2: Connector Appeals Unit Notice of Hearing dated September 11, 2018 addressed to Appellant for October 2, 2018 hearing

Exhibit 3: Connector Appeals Unit letter dated August 29, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing with Open Enrollment Waiver application attached

Exhibit 3a: Appeals Unit staff case notes

Exhibit 3b: Connector Appeals Unit e-mails to Appellant dated September 10, 2018

Exhibit 4: Hearing Request Form submitted by Appellant on August 27, 2018
Exhibit 4a: Letter to Appellant dated April 27, 2018 from insurer notifying date coverage terminated
Exhibit 5: Connector letter dated August 20, 2018 to Appellant regarding special enrollment period
Exhibit 5a: Connector letter dated August 20, 2018 to Appellant regarding eligibility
Exhibit 6: Summary and results of Appellant's application for Connector plan dated August 20, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. In April, 2018, Appellant changed jobs. He had health insurance through his job. Appellant received a letter from his health insurer dated April 27, 2018 informing Appellant that his coverage was ended as of the same date (Exhibit 4a, Testimony of Appellant).
2. Appellant applied for health insurance coverage through the Connector on August 20, 2018. Appellant had always had health insurance through employment and he did not realize that there was a deadline for his applying to the Connector. The appellant was found to be eligible for health insurance, but was found to be ineligible to enroll until the next open enrollment period because Appellant did not have a qualifying event which would allow him to enroll (Exhibits 5, 5a, 6, Testimony of the Appellant).
3. Notices of the determinations were sent to the appellant (Exhibit 5, Exhibit 5a).
4. Appellant filed a request for an appeal of the Connector's determinations on August 27, 2018 (Exhibit 4).
5. Appellant did not have a qualifying life event within 60 days of his applying for health insurance on August 20, 2018. He had lost health insurance coverage, but not within 60 days of his application. He had not gained a dependent, had a change in marital or immigration status within the past 60 days. Appellant is not an Alaska native or a native American. He had no other qualifying event and no exceptional circumstances which would allow the Connector to grant the appellant a special enrollment period (Testimony of Appellant, Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on August 20, 2018 that the appellant was ineligible to enroll in a Health Connector plan until the next open enrollment period because he had no qualifying life event.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.

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

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

Connector within 60 days of the event, even outside of an open enrollment period. There is an exceptional circumstances exception. Examples of exceptional circumstances are given in the Centers for Medicare and Medicaid Services and for Consumer Information and Insurance Oversight Affordable Exchanges Guidance dated March 26, 2014. Examples listed are a natural disaster, or medical emergency.

In this matter, Appellant had no qualifying life event within 60 days of his applying for coverage through the Connector. He had lost health insurance coverage, but not within 60 days of his application. He had not gained a dependent, had a change in marital or immigration status within the past 60 days. Appellant is not an Alaska native or a native American. He had no other qualifying event and no exceptional circumstances which would allow the Connector to grant the appellant a special enrollment period. There was no evidence of any other qualifying event. Appellant did not realize that he had to apply for coverage within 60 days of his losing his health insurance coverage he had had. See the testimony of the appellant which I find to be credible and Exhibit 6.

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

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

ORDER: The action taken by the Connector regarding Appellant's ineligibility to purchase a Connector Health plan until the next open enrollment period is affirmed.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: At the time of the hearing, the appellant testified that he had applied for an open enrollment waiver from the Office of Patient Protection. If his application has been granted, he may apply for cover-

age outside of the open enrollment period. If his application was denied, Appellant may apply for coverage through the Connector during the open enrollment period which begins on November 1st, 2018 and ends on January 23rd, 2019.