

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9378

**Appeal Decision:** Appeal Approved in Part and Denied in Part

**Hearing Issues:** Eligibility for a Special Enrollment Period based on failure to verify a qualifying life event.  
Eligibility for ConnectorCare based on reported income

**Hearing Date:** August 29, 2019

**Decision Date:** October 1, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 6, 2019 the Appellant was determined eligible for Health Connector Plans. On June 21, 2019 the Appellant was determined ineligible for a special enrollment period.

### ISSUES

The first 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.

The second issue address is whether the Health Connector correctly determined that the Appellant is not eligible for ConnectorCare or Advance Premium Tax Credits based on the income reported on June 6, 2019.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 29, 2019. The Record was left open until September 12 to allow the Health Connector to submit additional information. The information was forwarded to the Appellant who was given until September 26, 2019 to submit a written response. The Appellant did not submit additional information. 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 July 22, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Internet Appeal Request Form submitted on July 8, 2019.
- Exhibit 5: Health Connector's Notice of Denial of a request for a Special Enrollment Period dated June 21, 2019, with an Application Summary dated June 6, 2019.
- Exhibit 6: 2019 Eligibility Results with an Application Summary dated October 14, 2018.
- Exhibit 7: Health Connector Appeals Unit Open Record Form dated August 29, 2019.
- Exhibit 8: Additional information submitted by the Health Connector during the record open period.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. In conjunction with the annual renewal process, on October 14, 2018, the Health Connector determined that the Appellant's household of two was eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits effective January 2019. This determination was based on an income equivalent to 156.80% of the Federal Poverty Level. The Appellant's Spouse was employed but the Appellant had no earned income at this time (Exhibit 6).
2. On June 6, 2019 the Appellant updated their application. The Appellant was employed. The Appellant's household of two was determined eligible for Health Connector Plans with no financial assistance. This determination was based on an income equivalent to 407.92% of the federal poverty level (Exhibit 5).
3. On June 21, 2019 the Health Connector notified the Appellant that they were not eligible for a special enrollment period because the Appellant failed to verify a qualifying life event (Exhibit 5).
4. On July 8, 2019 the Appellant filed an appeal. The Appellant disputes the denial of a special enrollment period and requests a waiver or reduction of their expected healthcare premium (Exhibit 3 and Appellant Testimony).
5. The Appellant did not dispute the amount of income used to determine eligibility for the period beginning June 2019. The Appellant testified that they were out of work for three years prior to finding their present job. The Appellant said that they incurred a great deal of credit card debt. The Appellant said that their health insurance ended in March 2019 and they did not follow through until June 2019 (Appellant Testimony).
6. The record was left open until September 12, 2019 to allow the Health Connector to submit additional information (Exhibit 7).
7. The Appellant did not submit additional information.
8. On August 29, 2019, after the hearing concluded, the Health Connector submitted additional information. The information was forwarded to the Appellant and the record remained open until September 26, 2019 to allow the Appellant to submit a written response (Exhibits 7, 8).

9. On May 16, 2019 the Appellant had been notified that they were eligible for Health Connector Plans without subsidies. The Appellant had reported the increase in household income at this time. The Appellant was instructed by this notice to log on to their application and answer questions regarding qualifying life events. The Appellant answered the Can I Shop questions on June 6, 2019 but since there were no new changes, no notice was issued. The Health Connector verified that the Appellant's eligibility for ConnectorCare would have ended on June 1, 2019 due to the increased income and the Appellant was eligible for a 60-day Special Enrollment Period (Exhibit 8).

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

As a result of the annual renewal process, in October 2018 the Appellant's household of two was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credit. At the time, the Appellant was unemployed, and the household income was determined to be equivalent to 156.80% of the federal poverty level. On or about May 16, 2019 the Appellant updated their application. The Appellant was now employed, and the household income was reported to be equivalent to 407.92% of the federal poverty level. The Appellant was notified on May 16, 2019 that they were eligible for Health Connector Plans with no financial help.

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. Since the Appellant's income exceeds 400% of the federal poverty level, the Health Connector correctly determined that the Appellant is not eligible for subsidies effective June 2019. The May 16, 2019 and June 6, 2019 eligibility determinations were correct.

As part of their appeal, the Appellant requests a waiver or reduction of their health care premium. The Appellant does not dispute the income amount used to determine their eligibility but argues that consideration should be given to the amount of debt incurred by the household during the Appellant's period of unemployment.

Under 956 CMR 12.11(5), individuals who are eligible for ConnectorCare and who experience extreme financial hardship may be eligible to have their premium payment waived or reduced. As noted above, the Appellant's income exceeds 400% of the federal poverty level rendering the Appellant financially ineligible for APTC and ConnectorCare.

On June 21, 2019 the Health Connector issued a notice informing the Appellant that since they had not reported a qualifying life event, their request for a Special Enrollment Period was denied. The Appellant filed an appeal on July 8, 2019.

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. Typically, 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.

When the Appellant reported the change in income, their eligibility for ConnectorCare ended effective June 1, 2019. The Health Connector submitted additional information during the record open period explaining that the when the Appellant reported their income change on May 16, 2019, they were directed to open their application

and answer the “Can I Shop” questions. The Appellant did answer the questions on June 6, 2019. The Health Connector agrees that since the Appellant’s eligibility for ConnectorCare ended June 1, 2019 the Appellant should have been given a 60-day Special Enrollment Period on June 6, 2019. The June 21, 2019 denial was incorrect.

Under these circumstances the Appellant should be given a Special Enrollment Period to allow the Appellant to enroll in a health plan. This Appeal is approved in part and denied in part.

**ORDER**

The Health Connector should notify the Appellant of their Special Enrollment Period as soon as possible. The Heath Connector correctly determined that the Appellant may shop for Health Connector Plans.

**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

## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA19-9477

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare based on income.

**Hearing Date:** September 16, 2019

Decision Date: October 25, 2019

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#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

Appellants submitted an application for subsidized health insurance on June 13, 2019. The Health Connector determined the Appellant to be eligible for Health Connector Plans and his wife was not eligible because she was not lawfully present.

#### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector Plans.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated August 5, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (5 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 1 page dated July 17, 2019)
- Exhibit 6: Notice of Eligibility Determination (20 pages, dated June 13, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated June 13, 2019)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (6 pages, dated July 16, 2019)
- Exhibit 9: Historical Notices and Printouts (7 pages)
- Exhibit 10: Applicable Customer Service Notes (27 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 51 year old married male (Exhibit 7 & 8 )
2. The Appellant has a household of two. (Exhibit 7 & 8 and Appellant testimony )
3. On their application, dated June 13, 2019 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) of \$40,484.00. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place him at 399.64% of the 2017 Federal Poverty Level (FPL). An individual at that income level would not be eligible for unsubsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are

only available to individuals with income below 400% of the FPL. In addition, Appellant's wife was found not lawfully present. Appellant indicated that his wife was applying for a green card but did not have it yet. (Exhibit 7, Appellant's testimony)

5. Appellant then filed another application, dated July 16, 2019 with his wife and an income of \$57,669.19. Appellants income would place them at 350.36% of the FPL. A couple at that income level would not be eligible for unsubsidized coverage under the ACA because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL. (Exhibit 8)
6. Appellant testified that he did not have access to employer offered health insurance.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Exchange must determine an applicant eligible for enrollment in a QHP through the Exchange if he or she meets the following requirements:

**(1) *Citizenship, status as a national, or lawful presence.*** Is a citizen or national of the United States, or is a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought (45 CFR 155.305(a)(1)) The appellant's wife did not provide proof of any of the above requirements.

On his latest application, the Appellant stated that their projected MAGI was \$57,669.19, which for a household of two, puts the Appellants at approximately 350.36% of the 2018 Federal Poverty Level. The Health Connector correctly found the Appellant not eligible for subsidized ConnectorCare plans. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

The appeal is denied. The determination by the Connector is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9470

**Appeal Decision:** Appeal Denied, Eligibility determination upheld

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

**Hearing Date:** September 16, 2019

**Decision Date:** October 23, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 18, 2018, 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 the Appellant was only eligible for Health Connector plans and not eligible for ConnectorCare, based on the Appellant's failure to verify income.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated August 15, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (7 Pages )
- Exhibit 4: Appeals Unit Staff Case notes (1 page)
- Exhibit 5: Appellant's appeal request form 3 pages dated July 12, 2019)
- Exhibit 6: Notice of Eligibility Determination (12 pages, dated June 18, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated June 18, 2019)
- Exhibit 8: Historical Notices and Printouts (24 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied to obtain subsidized health insurance through the Connector. (Exhibit 7, Appellant's testimony)
2. Appellant is not currently enrolled in a Health Connector Plan. (Appellant's testimony)
3. Appellant testified that he was appealing because he filed for a tax extension and could not provide his tax return.
4. The Health Connector sent a notice to Appellants, dated March 13, 2019 requesting information regarding Appellant's income be sent to the Health Connector by June 11 , 2019. (Exhibit 8)
5. Appellant testified that he sent in his 2017 income tax return.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant applied for health insurance coverage through the Connector. He was found eligible for Health Connector plans and he was notified that he was not eligible for ConnectorCare plans because he did not send in

the information regarding his income as requested. Appellant did not submit the documentation requested. On June 18, 2019, Appellant was notified that he was determined eligible for a Health Connector plans. The new determination was based on data from other sources because the Appellant did not send in the documents that were requested. On July 12, 2019, Appellant filed for an appeal based on his income.

The Connector made the correct determination based upon the information supplied by the Appellant and obtained from other sources. Appellant testified that he has not filed his income tax return for 2018. However, Exhibit 8, letter dated March 13, 2019 clearly indicated other financial information that the Appellant could send in to fulfill the income verification request. Appellant failed to send in such information.. When Appellant did not supply the required documentation, the Connector changed the determination based on data from other sources

## **ORDER**

The appeal is denied. The determination by the Connector is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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**

## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA19-9477

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for ConnectorCare based on income.

**Hearing Date:** September 16, 2019

**Decision Date:** October 25, 2019

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#### **AUTHORITY**

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

#### **JURISDICTION**

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

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

Appellant submitted an application for subsidized health insurance on June 25, 2019. The Health Connector determined the Appellant to be eligible for Health Connector Plans.

#### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector Plans.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant

was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

- Exhibit 1: Health Connector's Hearing Affidavit (1 page)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated August 5, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (9 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 1 page dated July 17, 2019)
- Exhibit 6: Notice of Eligibility Determination (10 pages, dated June 25, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (8 pages, dated June 25, 2019)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (5 pages, dated July 22, 2019)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 48 year old married male (Exhibit 7 & 8 )
2. The Appellant has a household of two. (Exhibit 7 & 8 and Appellant testimony )
3. On his application, dated June 25, 2019 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) for himself alone of \$41,596.80.. (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place him at 328.04% of the 2017 Federal Poverty Level (FPL). An individual at that income level would not be eligible for unsubsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL. (Exhibit 7)
5. Appellant then filed another application, dated July 22, 2019 with his wife and an income of \$50,596.80. Appellants income would place them at 307.39% of the FPL. A couple at that income level would not be eligible for unsubsidized coverage under the ACA because subsidized

coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL. (Exhibit 8)

6. Appellant testified that he did not have access to employer offered health insurance.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

On his latest application, the Appellant stated that their projected MAGI was \$50,596.80, which for a household of two, puts the Appellants at approximately 307.39% of the 2018 Federal Poverty Level. The Health Connector correctly found the Appellant not eligible for subsidized ConnectorCare plans. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

The appeal is denied. The determination by the Connector is affirmed.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, [HealthCare.gov/marketplace-appeals](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**

Appellant is urged to contact MassHealth to determine what information is need to qualify Appellant for MassHealth plans.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9547

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** September 17, 2019

**Decision Date:** October 4, 2019

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On June 24, 2019, the Appellant's enrollment was terminated for failure to submit documents to show eligibility for a special enrollment period.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant's enrollment should be terminated for failure to submit required documents showing a qualifying life event.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 17, 2019. 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 (8-5-19) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (7-29-19) (4 pages);
- Exhibit 4: Outreach notes and email (2 pages);
- Exhibit 5: Hearing Request form (7-23-19) (with documents) (10 pages);
- Exhibit 6: Closed Enrollment Termination (6-24-19) (6 pages);

- Exhibit 7: Eligibility detail printout and application summary printout (5 pages); and  
Exhibit 8: Termination Warning letter (4-16-19) (6 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance through his parents previously, but turned age 26 on February 28, 2019 (Exhibit 5, Appellant Testimony).
2. Appellant obtained insurance in the time allotted, but did not submit the required document proving the qualifying event (Appellant Testimony and Exhibit 5).
3. Appellant had received the letter in April, but did not realize he was required to submit documents (Appellant Testimony).
4. Appellant's enrollment was terminated on June 24, 2019 due to failure to submit the documentation required. (Exhibit 6). Appellant thereafter submitted the requested document.
5. The Health Connector Appeals Unit provided Appellant with a special enrollment period administratively, which allowed Appellant to enroll prior to September 30, 2019. (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans with APTC on March 16, 2019, but was asked to submit documents showing a qualifying event. Appellant did not submit the document within the time required, and his enrollment was terminated as of June 24, 2019. The Appellant asserts that this determination was incorrect, and that the Appellant should be permitted to enroll in coverage through the Health Connector. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2019 will be in November. 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. In this case, Appellant had turned age 26 in February, and obtained coverage in March, but did not submit the documents requested by the deadline, and the enrollment was terminated.

On June 24, 2019, the Appellant's enrollment was terminated for failure to submit the documentation showing a qualifying event. Appellant submitted the document with the appeal, and the Appeals Unit administratively granted a special enrollment period to September 30, 2019. Because the Appellant did not submit the required documents showing he had experienced a qualifying event as of the date the termination of enrollment, the Health Connector's determination that the appellant's enrollment should be terminated was correct. 45 CFR § 155.420.

## **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

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### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 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: ACA19-9562

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** September 17, 2019

**Decision Date:** October 4, 2019

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On July 24, 2019, the Appellant was determined eligible for Health Connector plans without subsidies, but was determined ineligible for a special enrollment period due to failure to have a 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 17, 2019. 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 (8-5-19) (4 pages);
- Exhibit 3: Acknowledgement of Appeal (7-30-19) (10 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (7-29-19) (3 pages);
- Exhibit 6: Special Enrollment Decision (7-24-19) (8 pages); and

Exhibit 7: Eligibility detail printout and application summary printout (8 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant had health insurance until May 2019, but was then between jobs. (Appellant Testimony).
2. Appellant had received notice of being unenrolled, and had to continually correct it (Appellant Testimony).
3. Appellant applied again for insurance and was deemed eligible for Health Connector plans without financial assistance based on a federal poverty level of 407.53%. Appellant was not eligible to enroll due to lack of a qualifying event (Exhibits 4, 6, 7, and Appellant's testimony).
4. Appellant was deemed ineligible for a special enrollment on July 24, 2019 (Exhibit 6).
5. Appellant also raised an issue about the coverage and medical bills due to not having coverage, but those issues are not the subject of this appeal. (Appellant's testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector plans, but was not granted a special enrollment period and therefore could not enroll in coverage. The Appellant asserts that this determination was incorrect, and that the Appellant should be permitted to enroll in coverage through the Health connector. Under 45 CFR § 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2019 will be in November. 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. In this case, Appellant did not have a qualifying event within the time period that would make her eligible in July 2019.

On July 24, 2019, the Appellant was determined eligible for Health Connector plans, but was found not eligible for a special enrollment period due to failure to have a qualifying life event. Because the Appellant had not experienced a qualifying event as of the date of her application, the Health Connector's determination that the appellant was not eligible for a special enrollment period was correct. 45 CFR § 155.420.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 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: ACA19-9567

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** September 16, 2019

**Decision Date:** October 30, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 25, 2019, the Appellant was determined ineligible for Health Connector plans without subsidies, due to failure to have a life qualifying event.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector’s Hearing Notice (4 pages, dated August 5, 2019)
- Exhibit 3: Health Connector’s Acknowledgement of Appeal (5 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant’s appeal request form (1 page dated July 29, 2019)
- Exhibit 6: Notice of Eligibility Determination (16 pages, dated July 25, 2019)
- Exhibit 7: Health Connector’s Determination Results and Review Computer Printout (5 pages, dated July 29, 2019)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans because he did not have a life qualifying event. (Exhibit 6)
2. Appellant had a Health Connector plan in 2019 but lost it on 5/31/19 because he failed to pay his premiums. (Exhibit 4 & Appellant testimony)
3. Appellant did not testify to or produce any documents that showed a life qualifying event.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant previously had a Health Connector plan in 2019 but lost his plan for failure to pay premiums. Appellant was determined ineligible and not granted a special enrollment period because he did not have a life qualifying event. Under 45 CFR s. 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2019 was November 1, 2018 to January 23, 2019. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420.

Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. Appellant did not testify to or produce any records that would indicate that he had a life qualifying event. The Health Connector’s determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR s. 155.

## **ORDER**

The appeal is Denied.

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

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

Appellant was granted an administrative Special Enrollment Period and has enrolled in a ConnectorCare Plan type 3B.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9596

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** September 16, 2019

**Decision Date:** October 8, 2018

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On July 17, 2019, 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 16, 2019.

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
- Exhibit 3: Notice of Appeal and support documents
- Exhibit 4: Health Connector Notices on Appeal
- Exhibit 5: Eligibility Results and Application Summary

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was determined ineligible for Health Connector plans on July 17, 2019, 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 July 25, 2019, claiming that Appellant could not afford necessary prescription medications (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 prescription benefits (Testimony of Appellant).
6. Appellant was seeking a prescription plan that would cover more prescriptions (Testimony of Appellant).

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

When the Appellant's eligibility for 2019 coverage was determined on July 17, 2019, 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 seeking a prescription plan that would cover all of Appellant's prescriptions. See Exhibits 3, 4, 5 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: ACA199667

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

### Hearing Issue:

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

**Hearing Date:** September 23, 2019

**Decision Date:** October 7, 2019

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 1, 2019, the Connector determined that the appellants were eligible to purchase a Health ConnectorCare plan Type 3B with an advance premium tax credit based upon information supplied by the appellants to the Connector.

### ISSUE

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

### HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on September 23, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated August 30, 2019 addressed to Appellant for September 23, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated August 13, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Appeals Unit staff outreach notes dated August 13th and August 20th, 2019

- Exhibit 4: Hearing Request Form from Appellant received by the Connector on August 12, 2019 with Appellants' 2018 Federal tax return, Schedule C, Form 1040 and earning statements of one of the appellants
- Exhibit 5: Connector letter dated August 1, 2019 to Appellants regarding eligibility
- Exhibit 6: Summary and results of Appellants' application for Connector health plan dated August 1, 2019
- Exhibit 7: Application summary of questions and answers on Appellants' application for Connector health plan dated August 1, 2019
- Exhibit 8: Connector processing center notes for documents verifying income received from Appellants on July 30, 2019 and processed on August 1, 2019
- Exhibit 9: Connector print-out showing Appellants' self-attestation of projected income
- Exhibit 10: Connector Customer service notes showing contacts with appellants
- Exhibit 11: Appellants' application summary and results dated May 16, 2019, requesting proof of income
- Exhibit 12: Appellants' application summary and results, verified August 26, 2019
- Exhibit 13: Appellants' application showing projected income

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants had ConnectorCare Type 2B coverage. In May, 2019, the appellants were asked to send in proof of income (Exhibit 11).
2. The Connector notified them in a letter dated August 1, 2019 that their eligibility had changed and that they were now eligible for ConnectorCare Type 3B coverage based upon self-attestation of their projected income and upon proof of income they had sent to the Connector. The proof of income was received on July 30th and processed on August 1st (Testimony of Appellant, Exhibits 3a, 5, 6, 7, and 8).
3. The appellants had self-attested that one of them had a projected income of \$40,743 for 2019 and the other had a projected income of \$32,940. When combined, their projected income equaled 250.45% of the Federal Poverty level (Testimony of Appellant, Exhibits 6, 7, 9).
4. Appellants submitted a request for an appeal of the Connector's determination on August 12, 2019. Appellants appealed the August 1, 2019 Connector determination because they believed that their projected income was less than 250% of the Federal Poverty level (Exhibit 4).
5. One of the appellants had started work in March, 2019, though on their application, the appellants indicated that the appellant had begun work on January 1, 2019 (Testimony of Appellant, Exhibits 5, 6, 7, 9).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the Connector correctly determined on August 1, 2019 that the appellants were eligible to purchase a ConnectorCare plan Type 3B. See Exhibit 5.

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

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

In this matter, the appellants had been enrolled in a ConnectorCare Type 2B plan. In May, the appellants were asked to send in proof of income. Appellants attested on their application that the projected income for the year would be \$73,683. See the testimony of the appellant which I find to be credible, and Exhibits 3a, 5, 6, 7, 8, 9, and 11.

Using this amount, the Connector determined that the appellant's projected income was equal to 250.45% of the Federal Poverty Level. Based upon this determination, the Connector found that the appellants were eligible for a ConnectorCare plan Type 3B. See Exhibits 5, 6, 7, 9, and the testimony of the appellant which I find to be credible.

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

The determination of the Connector is, therefore, affirmed.

I note that the appellant raised an additional issue during the hearing. Appellant testified that he thought the Connector used 2018 tables when determining the percentage of the Federal Poverty Level instead of tables for 2019 and that their income was equal to a lower percentage of the Federal Poverty Level because of this mistake. There is no evidence before me as to which tables were used. In any event, the appellants attested on their application that one of them started work approximately three months before the actual start date. This error on their application significantly increased their projected income, regardless of which tables were used.

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA199719

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

**Hearing Issue:** Whether the Connector correctly determined that the appellant was no longer eligible to enroll in a health insurance through the Connector because of failure to submit proof of immigration status in a timely fashion.

**Hearing Date:** October 4, 2019

**Decision Date:** October 28, 2019

### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 8, 2019, the Connector determined that the appellant was no longer eligible to purchase health insurance through the Connector because of Appellant's failure to provide proof of her immigration status by the deadline set by the Connector.

### ISSUE

Whether the Connector correctly determined pursuant to 45 CFR § 155.315(f)(5) that the appellant was ineligible to purchase a health insurance plan through the Connector because Appellant failed to provide proof of her immigration status in a timely fashion.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 4, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with the appellant, marked as exhibits, and admitted in evidence with no objection from 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 3, 2019 addressed to Appellant for October 4, 2019 hearing
- Exhibit 3: Connector Appeals Unit letter dated August 19, 2019 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

- Exhibit 3a: Appeals Unit staff notes dated August 19, 2019
- Exhibit 4: Hearing Request Form signed by Appellant on August 17, 2019 with copy of Appellant's Employment Authorization Card, expired March 12, 2013, and Appellant's Social Security card, received by the Connector on August 19, 2019
- Exhibit 5: Connector letter to Appellant dated August 8, 2019 regarding eligibility termination
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated August 8, 2019
- Exhibit 7: Connector letter to Appellant requesting proof of immigration status dated December 4, 2018
- Exhibit 8: Summary and results of Appellant's application for Connector health plan dated January 1, 2019

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant applied to purchase health insurance through the Connector in late 2018. In a letter dated December 4, 2018, the Connector acknowledged the appellant's application and requested proof of immigration status by March 4, 2019. A list of acceptable forms of proof was attached (Exhibit 7).
2. Appellant was enrolled in a ConnectorCare plan in 2019. In a letter dated August 8, 2019, the Health Connector determined that the appellant was no longer eligible to have health insurance through the Connector because of her failure to submit proof of immigration status by the March 4th deadline. Her coverage was terminated as of August 31, 2019 (Exhibit 5).
3. Appellant filed a request for an appeal of the Connector's determination on August 19, 2019. Appellant attached copies of the front and back of her employment authorization card which expired on March 12, 2013 (Testimony of Appellant, Exhibit 4).
4. Though the appellant has been in the United States for 30 years and is married to a United States citizen, she has not obtained a permanent resident card. She applied for one in 2012, but to date has not obtained one (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant applied for health insurance coverage through the Connector income some time in late 2018. She was enrolled in a ConnectorCare plan and in a letter dated December 4, 2018, the Connector asked the appellant to send in proof of her immigration status by March 4, 2019. In a letter dated August 8, 2019, the Connector terminated Appellant's eligibility for health insurance because the appellant had not sent in proof of her immigration status. Appellant appealed the Connector's termination of her coverage on August 17, 2019. See Exhibits 4, 5, 7, and 8.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. One basic requirement for eligibility is residency within the Commonwealth. If a household's projected income is between 100% and 300% of the Federal Poverty Level, the household members are entitled to an advance premium tax credit to help cover the cost of a ConnectorCare plan in the Commonwealth.

If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources and eligibility to enroll in a plan may be terminated. See 45

CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05. Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR155.305(a)(1).

As was noted above, the Connector requested that the appellant send in proof of her immigration status by March 4th, 2019. Appellant failed to do so, and the Connector terminated her coverage. Along with her August 17, 2019 request for a hearing regarding the termination, Appellant sent in some documents relating to her immigration status. The documents were received months after the March 4th deadline set by the Connector. The Connector made no error in its determination. Appellant's appeal is 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](http://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: Appellant may wish to contact Greater Boston Legal Services to find out if she is eligible for legal services to help with application for a permanent resident card by calling 800-323-3205.

Massachusetts Health Connector Appeals Unit

**FINAL APPEAL DECISION ACA 19-9744**

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appellant’s eligibility for subsidized insurance based on Eligibility of Connector Care-Appellant had not yet enrolled as of the Hearing Date.

**Hearing Date:** October 10, 2019

**Decision Date:** October 20, 2019

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On July 30, 2019, the Appellant was notified that he was determined eligible for Health Connector Plan 2A with Advance Premium Tax Credit. The Appellant was notified he could enroll in this plan effective September 1, 2019 by choosing a plan by August 23, 2019. Despite being eligible to enroll, the Appellant submitted an Appeal on August 22, 2019 on income and other grounds.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans, the Appellant had not enrolled by the Hearing Date, but decided to proceed with the hearing.

**HEARING RECORD**

The Appellant and an Interpreter appeared at the hearing, which was held by telephone, on October 10, 2019. The Appellant had an authorized representative who acted as a Ghani interpreter and both were sworn in. The Appellant testified.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 Page, Undated)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated September 10, 2019)
- Exhibit 3: Connector's Appeal Unit letter dated September 4, 2019 to Appellant Acknowledging Receipt of Hearing Record (4 pages).
- Exhibit 3(a): Connector Appeals Unit Staff Notes (1 page)
- Exhibit 4: Appellant's Appeal Request Form (2 pages, dated August 22, 2019)
- Exhibit 5: Health Connector Letter to the Appellant regarding Eligibility Approval (dated July 30, 2019, 10 pages)
- Exhibit 6: Health Connector's Application Summary (9 pages, dated August 22, 2019)

#### **FINDINGS OF FACT**

The record shows, and I so find:

1. On July 30, 2019, the Health Connector sent the Appellant an Eligibility for 2019 which stated that the Appellant's was eligible for ConnectorCare Plan Type 2A. based on an income of 118.22% of the Federal Poverty Level. ("FPL"). (Exhibit 5).
2. The Appellant was notified he had until August 23, 2019 with coverage effective date September 1, 2019. (Exhibit 5).
3. The Appellant was encouraged during the hearing to contact customer service and enroll. (Testimony).

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

The Appellant was found eligible for Health Connector Plans based on income on an income of 118.22% of the Federal Poverty Level. The Appellant had not enrolled as of the hearing date but was encouraged to call customer service and enroll. (Hearing Testimony, Exhibits 5 and 6).

Where the Appellant correctly found that the Appellant was eligible for Health Connector plans that determination is upheld. The Appellant proceeded with the hearing but was encouraged to enroll with customer service immediately after the hearing.

#### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

**Addendum**

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

Massachusetts Health Connector Appeals Unit

**FINAL APPEAL DECISION ACA 19-9764**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** October 10, 2019

**Decision Date:** October 21, 2019

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 4, 2019, the Appellant was notified that he was determined in eligible for Health Connector plans. The Appellant is not eligible for ConnectorCare because the Appellant did not verify his income has access to Medicare or is enrolled in Medicare.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 10, 2019.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 Page, Undated)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated September 10, 2019)
- Exhibit 3: Connector's Appeal Unit letter dated August 29, 2019 to Appellant Acknowledging Receipt of Hearing Record (4 pages).
- Exhibit 3(a): Connector Appeals Unit Staff Notes (1 page)
- Exhibit 4: Appellant's Appeal Request Form (4 pages, dated August 23, 2019)
- Exhibit 5: Health Connector Letter to the Appellant regarding Eligibility Denial (dated August 4, 2019, 6 pages)
- Exhibit 6: Health Connector's Application Summary (11 pages, dated August 26, 2019)
- Exhibit 7: Health Connector's Application Summary (9 pages, dated August 29, 2019)
- Exhibit 8: Health Connector Letter to the Appellant Requesting Verification of Income (dated April 15, 2019, 6 pages)

#### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a Massachusetts resident. (Exhibits 2- 5, Testimony).
2. The Appellant is 33 years of Age and self-employed. (Testimony).
3. The Appellant's does not have access to affordable employer-sponsored insurance. (Testimony).
4. On April 15, 2019, the Health Connector sent the Appellant a Request for Information to send in documents to verify income with a deadline of July 14, 2019. (Exhibit 8).
5. On August 4, 2019, the Health Connector sent the Appellant an Eligibility Denial for 2019 which stated that the Appellant's was not eligible for ConnectorCare because the ConnectorCare did not receive the information it needed to verify his eligibility. (Exhibit 5).
6. The Appellant submitted documents related to income including bank accounts and a residential lease which were received by the Connector on August 19, 2019. (Exhibit 3(a)).
7. The bank account information the Appellant submitted did not include acceptable proof of income. (Exhibit 4).

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

The Appellant was found in eligible for Health Connector Plans based on failure to verify income. The Appellant did not submit proof of acceptable income by July 14, 2019, as required in the Request for Information sent to the Appellant on April 15, 2019. (Testimony of Appellant, Exhibits 4 and 8).

On April 15, 2019, the Appellant was asked to verify his income, and was provided with a list of acceptable documents to verify income. The Appellant was reminded to send in income verification documents with a deadline of deadline of July 14, 2019. (Exhibit 8).

On August 23, 2019, the Appellant submitted his Appeal with a note that he recently “sent the wrong doc before the Due Dates”. (Exhibit 4). On August 19, 2019 the Connector received documents from the Appellant for proof of residence and income, but the bank statements were unacceptable for proof of income. (Exhibit 3(a)).

Where the Appellant did not send in documents verifying income, the Health Connector correctly found that the Appellant was not eligible for Health Connector plans after the Appellant failed to verify income, and that determination is upheld.

#### **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

#### **Addendum**

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

Massachusetts Health Connector Appeals Unit

**FINAL APPEAL DECISION ACA 19-9780**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** October 3, 2019

**Decision Date:** October 21, 2019

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 9, 2019, the Appellant was notified that the Appellant’s Spouse and two Household Members were determined eligible for Health Connector plans without financial help based on a Federal Poverty Level “FPL” of 608.22%. The Appellant is not eligible for ConnectorCare because the Appellant has access to Medicare or is enrolled in Medicare.

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant’s Spouse and two Household Members were not eligible for Health Connector plans based on the Appellant’s failure to verify household income.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 3, 2019.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 Page, Undated)
- Exhibit 2: Health Connector's Hearing Notice (6 pages, dated September 3, 2019)
- Exhibit 3: Connector Appeals Unit Staff Notes (1 page)
- Exhibit 4: Appellant's Appeal Request Form (4 pages, dated August 27, 2019)
- Exhibit 5: Health Connector Letter to the Appellant regarding Eligibility (10 pages, dated August 9, 2019,)
- Exhibit 6: Health Connector's Application Summary (9 pages, dated August 28, 2019)
- Exhibit 7: Health Connector Letter to the Appellant Requesting Verification of Income (dated May 6, 2019, 8 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a Massachusetts resident. (Exhibits 2- 5, Testimony).
2. The Appellant is 71 years of Age and receiving Medicare. (Testimony).
3. The Appellant's Spouse is 46 years of age and unemployed. (Testimony, Exhibit 4).
4. The Appellant's household members are children ages 9 and 6. (Testimony, Exhibit 6).
5. The Appellant's Spouse does not have access to affordable employer-sponsored insurance. (Exhibit 4).
6. On May 6, 2019, the Health Connector sent the Appellant a Request for Information to send in documents to verify income with a deadline of August 4, 2019. (Exhibit 7).
7. On August 9, 2019, the Health Connector sent the Appellant an Eligibility Approval for 2019 which stated that the Appellant's eligibility was for a ConnectorCare Plan without financial help. This notice stated that the Health Connector's 2019 determination was based on an income equivalent to 608.22% of the Federal Poverty Level. (Exhibit 6).
8. The Appellant testified he received a request to submit additional verification of income forms including a 2018 1040 Tax Returns in addition to the 1099's the Appellant had submitted, but had not been able to do so because he had requested an extension of his 2018 Tax Returns. (Exhibits 3 and 4).
9. The income is greater than \$100,400, or 400% of the FPL. (Exhibit 6).
10. The Appellant's Spouse and Household Members were not found eligible for subsidized health insurance through the Health Connector because the Appellant is in fact on Medicare and the household income is in excess of 400% FPL (Exhibits 5 and 6).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was found eligible for Health Connector Plans without subsidies based on failure to verify income which used an income and family size equivalent to 608.22%% of the Federal Poverty Level. (Exhibit 6). The Appellant asserts that this determination was incorrect, because the Appellant's actual gross income in 2018 was not reflective of his regular income from social security and pension but include emergency funds he had to withdraw in 2018, and based on those figures the Appellant should therefore have remained eligible for subsidies. (Exhibit 4). Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit("APTC") if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04.

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 May 6, 2019, the Appellant was asked to verify his income, and was provided with a list of acceptable documents to verify income. The Appellant was reminded to send in income verification documents with a deadline of deadline of August 4, 2019. (Exhibit 7).

On August 9, 2019, the Health Connector sent the Appellant an Eligibility Approval for 2019 which stated that the Appellant's Spouse and Household Members' eligibility was for a ConnectorCare Plan without financial help. This notice stated that the Health Connector's 2019 determination was based on an income equivalent to 608.22% of the Federal Poverty Level. (Exhibit 6). The Appellant did not send income verification by the August 4, 2019. On August 9, 2019, because the Appellant failed to verify his income, the Health Connector reverted to electronic data sources, and found that the Appellant's household income was equivalent to 608.22% of the Federal Poverty Level. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). Even though the Appellant now asserts that Appellant's income for 2018 was not reflective of the regular income stated, the Appellant failed to verify this income and the Health Connector, as required by law, relied on data it had available in other sources to issue a new determination. The Appellant's Spouse and Household Members were found eligible for Health Connector plans, without subsidy, and is the correct determination for a person whose household income is 608.22% of the Federal Poverty Level. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

Accordingly, the Health Connector correctly found that the Appellant was eligible for Health Connector plans without subsidies, based on electronic data sources after the Appellant failed to verify income, and that determination is upheld.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

**Addendum**

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

FINAL APPEAL DECISION: ACA19-9782

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, based on failure to establish lawful presence in the United States.

**Hearing Date:** October 3, 2019

**Decision Date:** October 27, 2019

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 13, 2019, Appellant was denied eligibility to obtain health insurance through the Connector because of the Appellant's failure to establish lawful presence in the United States.

**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 lawful presence and residency.

**HEARING RECORD**

The Appellant and an Interpreter appeared at the hearing, which was held by telephone, on October 3, 2019. The Appellant had an authorized representative who acted as a Russian interpreter and was sworn in with the Appellant. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 page, undated)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated September 3, 2019)
- Exhibit 3: Health Connector's Acknowledgment of Appeal (6 pages, dated August 29, 2019)
- Exhibit 3(a) Health Connector's Appeals Unit Staff Notes (1 page)

- Exhibit 4: Appellant's Appeal Request Form (3 pages, dated August 27, 2019)  
Exhibit 5: Health Connector Notice of Denial (6 pages, dated August 13, 2019)  
Exhibit 6: Appellant's Application Summary Results (12 pages, dated August 27, 2019)  
Exhibit 7: MassHealth Notice to Appellant regarding (9 pages, dated July 15, 2019).

The record was left open until October 17, 2019 for the Appellant to submit documents related to proof of Lawful Presence and Residency. The Appellant filed two additional documents received by the Connector on October 16, 2019 referenced as follows:

- Exhibit 8: Appellant's Visa.  
Exhibit 9: Affidavit of Residence.

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

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on August 13, 2019, after failing to establish that the Appellant is lawfully present to the Health Connector. (Exhibit 5, Exhibit 6)
2. The Appellant arrived in the United States in June 2019 on a guest visa. (Testimony of Appellant, Exhibit 8).
3. Appellant applied to purchase health insurance through the Connector on August 13, 2019. At the time Appellant applied, Appellant indicated on the application for insurance that Appellant had no lawful immigration status (Exhibit 6).
4. On August 13, 2019, the Health Connector determined, based upon the information supplied by the Appellant on Appellant's application, that the appellant was not eligible to purchase health insurance through the Connector because of failure to establish lawful present in the United States (Exhibit 5).
5. Appellant testified that the visa Appellant had when Appellant entered the United States was a guest visa.
6. The Appellant after the hearing has submitted documents including a Visa and an Affidavit of Residency. (Exhibit 7, Exhibit 8).

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

Appellant applied for health insurance coverage through the Connector in August 13, 2019. On August 13, 2019, the Connector denied Appellant's eligibility for health insurance because the appellant was determined to be unlawfully present in the United States based upon the responses the appellant gave on the application for insurance. (Exhibit 5). Appellant appealed the Connector's denial on August 27, 2019. (See Exhibit 4).

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR155.305(a)(1).

It is clear from the record that Appellant attested on the application for health insurance that Appellant had no lawful immigration status. (See Exhibit 5). Appellant also testified that the visa Appellant had when Appellant entered the United States was a guest visa.

What is at issue here is whether the Connector made the correct determination at the time it decided that appellant was ineligible for coverage. Given the record, the Connector did make the correct determination at the time it was made that because the Appellant did not present any evidence of being lawfully present, and thus the Health Connector correctly found that the Appellant was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

**ORDER:** The action taken by the Connector denying Appellant's eligibility is affirmed.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

#### **ADDENDUM**

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

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

Massachusetts Health Connector Appeals Unit

**FINAL APPEAL DECISION ACA 19-9801**

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** October 3, 2019

**Decision Date:** October 20, 2019

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On August 16, 2019, the Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is enrolled in Medicare.

**ISSUE**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 3 2019. The Appellant's Sister also appeared as an authorized representative.

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

- Exhibit 1: Health Connector's Hearing Record Affidavit (1 Page, Undated)
- Exhibit 2: Health Connector's Hearing Notice (4 pages, dated September 3, 2019)
- Exhibit 3: Appeals Unit Letter dated August 30, 2019 acknowledging receipt of hearing request (6 pages)
- Exhibit 3(a): Connector Appeals Unit Staff Notes (1 page)
- Exhibit 4: Appellant's Appeal Request Form (4 pages, dated August 28, 2019)
- Exhibit 5: Health Connector Notice of Denial (6 pages, dated August 16, 2019)
- Exhibit 6: Health Connector's Application Summary (4 pages, dated August 28, 2019)
- Exhibit 7: Correspondence from MassHealth Eligibility Denial ( 6 pages, dated August 16, 2019).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a Massachusetts resident. (Exhibits 2- 5, Testimony).
2. The Appellant does not have access to affordable employer-sponsored insurance, and has income below 150 percent of the federal poverty level. (Exhibit 6, Testimony).
3. On August 16, 2019, a notice was sent to the Appellant stating that Appellant did not qualify for health insurance coverage through the Massachusetts Health Connector because Appellant has access to Medicare or is currently enrolled in Medicare. (Exhibit 5).
4. The Appellant is currently enrolled in Medicare, but states that because Medicare covers only 80 percent of health care costs, it is insufficient coverage to make the cost of health care reasonable or affordable. (Testimony).
5. The Appellant testified SSDI is his only source of income is SSDI and he is at 135% of the Federal Poverty Level (Testimony, Exhibit 6).
6. The Appellant testified that because his income level is slightly over the MassHealth income level, he cannot afford Medicare Co-Pays and foregoes treatment for his chronic health issues, cannot afford an eye exam or prescription eye glasses, or dental care. (Testimony, Exhibit 4).
7. The Appellant was determined ineligible for Health Connector plans on August 16, 2019, based on being eligible for Medicare. (Exhibit 5).

8. The Appellant was not found eligible for subsidized health insurance through the Health Connector because the Appellant is eligible for Medicare and is in fact on Medicare Part A & B (Exhibit 1, Exhibit 5, Exhibit 6, Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant has appealed the finding that of not being eligible for a Health Connector plan for 2019; and stated that because Medicare is insufficient coverage to make the cost of health care reasonable or affordable.

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

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to perform (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their "same policy or contract of insurance." See 45 CFR § 147.106 and 45 CFR §148.122; and discussion generally at 81 FR 94068, December 22, 2016. In choosing this standard, the federal government indicated a clear directive to not renew the individual market coverage of Medicare- eligible individuals except in the narrowest of circumstances, and regardless of whether the individual might otherwise satisfy the eligibility criteria at 45 CFR § 155.304(a). Generally, the Health Connector performs the function of renewals for carriers, in accordance with the provisions found at 45 CFR

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

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

**ORDER**

The appeal is denied but the Hearing Officer orders the Connector to transfer to be reviewed by the Medicaid Board of Hearings.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

**Addendum**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9835

**Appeal Decision:** Appeal denied because the Health Connector did not err in denying Appellant's application for health insurance coverage because Appellant had not provided requested eligibility verification documentation.

**Hearing Issue:** Whether the Health Connector correctly denied Appellant's application for health insurance coverage.

**Hearing Date:** October 10, 2019

**Decision Date:** October 31, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By letter dated August 14, 2019, the Health Connector notified Appellant that Appellant's application for enrollment in a Health Connector health insurance plan was denied because the Health Connector's records indicate that it had not received information needed to verify Appellant's enrollment eligibility.

### ISSUE

Whether the Health Connector erred in denying Appellant's application for enrollment based on lack of documentation of Appellant's enrollment eligibility.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 10, 2019. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector letter to Appellant dated June 3, 2018 requesting eligibility verification documentation.

Exhibit 2: Print-out of the Summary and Results pages from Appellant's August 14, 2019 application for health insurance coverage;

Exhibit 3: Health Connector Eligibility Denial letter dated August 14, 2019;

Exhibit 4: Appellant's request for hearing dated September 3, 2019 with attached copy of Appellant's birth certificate;

Exhibit 5: Health Connector Appeals Data form;

Exhibit 6: Health Connector hearing request acknowledgment letter dated September 4, 2019;

Exhibit 7: Notice of Hearing dated September 10, 2019; and

Exhibit 8: Affidavit from Health Connector Keeper of Records.

## **FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant is an adult resident of Massachusetts who was previously enrolled in health insurance coverage through the Health Connector. Testimony; Exhibits 2, 4.
2. On June 3, 2018, the Health Connector sent Appellant a "Request for Information" letter which asked him to provide proof of his U.S. citizenship by September 1, 2018. Exhibit 1. The letter explained that the requested information was needed to verify Appellant's eligibility and warned that Appellant could lose health insurance coverage if the information was not received. *Id.*
3. Appellant did not submit the requested information, and Appellant's enrollment in the Health Connector plan was terminated. Testimony
4. Appellant submitted a new application to the Health Connector for health insurance coverage on August 14, 2019. Testimony; Exhibit 2.
5. By letter dated August 14, 2019, the Health Connector notified Appellant that Appellant's application for enrollment in a Health Connector health insurance plan was denied because the Health Connector's records indicate that it had not received information needed to verify Appellant's eligibility. Exhibit 3.
6. Appellant filed a request for hearing on the Health Connector's eligibility denial and attached a copy of his birth certificate from the Commonwealth of Massachusetts which confirmed his citizenship status. Exhibit 4.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Congress enacted the ACA in 2010 “to increase the number of Americans covered by health insurance and decrease the cost of health care.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans (“QHPs”). 42 U.S.C. § 18031(b)(1). The Health Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans. 45 C.F.R. § 155.305(a).

When an individual submits an application for health insurance coverage, the Health Connector attempts to verify the applicant’s eligibility pursuant to the federal regulations at 45 C.F.R. § 155.315(d) by checking electronic data sources to confirm the information provided by applicants, including the applicant’s lawful presence and residency status. In cases where the Health Connector cannot verify an applicant’s residency electronically, it requests verifying information from the applicant in accordance with 45 C.F.R. § 155.315(f). If the applicant does not provide the requested verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

In this case, the record shows that the Health Connector requested Appellant to provide information verifying his citizenship status by September 1, 2018. Appellant did not provide the requested information. When Appellant submitted a new application on August 14, 2019 for health insurance coverage, the Health Connector’s records reflected that the previously-requested information verifying Appellant’s lawful presence had not been provided. Accordingly, the Health Connector was required to consider Appellant’s lawful presence unverified, and it denied his application. There was no error in this determination.

When Appellant’s birth certificate was received with his request for hearing, the Health Connector “unlocked” his application which removed the lack-of-verification block and permitted him to continue with his application. Appellant was informed of this during the hearing and directed to contact health Connector Customer Service if he needed any assistance to complete his application.

## **ORDER**

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Heath Connector’s August 14, 2019 eligibility determination is **AFFIRMED**.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

Health Connector Customer Service may be contacted at 1-800-MA-ENROLL (1-877-623-6765) between the hours of 8:00 a.m. and 6:00 p.m., Monday – Friday.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9839

**Appeal Decision:** Appeal Denied because the Health Connector correctly determined Appellant's eligibility for enrollment in subsidized health insurance coverage based on information available at the time of the determination.

**Hearing Issue:** Whether the Health Connector correctly determined Appellant's eligibility for subsidized health insurance coverage.

**Hearing Date:** October 10, 2019

**Decision Date:** October 31, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 11, 2019, the Health Connector notified Appellant that she is not qualified to enroll in health insurance coverage through the Health Connector because she is enrolled in or has access to Medicare.

### ISSUES

Whether the Health Connector correctly determined Appellant's eligibility for health insurance coverage.

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on October 10, 2019. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary and Results pages from Appellant's August 11, 2019 application for government-subsidized health insurance coverage;

Exhibit 2: Print-out from the Health Connector's AVV tool showing eligibility information generated by the application system during the processing of Appellant's application;

Exhibit 3: Appellant's MassHealth (state Medicaid) enrollment history;

Exhibit 4: Eligibility Denial letter dated August 11, 2019;

Exhibit 5: Appellant's September 3, 2019 request for hearing on the Health Connector's August 11, 2019 eligibility determination;

Exhibit 6: Health Connector Appeals Data form;

Exhibit 7: Health Connector hearing request acknowledgment and SHINE Program information letters dated September 5, 2019;

Exhibit 8: Notice of Hearing dated September 16, 2019; and

Exhibit 9: Affidavit from Health Connector Keeper of Records.

## **FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant is an adult resident of Massachusetts with two dependent children. Testimony; Exhibit 1.
2. Appellant was enrolled in MassHealth Standard health insurance coverage until May of 2019 when she became eligible for Medicare coverage. Testimony; Exhibit 3.
3. It was Appellant's understanding from information received from MassHealth that Appellant could remain enrolled in MassHealth Standard because of her two dependent children. Testimony.
4. After Appellant's enrollment in MassHealth Standard was terminated, Appellant filed an application on August 11, 2019 for government-subsidized health insurance coverage through the Health Connector. Testimony; Exhibit 1.
5. In processing Appellant's application, the Health Connector eligibility data base indicated that Appellant is eligible for Medicare. Exhibit 2.
6. The Health Connector issued an "Eligibility Denial" letter dated August 11, 2019 which stated that Appellant does not qualify for health insurance coverage through the Health Connector because Appellant has access to Medicare or is enrolled in Medicare. Exhibit 4.
7. Appellant requested a hearing to appeal the Health Connector's eligibility denial determination. Exhibit 5.

8. The Health Connector sent Appellant a letter acknowledging the hearing request and forwarding information on assistance resources for individuals on Medicare including the Serving the Health Insurance Needs of Everyone (“SHINE”) program, which is a state health insurance assistance program that provides free health insurance information, counseling and assistance to Massachusetts residents with Medicare. Exhibit 7.

## ANALYSIS AND CONCLUSIONS OF LAW

Congress enacted the ACA in 2010 “to increase the number of Americans covered by health insurance and decrease the cost of health care.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012). Section 1311 of the ACA authorizes the states to establish Health Benefit Exchanges to, among other things, facilitate the purchase of qualified health plans (“QHPs”). 42 U.S.C. § 18031(b)(1). The Connector administers the Health Benefit Exchange for Massachusetts through which eligible Massachusetts residents may purchase individual market or non-group health insurance plans.

To further the ACA’s goal of making health insurance affordable, the Internal Revenue Code was amended to make tax credits (“APTCs”) available as a form of subsidy to individuals who purchase health insurance through the Exchanges. 26 U.S.C. § 36B(c)(2)(A)(i). Under the federal ACA regulations, an individual is eligible for an APTC if he or she is expected to have a household income (as defined in section 36B(d)(2) of the Internal Revenue Code) between 100 percent and 400 percent of the FPL for the benefit year for which coverage is requested. 45 C.F.R. § 155.305(f)(1). In addition to the APTC, eligible Massachusetts residents whose incomes do not exceed 300 percent of the FPL may receive additional state premium assistance by enrolling in a subsidized ConnectorCare health insurance plan. 956 Mass. Code Regs. 12.04, 12.08. In order to enroll in ConnectorCare, an individual must be eligible for the Federal APTC. 956 Code Mass. Regs. 12.04(1)(b). In this case, Appellant applied for coverage in a subsidized Connector Care plan. Exhibit 1.<sup>1</sup>

The Health Connector’s authority to sell or issue QHP coverage is governed by Federal law including section 1882(d)(3)(A)(i) of the Social Security Act which prohibits the sale of duplicative insurance coverage to individuals who are entitled to Medicare Part A benefits or enrolled in Part B. 42 U.S.C. § 1395ss(d)(3)(A)(i).<sup>2</sup> The only plans not considered duplicative of Medicare coverage are supplemental policies certified by the Secretary pursuant to § 1395ss(a)–(c). Since Connector Care plans are not supplemental Medicare policies authorized and approved under § 1395ss(a)–(c), I conclude that the Health Connector was required by § 1395ss(d)(3)(A)(i) to deny Appellant enrollment in a Connector Care plan because Appellant is eligible for Medicare.

## ORDER

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector’s August 11, 2019 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law.

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<sup>1</sup> Appellant’s household income is 82 percent of the FPL. Exhibit 1.

<sup>2</sup> Section 1882(d)(3)(A)(i) in pertinent part states that it is “unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title (including an individual electing a Medicare+Choice plan under section 1851) — (I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,” 42 U.S.C. § 1395ss(d)(3)(A)(i).

## **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**

Appellant was encouraged during the hearing to contact the Commonwealth's SHINE ("Serving the Health Insurance Needs of Everyone") Program which provides free health insurance information and counseling to all Massachusetts residents with Medicare and their caregivers. People who have Medicare or who are about to become eligible for Medicare, can meet with a SHINE counselor to learn about benefits and options available. A counselor will review programs that help people with limited income to pay health care costs. You can reach a SHINE Counselor at (800) 243-4636, press 3 or press 5 if calling from cell phone. TTY (877) 610-0241. See <https://www.mass.gov/health-insurance-counseling> for additional information.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9865

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** October 7, 2019

**Decision Date:** October 8, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By Notice dated August 26, 2019 the Appellant was determined ineligible for a special enrollment period for tax year 2019.

### ISSUE

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

### HEARING RECORD

The Appellant and their Spouse appeared at the hearing, which was held by telephone on October 7, 2019. 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 September 10, 2019.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request form, with attachments, submitted on September 5, 2019.
- Exhibit 5: Health Connector's Special Enrollment Period Decision denial dated August 26, 2019.
- Exhibit 6: 2019 Eligibility Results with an Application Summary dated August 26, 2019.
- Exhibit 7: Health Connector Agent Portal printout for Medicaid eligibility.

- Exhibit 8: Health Connector Appeals Unit Open Record form dated October 7, 2019.
- Exhibit 9: A copy of the Appellant's Permanent Resident card submitted after the hearing concluded on October 7, 2019.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied for health insurance through the Health Connector on August 26, 2019. The Appellant's Spouse is not applying for coverage (Exhibit 6).
2. The Appellant verified income equal to 458.08% of the federal poverty level for their household of two (Exhibit 6).
3. I take administrative notice of the fact that for tax year 2019 the period of Open Enrollment for health insurance coverage was November 1, 2018 through January 23, 2019.
4. On August 26, 2019 the Health Connector denied the Appellant's request for a Special Enrollment Period for 2019 for failing to document a qualifying life event (Exhibit 5).
5. The Appellant filed an appeal on September 5, 2019 (Exhibit 4).
6. The Appellant and their Spouse do not dispute the income amount used to determine eligibility for their household of two. The Spouse testified that the Appellant moved to Massachusetts on March 5, 2019 from another country. The Spouse said that they waited until the Appellant had a Green Card to apply. The Appellant was unsure of the date on the card. The Spouse argued that pregnancy should be a qualifying life event (Testimony of Spouse).
7. The record was left open following the Hearing to allow the Appellant to submit verification of their immigration status (Exhibit 6).
8. The Appellant submitted a copy of their Permanent Resident card. The Appellant has been a legal resident since March 5, 2019 (Exhibit 9).
9. It is undisputed that during the 60 day period prior to the Appellant's application, the Appellant did not experience a qualifying life event such as a change of household composition, moving to the state, becoming lawfully present or losing employer-based health insurance as outlined in Health Connector's Policy NG 1E (Exhibit 5 and Testimony of Appellant and Spouse).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant applied for health insurance on August 26, 2019. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Appellant was determined eligible for Health Connector Plans for tax year 2019 based on reported income which was determined to be equal to 458.08% of the federal poverty level for their household of two persons. The Appellant's Spouse did not apply for coverage. The Appellant does not dispute this determination. The Appellant's request for a Special Enrollment period for tax year 2019 was denied by notice dated August 26, 2019. The Appellant has appealed that determination.

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

listed in the Health Connector's Policy NG 1E. 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 on March 5, 2019 when the Appellant moved to Massachusetts. The Appellant is a non-citizen who was lawfully present as a permanent resident as of March 5, 2019 and in accordance with 45 CFR § 155.305(a), was eligible to purchase insurance through the Health Connector. 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 26, 2019. By the time the Appellant attempted to enroll in a health insurance plan, the sixty-day SPE had expired.

The Appellant and their Spouse argue that pregnancy should be a qualifying life event. While the Appellant's argument is understandable under the circumstances, Health Connector's Policy NG 1E does not include pregnancy as a qualifying life event.

It is undisputed that the Appellant did not experience a second qualifying life event within the sixty-day period prior to August 26, 2019 when they applied for health insurance. The Health Connector correctly determined on August 26, 2019 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.

#### **ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-10035

**Appeal Decision:** Appeal Approved in Part and Denied in Part

**Hearing Issues:** Eligibility for ConnectorCare, based on failure to reconcile prior tax credits  
Financial Eligibility for ConnectorCare and Advance Premium Tax Credits

**Hearing Date:** October 24, 2019

**Decision Date:** October 29, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 4, 2019, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to reconcile past tax credits.

### ISSUES

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

The second issue addressed on this appeal is whether the Appellant is financially eligible for ConnectorCare.

### HEARING RECORD

The Appellant and their Spouse appeared at the hearing, which was held by telephone on October 24, 2019. The record was left open after the hearing concluded to allow the Appellant to submit additional information. Additional information was submitted timely. 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 dated October 8, 2018, with email attachments.

- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Online Hearing Request, submitted on October 2, 2019.
- Exhibit 5: Health Connector's Eligibility Approval Notice with an Application Summary dated September 13, 2019.
- Exhibit 6: Health Connector's Eligibility Approval Notice with an Application Summary dated August 4, 2019.
- Exhibit 7: 2019 Eligibility Results with an Application Summary dated April 19, 2019.
- Exhibit 8: A copy of the Appellant's 2015 Tax Return Transcript from the Internal Revenue Service submitted by the Appellant on October 17, 2019.
- Exhibit 9: A copy of the Appellant's 2016 Tax Return Transcript from the Internal Revenue Service submitted by the Appellant on October 2, 2019.
- Exhibit 10: A copy of the Appellant's 2017 Tax Return Transcript from the Internal Revenue Service submitted by the Appellant on October 1, 2019.
- Exhibit 11: A copy of the Appellant's 2018 Tax Return Transcript from the Internal Revenue Service submitted by the Appellant on October 15, 2019.
- Exhibit 12: Copies for Forms 1095-A issued to the Appellant for Tax Years 2015 through 2018.
- Exhibit 13: Health Connector Customer Service Notes.
- Exhibit 14: Health Connector's Notice of Termination for Non-Payment issued to the Appellant on October 10, 2019.
- Exhibit 15: A blank copy of the Health Connector's Application for health insurance.
- Exhibit 16: Health Connector Appeals Unit Open Record form dated October 24, 2019.
- Exhibit 17: Additional information submitted by the Appellant on October 24, 2019 after the hearing concluded.
- Exhibit 18: A copy of the Appellant's Form 8878 for tax year 2018 submitted by the Appellant on October 28, 2019.

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was enrolled in ConnectorCare in 2015, 2016, 2017 and 2018. The Appellant received Advance Premium Tax Credits in 2015, 2016, 2017 and 2018 (Exhibit 12 and Appellant Testimony).
2. Prior to September 1, 2019 the Appellant was enrolled in ConnectorCare. The Appellant had reported income equivalent to approximately 283.90% of the federal poverty level for their household of two. The Appellant's Spouse receives Medicare (Exhibit 6).
3. On April 19, 2019 the Appellant submitted an application reporting monthly earned income of income \$666.67 and monthly Social Security income of \$2,644.20. No other income was reported. The Appellant attested to having filed their taxes and reconciling all past APTCs for tax years 2015 through 2018 (Exhibit 7).
4. On August 4, 2019, the Appellant was determined eligible for Health Connector plans, without subsidies. The Health Connector determined that the Appellant failed to file the necessary tax forms to reconcile their APTC for tax year 2018 (Exhibit 6).

5. On September 13, 2019 the Appellant updated their Application. The Appellant reported that they had no earned income and monthly Social Security Income of \$2,644.20 for their household of two. No other income was reported. The Health Connector determined that this income is equivalent to 187.64% of the federal poverty level (Exhibit 5).
6. On September 13, 2019 the Appellant was notified that they were eligible for Health Connector Plans (Exhibit 5).
7. The Appellant filed an appeal on October 2, 2019 (Exhibit 4).
8. While the Appeal was pending, the Appellant submitted Tax Return Transcripts from the Internal Revenue Service for tax years 2015, 2016, 2017 and 2018 to the Health Connector (Exhibits 8, 9, 10, 11).
9. The Appellant's 2015 tax return was filed on September 14, 2016. The Appellants' Adjusted Gross Income was \$51,707. The Appellant received Excess Advance Premium Tax Credit of \$2,398. The Appellant was not eligible for ConnectorCare in tax year 2015 because their income exceeded 300% of the federal poverty level of \$47,190 for their household of two (Exhibit 8).
10. The Appellant's 2016 tax return was filed on September 14, 2017. The Appellants' Adjusted Gross Income was \$227,837. The Appellant received Excess Advance Premium Tax Credit of \$2,440. The Appellant was not eligible for ConnectorCare in tax year 2016 because their income exceeded 300% of the federal poverty level of \$47,790 for their household of two (Exhibit 9).
11. The Appellant's 2017 tax return was filed on October 14, 2018. The Appellants' Adjusted Gross Income was \$295,907. The Appellant received Excess Advance Premium Tax Credit of \$1,860. The Appellant was not eligible for ConnectorCare in tax year 2017 because their income exceeded 300% of the federal poverty level of \$48,060 for their household of two (Exhibit 9).
12. The Appellant's 2018 tax return was filed on October 3, 2019. The Appellants' Adjusted Gross Income was \$78,096. The Appellant received Excess Advance Premium Tax Credit of \$1,920. The Appellant was not eligible for ConnectorCare in tax year 2018 because their income exceeded 300% of the federal poverty level of \$48,720 for their household of two (Exhibit 9).
13. The Appellant testified that they file an extension for their taxes every year. The Appellant said that when they attested to having filed taxes on April 19, 2019 they answered yes because they had filed for an extension with the Internal Revenue Service (Exhibit 4 and Appellant Testimony).
14. The Appellant and their Spouse were advised that the tax return documents submitted raised questions regarding the household's income. The returns verify that the household of two have income from various sources other than that reported on the Appellant's Applications completed on April 14, 2019 and September 13, 2019 (Exhibits 5, 6, 8, 9, 10, 11).
15. A copy of the Health Connector paper Application was submitted into evidence. The Appellant and their Spouse were asked about the information requested on page nine of this Application under Other Income and One-Time Only Income (Exhibit 15).

16. The Appellant testified that they completed their Applications by telephone and the Health Connector Customer Services employees did not ask about any other income but earned income and Social Security income (Appellant Testimony).
17. The Appellant Spouse testified that the Adjusted Gross Income for their household of two will exceed 300% of the federal poverty level of \$50,070 in tax year 2019 (Testimony of Spouse).
18. The record was left open to allow the Appellant to verify their testimony that they filed an extension of their 2018 tax return (Exhibit 16).
19. The Appellant submitted additional information during the record open period verifying that they requested an extension to file their tax year 2018 return on April 13, 2019 (Exhibits 17, 18).
20. The Health Connector had attempted to continue the Appellant's health insurance coverage by enrolling the Appellant in an unsubsidized plan effective September 2019 when the Appellant's ConnectorCare coverage ended (Exhibit 17).
21. On October 10, 2019 the Health Connector notified the Appellant that Health Connector coverage ended on August 31, 2019 because the Appellant had failed to pay the full premium amount due. The notice informed the Appellant that if they wish to re-enroll in coverage, they should telephone Customer Service prior to November 14, 2019. The Appellant was advised that they would have to pay any premiums owed as well as the first month of coverage in full (Exhibit 14).

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

On August 4, 2019 the Appellant was found eligible for Health Connector Plans without subsidies. The Appellant asserts that this determination was incorrect, because the Appellant had reported income is less than 300% of the Federal Poverty Level and they are otherwise eligible for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

In 2018 the Appellant was determined eligible for ConnectorCare and received APTC. On January 16, 2019 the Health Connector sent the Appellant a Form 1095-A with instructions to file a federal income tax return with IRS Form 8962 to reconcile receipt of APTC for tax year 2018. The Appellant completed an application for ConnectorCare on April 19, 2019 and reported that they had filed their taxes and reconciled past tax credits. As of August 8, 2019, the Health Connector was unable to verify that the Appellant had in fact filed their return and reconciled receipts of APTC. The Health Connector notified the Appellant on August 8, 2019 that they would be eligible for Health Connector plans with no financial assistance effective September 1, 2019. 45 CFR § 155.305(f)(4).

The Appellant filed an appeal on October 2, 2019. While the Appeal was pending, the Appellant submitted Tax Return Transcripts from the Internal Revenue Service for tax years 2015, 2016, 2017 and 2018. The Appellant's 2018 tax return was filed on October 3, 2019. The Appellant testified that they had filed an application for an extension as they have in years past. The Appellant explained that when they attested to having filed taxes and reconciling past tax credits on the April 19, 2019 Application, they answered yes because they had filed a valid extension.

The record was left open after the Hearing concluded to allow the Appellant to submit documentation verifying that they had requested an extension to file their 2018 taxes. The Appellant submitted the information timely. The Appellant's request for an extension was transmitted to the Internal Revenue Service on April 13, 2019. The Appellant had until October 15, 2019 to file their 2018 taxes. The Appellant's completed return was filed on October 3, 2019. The Appellant's ConnectorCare should not have been terminated for failing to file their taxes and reconciling APTC. 45 CFR § 155.305(f)(4).

Although the Appellant verified compliance with the tax filing regulations, the evidence submitted by the Appellant raised questions regarding the Appellant's financial eligibility for ConnectorCare. The Appellant's tax returns for tax years 2015 through 2018 verify income in excess of 400% of the federal poverty level. Income from multiple sources other than earnings and Social Security are included in the tax returns. The Appellant received excess APTCs in tax years 2015 through 2018. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

At the Hearing, the Appellant and their Spouse testified that they in fact have income other than earned income and Social Security benefits that was not reported on their Applications. The Appellant Spouse testified that for tax year 2019 the household's income will exceed 300% of the federal poverty level of \$50,730 for their household of two. The Appellant is therefore not financially eligible for ConnectorCare. 956 CMR § 12.04. Health Connector's August 4, 2019 termination action was correct for this reason.

## **ORDER**

The Appellant has filed their 2018 tax return and reconciled all past APTC. This part of the Appeal is approved. The Appellant is not financially eligible for ConnectorCare. Termination of this coverage was correct.

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

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

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant is reminded that they may contact Customer Service prior to November 14, 2019 to have their Health Connector plan coverage reinstated as outlined in the Notice issued on October 10, 2019. The Appellant should report all household income.

The Appellant is also advised that open enrollment for tax year 2020 is from November 1, 2019 through January 23, 2020. The Appellant should update their Application to report all household income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA19-9629

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** September 30, 2019

**Decision Date:** October 30, 2019

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 15, 2019, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is or is enrolled in Medicare.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 30, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and his representative were sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

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

- Exhibit 2: Health Connector's Hearing Notice (5 pages, dated August 14, 2019)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (7 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (8 pages dated April 19, 2019)
- Exhibit 6: Notice of Eligibility Determination (6 pages, dated July 15, 2019)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (9 pages, dated July 16, 2019)
- Exhibit 8: Health Connector Historical Notices and Printouts (7 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on July 15, 2019, based on being eligible for Medicare. (Exhibit 6, Appellant's testimony)
2. Appellant is enrolled in Medicare. (Exhibit 6, & Appellant's testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant stated on her appeal request form that she cannot afford the co-pays and out of pocket expenses and medications, and disputes the finding that he is not eligible for subsidies to help make her insurance more affordable.

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

When the Appellant's eligibility for 2019 coverage was determined on July 15, 2019, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that she was eligible for Medicare. Because the Appellant was eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare. 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.

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**