

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Approved

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

Hearing Date: August 2, 2017

Decision Date: August 22, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notices dated June 28, 2017, the Health Connector advised the appellant that she was eligible for unsubsidized insurance coverage through the Health Connector effective August 1, 2017, and that she had 60 days to enroll because she indicated that she had a qualifying life event. (Exs. 14, 16) By notice of the same date, the Health Connector sent the appellant a Request for Information in which she was asked to submit proof of U.S. citizenship status by September 26, 2017. (Ex. 15) By notice of the same date, the Health Connector advised the appellant that she did not qualify to enroll in a new or different health insurance plan because she did not have a qualifying event. (Ex. 16) By notice dated July 19, 2017, the appellant was again advised that she did not qualify to enroll in a new or different health insurance plan because she did not have a qualifying event. (Ex. 17) The appellant filed an online

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appeal which was received on May 15, 2017, (Ex. 3) in which she stated that she had mistakenly unenrolled from her insurance. The matter was referred to a hearing after receipt of the appeal. (Ex. 12)

ISSUE

Was the Connector's decision regarding the appellant's qualification for health insurance through the Health Connector, and eligibility for a special enrollment period, correct at the time of its determination on June 28, 2017, and July 19, 2017, pursuant to 45 C.F.R.155.420 and 956 CMR 12.10(5)?

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 2, 2017, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Final Renewal Notice dated October 17, 2017
- Ex. 2—Enrollment History
- Ex. 3—Online Appeal Form received on May 15, 2017
- Ex. 4—Acknowledgment of Appeal dated May 19, 2017
- Ex. 5—Computer printout of Health Connector's Review of Application
- Ex. 6—Computer printout of Health Connector's Eligibility Determination Results
- Ex. 7—Customer Service Notes
- Ex. 8—Notice of Hearing dated May 19, 2017
- Ex. 9—Hearing Record Sheet and notes dated June 16, 2017
- Ex. 10—Email from Appeals Unit dated June 16, 2017
- Ex. 11—Email correspondence from Appeals Unit dated June 23, 2017-June 28, 2017
- Ex. 12—Notice of Hearing dated July 10, 2017
- Ex. 13—Affidavit of Connector representative

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. Specifically, the appellant was asked to submit copies of the Health Connector's June 28, 2017, and July 19, 2017 notices referenced on Page 1. Following the hearing, the Health Connector produced copies of the notices and the appellant was notified that it was not necessary to submit them. The documents were marked as follows:

- Ex. 14—Health Connector's Special Enrollment Period Decision dated June 28, 2017
- Ex. 15—Health Connector's Request for Information dated June 28, 2017

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Ex. 16—Health Connector’s Notice of Eligibility Approval dated June 28, 2017

Ex. 17—Health Connector’s Special Enrollment Period Decision dated July 19, 2017

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant was enrolled in unsubsidized health insurance through the Health Connector in 2016. By Final Renewal Notice dated October 17, 2016, the Health Connector notified her that she could remain enrolled in Health Connector Plans with no financial help with coverage renewing on January 1, 2017, at a renewal plan monthly premium of \$381.99. (Testimony, Ex. 1)
2. On December 20, 2016, the appellant paid the monthly premium of \$381.99 online for January, 2017 coverage. (Testimony)
3. On or about January 25, 2017, the appellant paid her monthly premium online for February, 2017. (Testimony)
4. When the appellant logged into her account in February to make a premium payment for March, 2017, there was a note that she had a credit of approximately \$1000.00. She called the Health Connector in or around February 16, 2017, and was advised that she was not enrolled in insurance. She was asked to submit proof of payment for the months of January and February which she faxed to the Connector on that date. At some point shortly thereafter, she made an online payment for her March premium. (Testimony)
5. The appellant did not follow up on the matter of her coverage until April, 2017, when she logged into her account and again noticed that she had an outstanding credit of over \$1000.00. She called the Health Connector on April 21, 2017, and spoke with a customer service representative who advised her to file an appeal regarding the issue of her enrollment. (Testimony, Ex. 7)
6. The appellant filed an online appeal which was received on May 15, 2017. (Testimony, Ex. 3)
7. The appellant’s immigration status changed from permanent resident to citizen in June, 2017. She called the Health Connector on June 28, 2017, and was advised to submit proof of citizenship. She was also asked to submit proof of income. She faxed her four most recent paystubs and proof of citizenship to the Connector on June 28, 2017. (Testimony, Ex. 7)

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8. In the June 28, 2017 conversation, the appellant was advised that she had an outstanding credit of \$1145.97 in her account, and requested that a refund of that amount be sent to her. (Testimony, Ex. 7)

9. By notice dated June 28, 2017, the Health Connector advised the appellant that she was eligible for insurance coverage through the Health Connector effective August 1, 2017, and that she had 60 days to enroll because she indicated that she had a qualifying life event. (Testimony, Exs. 14,16)

10. By notice dated June 28, 2017, the Health Connector requested that the appellant submit proof of U.S. citizenship status by September 26, 2017. (Testimony, Ex. 15)

11. By notice dated June 28, 2017, the Health Connector advised the appellant that she did not qualify to enroll in a new or different health insurance plan because she did not have a qualifying event. (Testimony, Ex. 16)

12. By notice dated July 19, 2017, the Health Connector again advised the appellant that she did not qualify to enroll in a new or different health insurance plan because she did not have a qualifying event. (Testimony, Ex. 17)

13. At the time of the instant hearing, the appellant had been advised that a refund had been processed for \$1145.97 and had been sent to her. (Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

I take administrative notice of the fact that the open enrollment period for health insurance for 2017 ended on January 31, 2017 for the commercial non-group market, and that closed enrollment runs from February 1, 2017 to December 31, 2017.

The appellant testified credibly that she renewed her health insurance for 2017 pursuant to the Connector's October, 2017, notice, and paid a premium of \$381.99

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online on December 20, 2016, for coverage effective on January 1, 2017. She testified that she paid her February premium online on January 25, 2017, and when she logged into her account on February 16, 2017, she was advised that she was not enrolled in insurance and had a credit of approximately \$1000.00. After submitting proof of payment to the Connector for the previous two months, she testified that she paid her March premium and was advised in April, 2017, that she still was not enrolled.

It appears that a phone call to the Connector in June regarding a change in the appellant's immigration status triggered a flurry of contradictory notices. It is not known why her premium payments were not accepted and why she was never enrolled in Health Connector Plans. (It may be that one or more of the appellant's payments were untimely and she was disenrolled.) However, one of the notices dated June 28, 2017 advised her that she was eligible for Health Connector Plans, and that she qualified for a 60-day special enrollment period based on a qualifying life event. Another notice of the same date advised her of the exact opposite determination—that she did not qualify for a special enrollment period because she failed to establish a qualifying life event. In the third notice dated July 19, 2017, the Connector advised her again that she did not qualify for a special enrollment period, and that was after she submitted proof of citizenship and income pursuant to its request.

Pursuant to 45 CFR 155.420(d)(9), “exceptional circumstances” are considered an event which triggers a SEP. It is not possible to reconcile the Connector's notices, and there is insufficient information in the record to determine why the appellant was not enrolled. Nonetheless, it is concluded that the conflicting notices can be construed as exceptional circumstances which were a legitimate source of confusion for the appellant. See <http://www.healthreformbeyondthebasics.org/wp-content/uploads/2015/06/SEP-Reference-Chart.pdf> .

Based on the totality of the evidence, it is concluded that the appellant established that the contradictory notices constitute exceptional circumstances which qualifies her for a SEP. Accordingly, the Connector's determination that the appellant was ineligible for a SEP is incorrect and is overturned.

ORDER

The appeal is approved. The Connector is ordered to establish a new 60-day special enrollment period and to assist the appellant with an effective enrollment date appropriate to her circumstances.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

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

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

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

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FINAL APPEAL DECISION

Appeal Decision: Appeal Denied

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

Hearing Date: July 6, 2017

Decision Date: September 26, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 14, 2017, Appellant was determined eligible for Health Connector plans only.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Health Connector plans only 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 July 6, 2017.

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

- Exhibit 1: Affidavit
- Exhibit 2: 4/14/17 Eligibility Approval Notice (10 pages)
- Exhibit 3: 5/15/17 Appeal (3 pages)
- Exhibit 4: 5/16/17 Appeal Ack. (3 pages)
- Exhibit 5: 2017 Eligibility Results fro 4/12/17 Application (3 pages)
- Exhibit 6: Review Application Summary (4 pages)
- Exhibit 7: 2017 Application Results for 1/11/17 Application (3 pages)

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- Exhibit 8: Review Application Summary (4 pages)
- Exhibit 9: 2017 My Enrollments Current/Future (4 pages)
- Exhibit 10: 2017 Eligibility Results for 5/2/17 Application (3 pages)
- Exhibit 11: Review Application Summary (4 pages)
- Exhibit 12: 6/2/17 Virtual Gateway – 3/17 Paystubs (6 pages)
- Exhibit 13: 6/2/17 Outreach/Contact Records (7 pages)
- Exhibit 14: 6/6/17 Hearing Notice (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. On January 11, 2017, the Appellant submitted to the Health Connector an application for health insurance coverage. The Connector determined that the Appellant qualified for ConnectorCare Plan Type 3B with a tax credit of \$83, based on household income that was 278.69% of FPL, and informed the Appellant that she needed to provide proof of income to the Connector. (Exhibit 7)
2. The Appellant had a deadline of April 4, 2017, for submitting her proof of income to the Connector, in order to continue her coverage. The Appellant did not submit any proof of income to the Connector on or prior to April 4, 2016. (Exhibit 13)
3. On April 12, 2017, the Appellant submitted to the Health Connector an application for health insurance coverage. The Health Connector determined the Appellant eligible for Health Connector Plans only, “based on data from other sources because you did not send us documents we asked for to use in our decision.” (Exhibit 5)
4. By letter dated April 14, 2017, the Connector notified the Appellant that she was approved for Health Connector Plans, with a first available start date of May 1, 2017. The letter also stated that the Appellant did not qualify for coverage through a tax credit or ConnectorCare plan for any of three listed reasons, including income too high. (Exhibit 2)
5. On May 2, 2017, the Appellant contacted the Health Connector by phone and stated to the representative that her plan had changed for May 1, 2017, and she was not sure why. The representative responded that she had lost her eligibility for tax credits because she did not submit her proof of income by the 4/4/17 deadline. (Exhibit 13)
6. After speaking with the Health Connector, the Appellant submitted proof of income to the Connector. (Appellant’s testimony)
7. On May 2, 2017, the Appellant submitted a new application to the Health Connector. The Connector approved the Appellant for ConnectorCare Plan Type 3B with an \$83 tax credit. (Exhibit 10)
8. On May 15, 2017, the Appellant appealed the Connector’s 4/14/17 determination, stating “miscommunications” for the reason for her appeal and asking that the May premium of \$418.67 be credited back to her and that her old plan and premium of \$124 be restored to her. (Exhibit 3)

ANALYSIS AND CONCLUSIONS OF LAW

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to

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

The Appellant was found eligible for Health Connector Plans without subsidies based on information from other sources, when she failed to submit proof of her income by April 4, 2017. The Appellant contends that the Connector had never informed her that she needed to provide proof of income until she contacted the Connector in May 2017, after learning that her plan had changed and her premium had gone up significantly. I am not persuaded by the Appellant's contention, however, since the Connector had notified her in January 2017 that she needed to submit proof of income by April 4, 2017, or her ConnectorCare plan would end.

On April 12, 2017, because the Appellant had failed to verify her income by the April 4, 2017 deadline, the Health Connector reverted to electronic data sources, and found that the Appellant's household income was above 300% 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 later provided the Connector with proof of income below 300% of FPL and the Connector qualified her for ConnectorCare, beginning June 1, 2017, the Appellant had failed to provide proof of her income by the 4/4/17 deadline, and the Health Connector, as required by law, relied on data it had available from other sources to issue a new determination. The Appellant was found eligible for Health Connector plans only, and this was the correct determination for a person whose household income exceeded 300% of the Federal Poverty Level. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Health Connector Appeals Unit

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FINAL APPEAL DECISION

Appeal Decision: Appellant is eligible to reenroll during a special enrollment period for a Health Connector plan with an advance premium tax credit, assuming Appellant is otherwise still eligible.

Hearing Issue: Whether the Connector correctly determined Appellant's eligibility to reenroll in a Health Connector plan with an advance premium tax credit only during the next open enrollment period or upon Appellant having a qualifying life event after Appellant cancelled his coverage.

Hearing Date: August 10, 2017 **Decision Date:** August 18, 2017

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

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

Original Action Taken: As of March 31, 2017, the appellant cancelled his ConnectorCare coverage because he thought the amount of the advance premium tax credit was the amount of his monthly premium bill, or that it affected his tax refund. After he cancelled, the Connector determined Appellant to be eligible to reenroll in a Health Connector plan with an advance premium tax credit, but not until the next open enrollment period or when the appellant has a qualifying life event.

Hearing Record: The appellant appeared at the hearing which was held by telephone on August 10, 2017. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. 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 in evidence:

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- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated July 11, 2017 sent to Appellant for a hearing on August 10, 2017
- Exhibit 3: Hearing Request Form signed by Appellant on May 12, 2017 with attachment received by the Connector on May 15, 2017
- Exhibit 4: Letter to Appellant from Connector Appeals Unit acknowledging receipt of appeal request dated May 17, 2017
- Exhibit 5: Health Connector's summary and results of Appellant's application computer print-out dated August 28, 2016
- Exhibit 6: Health Connector letter to Appellant dated August 28, 2016 regarding preliminary eligibility determination
- Exhibit 7: Letter to Appellant dated October 18, 2016 from the Health Connector regarding final renewal notice
- Exhibit 8: Appeals Unit outreach notes regarding Appellant's appeal
- Exhibit 9: Customer Service notes regarding Appellant's coverage

Findings of Fact:

The record shows, and I so find:

1. Appellant applied to obtain health insurance through the Connector in 2016. He had ConnectorCare coverage from August through December. His coverage was renewed for 2017 (Testimony of Appellant, Exhibits 3, 5, 6, 7).
2. On August 28, 2016, the Connector sent a preliminary eligibility determination to the appellant informing Appellant of his eligibility for 2017 coverage and asking him to update his account (Exhibits 6).
3. On October 18, 2016, the Connector sent a final renewal notice to the appellant (Exhibit 7).
4. Appellant had ConnectorCare until the end of March, 2017 when he cancelled his coverage after speaking to someone at the Connector's Customer Service. Appellant cancelled his coverage because of a miscommunication regarding his premium amount, his advance premium tax credit amount, and his income tax refund for 2016. He was fully up to date in his payments to the Connector; he received a premium refund after he cancelled (Testimony of Appellant, Exhibits 8 and 9).

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5. Appellant was not allowed to reenroll in a plan through the Connector outside of the next open enrollment period (Testimony of Appellant, Exhibit 9).
6. Appellant filed an appeal in May, 2017. He wants to reenroll in the ConnectorCare program (Exhibit 3, Testimony of Appellant).

Analysis and Conclusions of Law:

The issue on appeal is whether the appellant was eligible to reenroll in a Health Connector plan with an advance premium tax credit outside of the next open enrollment period. Appellant was blocked from enrolling in a Health Connector plan after he cancelled his ConnectorCare coverage because of a miscommunication with the Connector. Appellant has appealed being blocked from enrollment. See Exhibits 3, 8, and 9, and the testimony of the appellant which I find to be credible.

Eligibility to purchase health insurance through the Connector is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. Among other requirements, an individual must have a projected income between 100% and 400% of the Federal Poverty Level in order to be eligible for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(13) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. 45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event. In addition to having a qualifying life event, a person may be allowed to enroll in a plan outside of the open enrollment period for certain administrative reasons, including if the Connector determines that exceptional circumstances exist. See 45 C.F.R. 155.420(d)(9).

The appellant applied to obtain health insurance through the Connector in 2016. He had ConnectorCare coverage from August through December. His coverage was renewed for 2017. On August 28, 2016, the Connector sent a preliminary eligibility determination to the appellant informing Appellant of his eligibility for 2017 coverage and asking him to update his account. On October 18, 2016, the Connector sent a final renewal notice to the appellant. Appellant had ConnectorCare until the end of March, 2017 when he cancelled his coverage. Appellant cancelled his coverage because of a miscommunication regarding his premium amount, his advance premium tax credit amount, and his income tax refund for 2016. Appellant was then blocked

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from enrolling in a plan through the Connector outside of the next open enrollment period.

Appellant was clearly confused about what amount he had to pay as a monthly premium, what amount he would receive as an advance premium tax credit, and how the tax credit affected his tax refunds. Appellant called Customer Service in an attempt to understand what the different amounts meant; after discussing the matter with Customer Service, he felt he had to cancel his coverage, still not being clear on what the differing amounts meant.

Appellant is to be allowed to enroll in a Health Connector plan with an advance premium tax credit during a special enrollment period, assuming Appellant remains otherwise eligible. The appellant was fully compliant with Connector procedures and was up to date with premium payments. He called Customer Service for help, but was unable to get help understanding the amount he would have to continue to pay and what effect the advance premium tax credit had on his tax filings. I find that pursuant to 45 C.F.R.155.420 (d)(9) exceptional circumstances exist and Appellant should be allowed to reenroll in Connector coverage.

Order: Appellant's appeal is allowed. The action taken by the Connector is overturned.

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

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

Hearing Officer

Cc: Connector Appeals Unit

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FINAL APPEAL DECISION

Appeal Decision: Appeal Denied The Connector's determination of Appellant's eligibility for subsidies is affirmed

Hearing Issue: Whether the Connector correctly determined Appellant's eligibility for subsidies based on income

Hearing Date: August 3, 2017

Decision Date: August 14, 2017

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing 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.* and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

ORIGINAL ACTION TAKEN BY THE CONNECTOR

On May 20, 2017 a determination was made based on Appellant's updated application for subsidized health insurance for coverage beginning on June 1, 2017. The Health Connector determined Appellant to be eligible for a ConnectorCare Plan Type 2B with Advance Premium Tax Credits.

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for a ConnectorCare Plan Type 2B with Advance Premium Tax Credits based on the information provided on the updated application.

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HEARING RECORD

Appellant appeared at the hearing which was held by telephone on August 3, 2017. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Correspondence from Appeals Unit
- Exhibit 3: Hearing Request Form and supporting documents signed by Appellant on June 4, 2017
- Exhibit 4: Appeals Unit outreach and customer service notes
- Exhibit 5: Notice on Appeal, dated May 20, 2017
- Exhibit 6: Eligibility Results and Application Summary

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had been covered by a ConnectorCare Plan with Advance Premium Tax Credit (Testimony of Appellant and Exhibits 5, and 6).
2. Appellant was asked to update the information and provide information about projected income (Testimony of Appellant and Exhibit 5).
3. Appellant did send in information regarding projected income (Testimony of Appellant).
4. On May 20, 2017, Appellant was notified by the Connector that Appellant was eligible for a ConnectorCare Plan Type 2B with an Advance Premium Tax Credit (Exhibit 5).
5. Appellant was not sure of the premium. Appellant had received notices that said that no payment was necessary (Testimony of Appellant).
6. Appellant's income is sometimes unpredictable and it may be lower than projected (Testimony of Appellant).
7. On June 4, 2017, Appellant filed for an appeal, based upon income (Exhibit 3).

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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.

In 2016 and 2017, Appellant had been covered by a ConnectorCare Plan with Advance Premium Tax Credits. Appellant updated the application and Appellant was required to send in proof of income. Appellant sent in the requested documents and was found eligible for a ConnectorCare Plan 2B with Advance Premium Tax Credits. Appellant had received invoices with different amounts from the Health Connector. Appellant filed an appeal on June 4, 2017, based upon income. See Exhibits 3, 4 and 6 and Testimony of Appellant, which I find to be credible.

The Connector made the correct determination based upon the information that was provided to the Connector at the time of Appellant's update and application. However, if Appellant's projected income has changed, Appellant should update the application with new projected income information. Appellant should also contact the Health Connector with any questions about billing.

ORDER

Appellant's appeal is denied. The determination by the Connector is affirmed. However, if Appellant's projected income has changed, Appellant should update the income information with the Health Connector.

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.

ADDENDUM: If Appellant expects the income to be different than the amount attested to on the application for health insurance through the Connector, Appellant should contact customer service at 1-877-623-6765 and correct the information. Appellant should note that Appellant

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should provide a very accurate statement of income and also should update the income amount whenever Appellant's income changes. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.

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FINAL APPEAL DECISION

Appeal Decision: Denied

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

Hearing Date: August 2, 2017 Decision Date: August 23, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated May 31, 2017, the appellant was advised that he did not qualify for health insurance through the Health Connector because he had access to Medicare or was enrolled in Medicare. (Ex. 1) The appellant filed a Hearing Request Form dated June 12, 2017 (Ex. 2) in which he stated in part that has been in the hospital for three months and has a medical disability. The matter was referred to a hearing after receipt of the appeal. (Ex.9)

CONNECTOR APPEALS UNIT

ISSUE

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

HEARING RECORD

The appellant's wife, and designated representative, appeared at the hearing which was held by telephone on August 2, 2017, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Health Connector Notice of Eligibility Determination dated May 31, 2017 (6 pages)
- Ex. 2—Hearing Request Form dated June 12, 2017
- Ex. 3—Appeals Unit notes
- Ex. 4—Acknowledgment of Appeal dated June 19, 2017 (5 pages)
- Ex. 5— Computer printout of Health Connector's Eligibility Determination Results (2 pages)
- Ex. 6—Computer printout of Health Connector's Review of Application (2 pages)
- Ex. 7—Computer printout of Health Connector's "AVV" tool showing information from the application database for the appellant
- Ex. 8—MassHealth member information
- Ex. 9—Notice of Hearing (4 pages)
- Ex. 10—Affidavit of Connector representative

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 60-years-old and is married. (Testimony)
2. The appellant has been a recipient of social security disability benefits and has had health insurance through Medicare for approximately four years. He also has secondary insurance coverage through his wife's employer provided health insurance. (Testimony, Exs.1,6,7)
3. The appellant's wife's insurance is no longer covering several of his medical expenses and he is seeking other possible sources of coverage. (Testimony)

CONNECTOR APPEALS UNIT

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

ORDER

The appeal is denied.

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

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

Hearing Officer

CONNECTOR APPEALS UNIT

Cc: Connector Appeals Unit

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied.

Hearing Issue: Income and residency information used to determine the Appellant's eligibility for Health Connector Plans

Hearing Date: August 9, 2017

Decision Date: August 18, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On May 10, 2017, the Health Connector determined the Appellant to be eligible for ConnectorCare Plan Type 3A with monthly Advance Premium Tax Credits of \$123.00.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credits of \$123.00 based on the change of address reported by the Appellant.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2017. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector's Hearing Record Affidavit.

Massachusetts Health Connector Appeals Unit

- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated July 11, 2017.
- Exhibit 3: Health Connector Eligibility Approval Notice with attachments dated May 10, 2017.
- Exhibit 4: Health Connector Appeals Unit Outreach Notes.
- Exhibit 5: Health Connector's 2017 Eligibility Results computer printout dated June 19, 2017.
- Exhibit 6: Health Connector's Data Entry calculator with ConnectorCare Options for the Appellant while living in Franklin County, Massachusetts.
- Exhibit 7: Health Connector's Data Entry calculator with ConnectorCare Options for the Appellant's current address in Hampshire County, Massachusetts.
- Exhibit 8: A copy of a Massachusetts Counties Map.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to June 2017, the Appellant completed an application for ConnectorCare. The Appellant is a single person, was living in Franklin County, Massachusetts, and reported a projected annual modified adjusted gross income (MAGI) of \$28,444 for 2017 (Exhibits 4, 5 and Appellant Testimony)
2. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place Appellant at approximately 239.43% of the 2017 Federal Poverty Level (FPL) (Exhibit 5).
3. The Health Connector correctly found that the Appellant was eligible for state subsidized health insurance ConnectorCare Plan Type 3A because the Appellant's self-attested projected income placed their household at more than 200% but less than 250% of the Federal Poverty Level. (Exhibits 6, 7).
4. The Health Connector determined the Appellant eligible for APTC of \$261.00. The Appellant's Health Plan, Health New England ConnectorCare, was the lowest cost Plan available in the Franklin County area where the Appellant was residing (Exhibits 6, 8).
5. Prior to May 10, 2017 the Appellant reported that they had moved to Hampshire County, Massachusetts (Exhibit 4 and Appellant Testimony).
6. Health New England ConnectorCare is the third lowest cost Plan available for residents in Hampshire, Massachusetts (Exhibits 7, 8).
7. On May 10, 2017, the Health Connector notified the Appellant that the Appellant was eligible for ConnectorCare Plan Type 3A with Advance Premium Tax Credit of \$123.00 monthly (Exhibit 3).
8. The Appellant filed an Appeal to dispute the increase in their Plan premium as well as the decrease in the amount of their Advance Premium Tax Credit (Exhibit 4 and Appellant testimony).
9. The Appellant testified credibly that the increase in the cost of their health insurance is causing a substantial financial hardship. The Appellant has applied for a Premium Waiver (Appellant Testimony).

Massachusetts Health Connector Appeals Unit

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant stated on their application that their projected MAGI was \$28,444. This income is equivalent to approximately 239.43% of the Federal Poverty Level and renders the Appellant financially eligible for state subsidies. Since the Appellant's projected MAGI is more than 200% but less than 250% of the Federal Poverty Level the Health Connector correctly determined that the Appellant is eligible for Plan Type 3A. 956 CMR 12.04(3). Based on the Appellant's income and the cost of health insurance in the Franklin County area, the Appellant's APTC amount was determined to be \$261.00.

Prior to May 2017 the Appellant moved to Hampshire County, Massachusetts. The Appellant reported the change in circumstances as required by Health Connector policy. 956 CMR 12.09(2). On May 10, 2017, the Health Connector notified the Appellant that effective June 1, 2017 the monthly amount of their APTC was reduced to \$123.00. The Appellant remains enrolled in Health New England ConnectorCare. The Appellant disputes the change. The Appellant argues that the monthly cost of their health care premium tripled from \$83.00 per month to \$247.00 per month.

Tax credit amounts are determined by various factors, including household income, the number of persons in the tax household and the cost of the second least-expensive Silver Plan available in the market area. 26 IRC § 36B (2). The cost of health insurance varies depending upon the county in which a person resides. Factors to be considered include the availability and cost of health plans in a particular location. The Appellant's income for 2017 has remained unchanged at \$28,444. While living in Franklin County, the Appellant's Plan was the lowest cost Plan available. The Appellant did not have a more affordable alternative and the amount of her APTC reflected this fact. As a current resident of Hampshire County, the Appellant's Plan is the third lowest cost Plan available. The Connector correctly determined that there are good high-quality health plans available to the Appellant through the Health Connector at an affordable premium with a monthly APTC of \$123.00.

ORDER

The appeal is denied.

Massachusetts Health Connector Appeals Unit

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

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

Cc: Health Connector Appeals Unit

ADDENDUM

The Appellant is advised to contact the Appeals Unit Manager for information regarding the Health Plan options in the Hadley area.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied. Denial of a Special Enrollment Period upheld.

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

Hearing Date: July 18, 2017

Decision Date: August 18, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 28, 2017 the Appellant was determined ineligible for a special enrollment period.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 18, 2017. The Record was left open until August 1, 2017 to allow the Health Connector to submit additional evidence. The information was submitted on July 21, 2017. The information was sent to the Appellant. The Appellant August 15, 2017 for their written response. The Appellant responded by letter dated August 8, 2017. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 5, 2017.
- Exhibit 2: Health Connector Appeals Unit Outreach Notes.
- Exhibit 3: Health Connector's Termination for Nonpayment APTC Notice dated April 5, 2017.
- Exhibit 4: Health Connector's Eligibility Approval Notice dated June 28, 2017.

Massachusetts Health Connector Appeals Unit

- Exhibit 5: Health Connector's Notice of Denial of the Appellant's request for a Special Enrollment period dated June 28, 2017.
- Exhibit 6: 2017 Eligibility Results Computer Printout dated June 28, 2017.
- Exhibit 7: Health Connector Appeals Unit Record Open Form dated July 18, 2017.
- Exhibit 8: Additional Evidence submitted by the Health Connector including: Eligibility notices issued to the Appellant on August 27, 2016, October 27, 2016 and April 5, 2017; a copy of a Premium Bill issued to the Appellant on December 1, 2016; a Billing Breakdown and Customer Service communication notes (Exhibit 8).
- Exhibit 9: The Appellant's letter dated August 8, 2017 responding to the information submitted by the Health Connector during the record open period.

FINDINGS OF FACT

The record shows, and I so find:

1. On June 28, 2017, the Health Connector notified the Appellant that their request for a Special Enrollment Period had been denied for failure to verify a qualifying life event (Exhibit 5).
2. The Appellant appealed that determination on June 29, 2017 (Exhibit 2).
3. The Appellant testified that they paid all their premiums on time and in fact had a credit balance. The Appellant said that Health Connector had used incorrect information to determine the 2017 monthly premium.
4. The Appellant's monthly health care premium for tax year 2016 was \$123.00 (Exhibit 8G).
5. As a result of a routine review, the Health Connector notified the Appellant on August 27, 2016 that based on information available to the Health Connector, the Appellant's income had increased and this would result in a higher monthly premium for 2017. The Appellant was advised to update their account within thirty days if the income projected by the Health Connector did not look correct to the Appellant (Exhibit 8C).
6. The Appellant did not update their information prior to October 27, 2016 (Exhibit 8A).
7. On October 27, 2016, the Health Connector issued a Final Renewal Notice. The Appellant was informed that they were eligible for Advance Premium Tax Credit of \$38.00 per month and their monthly premium would be \$330.32. The Appellant was advised to shop for health plans beginning November 1, 2016 and pay their monthly premium by December 23, 2016 (Exhibit 8D).
8. The Appellant's December 1, 2016 Health Insurance Bill informed the Appellant that her balance due for December 23, 2016 was \$514.32. This included the increased premium for January 2017 as \$184 due from the previous statement (Exhibit 8F).
9. On April 5, 2017 Health Connector notified the Appellant that her coverage had ended on March 31, 2017. The Appellant was advised that if they wish to re-enroll they would have to contact Customer Service by May 11, 2017 and pay all past due premiums (Exhibit 8E).
10. The Appellant paid arrears on May 8, 2017 but did not call Customer Service until May 19, 2017 to request reinstatement. The Appellant has a credit balance (Exhibit 8A, H, G).
11. It is undisputed that the Appellant did not experience a qualifying life event such as a change in household composition, moving to the state or losing employer based health insurance as outlined in Health Connector's Policy NG 1E (Exhibits 5, 9 and Appellant Testimony).

Massachusetts Health Connector Appeals Unit

ANALYSIS AND CONCLUSIONS OF LAW

By Notice dated August 27, 2016 the Health Connector instituted a routine review of the Appellant's eligibility for Advance Premium Tax Credits. 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). As a result of information available from these sources, the Appellant was advised on August 27, 2016 that the Health Connector had determined her income had increased and this information would be used to determine the amount of the Appellant's APTC for 2017. The Appellant was advised to update their account within thirty days if the Appellant did not agree with the projected income figure.

The Appellant did not update their information. On October 16, a Final Renewal Notice was issued and the Appellant was informed that their new monthly premium would be \$330.32 for 2017. The Appellant's 2016 premium had been \$123.00. The Appellant did not pay the increased premium in a timely manner and Health Connector terminated the Appellant's APTC for non-payment effective March 31, 2017. On April 5, the Appellant was notified of the steps needed to reinstate their health insurance coverage. The notice advised the Appellant to call the Health Connector by May 11, 2017 to request reinstatement. On May 8, the Appellant paid the arrearages, but the Appellant did not contact the Health Connector to request reinstatement until May 19, 2017.

Although the Appellant testified that the Health Connector was at fault for the premium increase and the termination of the Appellant's APTC, the record demonstrates that the Health Connector issued multiple notices to the Appellant regarding her eligibility and the steps the Appellant needed to take to maintain their eligibility. The Appellant did not respond to the notices timely. The Health Connector correctly determined the Appellant's eligibility.

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. It is undisputed that the Appellant did not experience a qualifying life event. Because the Appellant did not experience a qualifying life event, the Health Connector correctly determined on June 28, 2017 that the Appellant is not eligible for a special enrollment period 45 CFR § 155.420.

ORDER

The appeal is denied.

Massachusetts Health Connector Appeals Unit

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

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

Cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied. Denial of a Special Enrollment Period upheld.

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

Hearing Date: September 6, 2017

Decision Date: September 13, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On or about July 10, 2017 the Appellant was determined ineligible for a special enrollment period.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 6, 2017. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Affidavit of Record.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated August 9, 2017.
- Exhibit 3: Appellant's Hearing Request Form dated July 10, 2017.
- Exhibit 4: Health Connector Appeals Unit outreach notes.
- Exhibit 5: 2017 Eligibility Results Computer Printout dated September 19, 2016.
- Exhibit 6: Health Connector Eligibility Approval Notice dated September 12, 2016.
- Exhibit 7: Health Connector Payment Portal record dated September 5, 2017.

Massachusetts Health Connector Appeals Unit

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant received ConnectorCare with Advance Premium Tax Credits in 2016 (Exhibits 5, 6),
2. Prior to February 13, 2017 the Appellant was enrolled in an employer sponsored health insurance plan (Exhibit 4 and Appellant Testimony).
3. The Appellant's employment was terminated and the Appellant's health insurance ended in February 2017 (Exhibit 4 and Appellant Testimony).
4. The Appellant did not attempt to obtain health insurance during the sixty-day period following the termination of their employer sponsored health insurance (Appellant Testimony).
5. The Appellant contacted the Health Connector in July 2017 to obtain health insurance (Exhibits 3, 4 and Appellant Testimony).
6. The Health Connector denied the Appellant's request for a Special Enrollment Period in July 2017 because the Appellant did not experience a qualifying life event during the sixty-day period prior to July 2017 (Exhibit 2 and Appellant Testimony).
7. The Appellant testified credibly that they were not aware that they only had sixty days to enroll in a health insurance plan after their employer-sponsored insurance was cancelled in February 2017. The Appellant said that the COBRA payment for their employer sponsored insurance was too expensive. The Appellant found another job but the employer did not provide health insurance. The Appellant said they kept meaning to apply for health insurance but kept putting in off. The Appellant said that they had no health issues during this period of time. The Appellant argues that the sixty-day time limit for a qualifying life event is not common knowledge in Massachusetts and imposing this restriction is unfair.
8. It is undisputed that in the sixty-day period prior to July 2017, the Appellant did not experience a qualifying life event such as a change in household composition, moving to the state or losing employer based health insurance as outlined in Health Connector's Policy NG 1E (Exhibits 3,4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

Prior to February 13, 2017 the Appellant was enrolled in an employer sponsored health insurance program. The Appellant's employment ended in early February and their insurance coverage expired on February 13, 2017. The Appellant explained that continued coverage through COBRA was not affordable. The Appellant found subsequent employment but health insurance was not available through this employer. The Appellant had received ConnectorCare coverage through the Health Connector in 2016. The Appellant did not contact the Health Connector to enroll in an insurance plan until July 2017. The Health Connector denied the Appellant's request for a special enrollment period in July and the Appellant 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

Massachusetts Health Connector Appeals Unit

transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG 1E. Qualifying life events include marriage, birth or adoption of a child, loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances. The Appellant experienced a qualifying life event in February 2017 when they lost employer sponsored health insurance. The Appellant was eligible for a special enrollment period (SPE) at that time. The SPE is a sixty-day open enrollment period. The Appellant did not contact the Health Connector until July 2017. By the time the Appellant attempted to enroll in a health insurance plan, the sixty-day SPE had expired.

The Appellant argues that they did not know that there was a sixty-day time limit to obtain insurance after her insurance ended in February 2017. The Appellant disputes the rule which they say discourages people from obtaining needed health insurance coverage.

It is undisputed that the Appellant did not experience a second qualifying life event within the sixty-day period prior to July 2017. Because the Appellant did not experience a qualifying life event, the Health Connector correctly determined in July 2017 that the Appellant is not eligible for a special enrollment period 45 CFR § 155.420.

ORDER

The appeal is denied.

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

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

Cc: Health Connector Appeals Unit

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

Appeal Decision: Appeal allowed.

After the Appellant's health insurance through ConnectorCare was terminated by the Massachusetts Health Connector (Connector) for non-payment of premiums, the Appellant sought to reinstate her insurance within the thirty-five (35) day period following her Notice of Termination. She went in-person to a Health Connector office and submitted a check for six (6) months of premiums. She was not notified by Health Connector personnel that she had to take additional action for reinstatement; and she was denied access to a Special Enrollment Period.

The Appellant is entitled to enroll in health insurance outside the Open Enrollment Period, during a 60-day period beginning with the issuance of this decision.

Hearing Issue: Whether the Appellant, who had been terminated from ConnectorCare for failure to pay premiums, could re-enroll in health insurance outside the Open Enrollment Period because Health Connector employees failed to notify her that she had not been re-enrolled; failed to inform her of any additional steps she needed to take to re-enroll; and she was denied access to a Special Enrollment Period, despite her on time payment of past-due premiums and premiums for the two gap months.

Hearing Date: September 14, 2017

Decision Date: September 27, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE CONNECTOR

The Appellant's enrollment in ConnectorCare was terminated on April 30, 2017 due to nonpayment of premiums. She was notified of the termination on June 6, 2017 and informed she had thirty-five days to reinstate her insurance. She went to a Health Connector office on June 26, 2017, and paid her past due premiums and the

Massachusetts Health Connector Appeals Unit

premium for May and June. The Connector did not notify her that she was not reinstated; and did not inform her of any additional steps she needed to take to re-enroll. The Connector also determined that she was not eligible for a Special Enrollment Period.

ISSUE

Whether the Appellant, who had been terminated from ConnectorCare for failure to pay premiums, could re-enroll in health insurance outside the Open Enrollment Period because Health Connector employees failed to notify her that she had not been re-enrolled; failed to inform her of any additional steps she needed to take to re-enroll; and she was denied access to a Special Enrollment Period, despite her on time payment of past-due premiums and premiums for the two gap months.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 14, 2017. An interpreter was also present. Testimony was recorded electronically. The hearing record was left open for the submission of additional documentation, but was closed, at the request of the hearing officer, when it was determined that no additional documentation was necessary. The hearing record consists of the Appellant's testimony and the following documents, which were admitted into evidence.

1. Affidavit of Record Verification
2. Letter from the Connector to the Appellant entitled "Termination for Nonpayment" dated 6/6/2017
3. Letter from the Health Connector Appeals Unit to the Appellant dated 8/8/2017, acknowledging her Appeal
4. Informal Dispute Resolution Documentation
5. Appellant's Payment Portal "My Bills"
6. Salesforce Contact with the Appellant
7. My Enrollments Agent Portal
8. Connector Computer Printout of Appellant's 2017 Eligibility Results based on Application submitted on 1/11/2017, verification date 6/22/2017
9. Appellant's Application Summary
10. Notice of Hearing dated 8/17/2017

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was enrolled in ConnectorCare Plan Type 3A with an Advance Premium Tax Credit of \$104 monthly, from January 1, 2017 through April 30, 2017. (Exhibits 7 and 8)

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2. The Appellant's premium was \$86 monthly, and it was due the 23rd of each month. (Exhibit 7)
3. In a letter from the Connector to the Appellant dated June 6, 2017, the Appellant was informed that her health insurance had terminated on April 30, 2017, due to non-payment of premiums. (Exhibit 2)
4. In the letter dated June 6, 2017, the Appellant was informed that she had until July 12, 2017 to re-enroll in coverage with her current health plan. In order to re-enroll, she needed to inform Health Connector Customer Service that she wanted to do so; and she needed to pay the past due amounts and premiums from the date coverage ended until her re-enrollment date. Her re-enrollment would be retroactive to the date of termination. (Exhibit 2)
5. At the time she was terminated the Appellant owed \$344 in past-due premiums. (Exhibit 2)
6. On June 22, 2017, the Appellant went to a Certified Application Counselor at a local hospital for assistance. The Certified Application Counselor contacted the Call Center of the Health Connector by phone, and requested information regarding the Appellant's application. She spoke with Connector employees regarding Appellant's overdue balance and was advised to have the Appellant pay the overdue balances right away to secure coverage. (Exhibits 4 and 6)
7. A Connector Computer Printout of the Appellant's Application Result for an application submitted on January 11, 2017, states that the Appellant did not qualify for a Special Enrollment Period. The Verification Date on that printout was June 22, 2017. (Exhibit 8)
8. The Appellant went to the Worcester Office of the Health Connector on June 26, 2017. She dropped off a check for \$516, the past-due premiums plus two (2) extra premium months. (Exhibits 4 and 6)
9. A Connector note from June 26, 2017 state: "Member made payment on time at a WIC." A second note on that date states: "Member dropped off payment via check #1066 for \$516.00 on AR # 700916607, scanned in Klik batch #325.
10. The Appellant's Payment Portal My Bills shows a credit balance of \$258 for July 2017. (Exhibit 5)
11. Following her payment on June 26, 2017, the Appellant thought she again had coverage. She was not notified by the Connector that she was not reinstated or that there were additional steps she needed to take for re-enrolment. (Exhibits 4 and 6)
12. The Appellant made a doctor's appointment assuming she was re-enrolled. She was informed by her doctor that she did not have coverage. (Appellant testimony and Exhibit 4).
13. On August 4, 2017, the Certified Application Counselor contacted the Call Center of the Health Connector by phone, to see if the Appellant was enrolled and in good standing. (Exhibit 6)
14. The Appellant appealed the Connector's failure to notify her of its decision to deny her eligibility to re-enroll in ConnectorCare. (Exhibit 4)

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15. In a letter to the Appellant from the Connector Appeals Unit dated August 8, 2017, the Appellant was informed that her appeal was received and being processed. (Exhibit 3)

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this appeal is whether the Appellant could enroll in health insurance outside the Open Enrollment Period because Health Connector employees failed to notify her that she had not been reinstated following her termination from ConnectorCare for non-payment of premiums and failed to inform her of any additional steps she needed to take to re-enroll. Following her notice of termination the Appellant had gone to a Health Connector Office and had made an on time payment of past-due premiums and of premiums for two (2) additional months.

In order for an individual to enroll in a health plan through the Connector outside the open enrollment period, the individual must qualify for a Special Enrollment Period. 45 CFR 155.420. In order to enroll in ConnectorCare outside an open enrollment period, pursuant to 956 CMR 12.11 (5) (a) the individual must experience “a triggering event, as set forth in 45 CFR 155.420”. Pursuant to 45 CFR 155.420 (d) (4), one of the triggering events is when a qualified individual is not enrolled in a qualified health plan due to the inaction or error of an employee of the Connector.

In a letter dated June 6, 2017, the Appellant was informed that her health insurance coverage through ConnectorCare had been terminated on April 30, 2017 for non-payment of premiums. In that letter she was told she had until July 12, 2017 to re-enroll in coverage with her current health plan. Instructions said that she should call customer service to tell them she wanted to re-enroll and find out the amount she had to pay. The Appellant went to a Certified Application Counselor who called Connector Customer Service on her behalf on June 22, 2017, regarding the Appellant’s application. On that date the Appellant’s application was verified and there was a note that the Appellant did not qualify for an Open Enrollment Period. On June 26, 2017, the Appellant went to an office of the Connector and paid for six (6) months coverage, four months of past-due premiums and two extra months. Her payment was within the period allowed for reinstatement. There was no documentation of a discussion with the Appellant regarding reinstatement or re-enrollment.

The Connector employees should have notified the Appellant that there was a problem with her re-enrollment, and that she had not been re-enrolled following her payment. The Appellant thought she had done all she was required to do, and Connector personnel never otherwise informed her, although the Appellant was physically present at the office of the Connector. It was only after her doctor informed her that she had no health insurance to cover her visit that she learned that her insurance had not been reinstated.

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Based on the inaction of Connector employees, in failing to notify the Appellant of the status of her re-enrollment, and of any additional steps she needed to take in order to re-enroll, the Appellant is entitled to enroll outside the open enrollment period. Her Special Enrollment Period should commence upon the issuance of this Final Decision, and should extend for sixty (60) days.

ORDER

The Appellant's appeal is allowed. She is entitled to a Special Enrollment Period which shall begin on the date this Final Decision is issued and extend for sixty (60) days.

OPTION FOR RETROACTIVE COVERAGE

Because the Appellant's appeal has been approved, she has the option to receive retroactive coverage. This means that she can have her coverage start in the past, as of the date she otherwise would have had coverage, had she been reinstated. In order to receive retroactive coverage, the Appellant must pay all premiums owed for each month of coverage.

In order to receive retroactive coverage, the Appellant should contact the Health Connector Appeals Unit within 30 days of receiving this decision.

If the Appellant does not want retroactive coverage, then she should Health Connector customer service to enroll.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Cc: Connector Appeals Unit

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Appeal Denied The Connector's determination of Appellant's eligibility for subsidies is affirmed

Hearing Issue: Whether the Connector correctly determined Appellant's eligibility for subsidies based on income

Hearing Date: September 18, 2017

Decision Date: September 21, 2017

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE CONNECTOR

On August 10, 2017 a determination was made based on Appellant's updated application for subsidized health insurance for coverage beginning on September 1, 2017. The Health Connector determined Appellant to be eligible for a Health Connector Plan with Advance Premium Tax Credit of zero..

ISSUE

The issue addressed in this appeal is whether the Health Connector correctly determined that Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit of zero based on the information provided on the updated application.

CONNECTOR APPEALS UNIT

HEARING RECORD

Appellant appeared at the hearing which was held by telephone on September 18, 2017. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Correspondence from Appeals Unit
- Exhibit 3: Hearing Request Form and supporting documents signed by Appellant on August 23, 2017
- Exhibit 4: Notice on Appeal, dated August 10, 2017
- Exhibit 5: Eligibility Results and Application Summary
- Exhibit 6: New Eligibility Results

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had been covered by a ConnectorCare Plan with Advance Premium Tax Credit (Testimony of Appellant).
2. In August 2017, Appellant updated the information and provided information about projected income (Testimony of Appellant).
3. At the time that Appellant updated the information one child had begun to work and began employer sponsored health insurance. The child was no longer a tax dependent of Appellant (Testimony of Appellant).
4. On August 10, 2017, the Health Connector determined that Appellant's family income was 344.48% of the federal poverty level. This was based on the income of Appellant, Appellant's Spouse and one child who was still a dependent (Exhibit 5)
5. On August 10, 2017, Appellant was notified by the Connector that Appellant was eligible for a Health Connector Plan with an Advance Premium Tax Credit of zero (Exhibit 5).
6. Appellant's premium increased from \$168 per month to \$399 per month (Testimony of Appellant).

CONNECTOR APPEALS UNIT

7. On August 10, 2017, Appellant filed for an appeal, based upon income (Exhibit 3).
8. Appellant's family's income was listed accurately on the application (Testimony of Appellant).
9. Appellant was enrolled in a new plan, but Appellant had not paid the new premium (Testimony of Appellant).

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.

In 2016 and 2017, Appellant had been covered by a ConnectorCare Plan with Advance Premium Tax Credits. Appellant updated the application when one child became employed and began employer sponsored health insurance. Appellant was then found eligible for a Health Connector Plan with Advance Premium Tax Credit of zero. Appellant was enrolled in a plan with a higher premium. At the time of the hearing, Appellant had not paid the premium. Appellant filed an appeal on August 23, 2017, based upon income. See Exhibits 3, 4, 5 and 6 and Testimony of Appellant, which I find to be credible.

The Connector made the correct determination based upon the information that was provided to the Connector at the time of Appellant's update and application. However, if Appellant's projected income has changed, Appellant should update the application with new projected income information. Appellant was advised to immediately contact the Health Connector as Appellant had not paid the premium for the new plan and Appellant would be dis-enrolled if the premium was not paid immediately.

ORDER

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

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ADDENDUM:

Appellant was advised to immediately pay the premium due on the plan that Appellant was enrolled in. Appellant was also advised to contact the Health Connector to make sure that they had received all requested documents. Appellant was provided with the customer service phone number of 1-877-623-6765.

If Appellant expects the income to be different than the amount attested to on the application for health insurance through the Connector, Appellant should contact customer service at 1-877-623-6765 and correct the information. Appellant should note that Appellant should provide a very accurate statement of income and also should update the income amount whenever Appellant's income changes or there is a change in family size. Appellant should note that if the income is higher than projected, Appellant may have to pay back some or all of any advance premium tax credit that was received.