

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5084

Appeal Decision: Appeal Denied.

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

Hearing Date: July 26, 2018

Decision Date: August 27, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On March 3, 2018, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant's determination came after failing to verify income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant 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 July 26, 2018. The Appeal Record was left open until August 9, 2018 to allow the Health Connector to submit additional information. The information was submitted timely and forwarded to the Appellant for review. The Appellant was given until August 23, 2018 to file a written response. The Appellant did not submit any additional information during the record open period.

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

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

- Exhibit 4: The Appellant's Hearing Request Form submitted on May 14, 2018.
- Exhibit 5: My Work Space printout of documents received.
- Exhibit 6: 2018 Eligibility Results with Application Summaries dated April 12, 2018, February 7, 2018 and March 3, 2018.
- Exhibit 7: Health Connector's Eligibility Approval Notice dated April 12, 2018.
- Exhibit 8: Health Connector's Account Dashboard printout verifying the Appellant's current eligibility and enrollment information.
- Exhibit 9: Health Connector Appeals Unit Open Record Form dated July 26, 2018.
- Exhibit 10: Additional information submitted by the Health Connector on July 26, 2018 including: A Request for Information sent to the Appellant on November 28, 2017; Health Connector's Eligibility Approval Notice dated March 3, 2018; My Workspace of Documents received on 09/10/17 and Notes from Customer Service Interactions-SalesForce.

FINDINGS OF FACT

The record shows, and I so find:

1. On November 28, 2017 the Appellant submitted an updated application for health insurance for the period beginning January 1, 2018 (Exhibit 10A)
2. On November 28, 2017 the Health Connector issued a Request for Information. The Appellant was asked to provide updated income verification by February 26, 2018 (Exhibit 10A).
3. The Appellant did not submit updated income verification and on March 3, 2018 the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial help because the Health Connector was unable to verify the Appellant's income (Exhibit 10B).
4. The Appellant telephoned Health Connector Customer Service on April 9, 2018 to ask why they were being billed a higher premium. The Appellant was informed that they had lost their subsidies because they failed to send in proof of income as requested (Exhibit 10D).
5. The Appellant submitted updated income information to the Health Connector on April 9, 2018 (Exhibit 5).
6. On April 12, 2018 the Appellant and their spouse were determined eligible for ConnectorCare Plan Type 3B with Advance Premium Tax Credits. This determination is based on the Appellant's verifying that the household of two has income equal to 259.8% of the federal poverty level (Exhibit 6).
7. The Appellant submitted a Hearing Request Form on May 14, 2018 (Exhibit 4).
8. The Appellant testified that they were told by Customer Service that they were all set and did not need to do anything. The Appellant said that they were not asked to provide income verification prior to having their premium increased. The Appellant's testimony is not supported by the evidence in this administrative record. As noted above, the Health Connector issued a written request for income verification on November 28, 2017. In addition, the Appellant spoke with a Customer Service representative on November 28, 2018 and according to the Call Center Notes, the Appellant was informed that they needed to send in proof of income. A fax number was provided (Exhibits 10A and 10D).

ANALYSIS AND CONCLUSION OF LAW

The Appellant and their spouse received ConnectorCare with Advance Premium Tax credits in tax year 2017. On November 28, 2017 the Appellant completed a review/application to renew their insurance for the period beginning January 1, 2018. On November 28, 2017 the Health Connector issued a Request for Information. The Appellant was informed, in writing that updated income information was required to be submitted to the Health

Connector by February 26, 2018. Health Connector Customer Service spoke with the Appellant on November 28 and advised her that updated income verification was needed. As of March 3, 2018, the Appellant had not submitted the information requested. On March 3, 2018 the Appellant was notified that their household of two was eligible for Health Connector Plans without subsidies for the period beginning April 1, 2018.

The Appellant submitted additional income verification to the Health Connector on April 9, 2018. On April 12, 2018 the Appellant was notified that they were eligible for ConnectorCare with Advance Premium Tax Credits effective May 1, 2018. The Appellant filed an appeal on May 14, 2018. The Appellant disputes the loss of subsidies for the month of April 2018.

As a threshold issue, the Appellant did not file an appeal to dispute the March 3, 2018 eligibility determination until May 14, 2018. There is a time limit on the right of appeal. Pursuant to 45 CFR § 155.520 and 956 CMR § 12.13, in order to be timely, the request for an appeal must be received within 30 days after the receipt of the notice of appealable action. In the absence of evidence to the contrary, it will be presumed that the notice was received on the fifth day after mailing. The Appellant's appeal request was not filed timely.

The Appellant alleged on their appeal request that they were told by Customer service that they were all set and that they were never asked to provide updated proof of income. The Appellant also alleged that they were not notified about the loss of their healthcare subsidies. As noted above, Health Connector Customer Service spoke with the Appellant on November 28, 2018 and informed the Appellant of the need for updated income verifications for their household members. The Health Connector issued a written request for information on November 28, 2018 and the Appellant was notified of the change in eligibility on March 3, 2018.

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

On March 3, 2018, because the Appellant's income had not been verified, the Health Connector reverted to electronic data sources, but no data was available. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). The Appellant was found eligible for Health Connector plans, without subsidy, and is the correct determination for a person whose household income cannot be determined. 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

ORDER

This appeal is denied.

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

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant had questions regarding premium billing and a credit balance with the Health Connector. The Appellant is advised to contact Health Connector Customer Service at 1-877-623-6765 for this information.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5359

Appeal Decision: Appeal Denied

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

Hearing Date: July 13, 2018

Decision Date: August 31, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On May 23, 2018, 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 July 13, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The record was kept open for the Appellant to have her employer fill out and return the Employer-sponsored Health Insurance

Form. 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 (5 pages, dated June 14, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (4 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 4 pages dated May 31, 2018)
- Exhibit 6: Notice of Eligibility Determination (8 pages, dated May 23, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (8 pages, dated May 14, 2018)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (8 pages, dated February 17, 2018)
- Exhibit 9: Historical Notices and Printouts (2 pages)
- Exhibit 10: Employer-Sponsored Health Insurance Form

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans without subsidies. (Exhibit 7)
2. The Appellant was not found eligible for subsidized health insurance through the Health Connector because she did not sign up for a health plan by January 31, 2018. (Exhibit 6)
3. Appellant did not experience a life qualifying event. (Appellant's testimony)
4. Appellant testified that she could not afford the amount her employer was charging to enroll in the employers sponsored health plan. The employer sponsored health form was received into evidence. It stated that the Appellant would be charged \$71.62 bi-weekly for a total of \$143.24

bi-weekly for a yearly total of \$1,862.12. Appellant's income was \$26,000.00 per year (Exhibit 8). This bi-weekly amount is 7.162% of the Appellant's income

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 s. 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2018 was November 1, 2017 to January 31, 2018. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420. Appellant did not sign up for a health plan.

Appellant reported a federal AGI of \$26,000.00 in 2015, and her filing status was single with one dependent. EX 8. Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR s. 1.36B-2 © (3). Qualifying coverage does not include any group health plan offered by an employer to which an employee has access, if the required employee's contribution for self-coverage is 9.56 percent of the employee's projected or actual modified adjusted gross income. See 26 CFR s. 1.36B-2 © (3). Appellants contribution is 7.162% and does not meet the 9.56% threshold.

Appellant was determined eligible for Health Connector plans with APTC, but she did not sign up for a health plan within the time for open enrollment from November 1, 2016 to January 31, 2017. Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. At the hearing I asked the Appellant whether the Appellant had experienced any qualifying event, as listed in the Health Connector's policy NG-1E. The Appellant testified to the Appellant not experiencing any qualifying life event. Because the Appellant did not experience a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was correct. 45 CFR 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5424

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for subsidized insurance; access to other qualifying insurance

Hearing Date: July 17, 2018

Decision Date: August 30, 2018

AUTHORITY

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

JURISDICTION

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, Section 155.500 *et seq.* 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 May 23, 2018, the Appellant was determined eligible for a Health Connector plan with no financial help.

ISSUE

The issue addressed on this appeal is whether the Appellant was eligible for any government subsidy in purchasing health insurance through the Health Connector.

HEARING RECORD

On July 17, 2018, the Appellant and his wife appeared at the hearing by telephone and offered testimony under oath or affirmation.

The hearing record consists of the testimony of the Appellant and his wife, and the following documents that were admitted into evidence:

- Exhibit 1: 5/23/18 Eligibility Approval Notice (12 pages)
- Exhibit 2: 6/15/18 Appeal (2 pages)
- Exhibit 3: 5/23/18 Eligibility Results (5 pages)
- Exhibit 4: 6/19/18 AVV – Program Determination (2 pages)
- Exhibit 5: 6/19/18 salesforce.com (16 pages)
- Exhibit 6: 6/27/18 Hearing Notice (9 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a veteran. (Appellant's testimony)
2. The Appellant has access to the VA Health Program. (Appellant's testimony; Exhibit 3; Exhibit 4)
3. The Appellant last used his VA Health Program coverage in 1992. The Appellant has not used his VA coverage since that time because he thinks that the VA program is bad. (Appellant's testimony)
4. On May 23, 2018, the Health Connector determined that the Appellant was eligible for a Health Connector Plan with no financial help because the Appellant has access to health insurance through another source that meets minimum essential coverage standards. (Exhibit 1; Exhibit 4)
5. On June 15, 2018, the Appellant appealed the Health Connector's 5/23/18 determination. (Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated at hearing that he would like to enroll in subsidized health insurance coverage through the Health Connector, because he does not like the coverage offered by the VA Health Program.

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 an APTC is that the applicant must not have access to other qualifying health insurance, including the VA Health Program.

In this case, while the Appellant did not like the care that he received through the VA up until 1992, the Appellant does not qualify for an APTC or for a ConnectorCare plan, because he continues to have access to the VA Health Program.

Therefore, the Health Connector's 5/23/18 decision that the Appellant qualified for Health Connector Plan without any financial assistance was correct, under 26 IRC § 36B and 45 CFR § 155.305(f) and 956 CMR § 12.04.

Accordingly, I deny the Appellant's appeal.

ORDER

The appeal is denied.

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

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA185611

Appeal Decision: Appeal allowed. The determination of the Connector is overturned.

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

Hearing Date: August 28, 2018

Decision Date: August 29, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 6, 2018, the Connector determined that the appellant was eligible to purchase health insurance through the Connector by June 29, 2018 because the appellant had a qualifying life event. On June 20, 2018, the Connector determined that the appellant did not have a qualifying life event and, therefore, could not enroll outside of the open enrollment period.

ISSUE

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 28, 2018. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with Appellant, marked as exhibits, and admitted in evidence with no objection from the appellant. The appellant testified.

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

- Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant's file, undated
- Exhibit 2: Connector Appeals Unit Notice of Hearing dated July 24, 2018 addressed to Appellant for August 28, 2018 hearing
- Exhibit 3: Connector Appeals Unit letter dated July 3, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing
- Exhibit 3a: Connector Appeals Unit e-mail to Appellant dated July 3, 2018

Exhibit 3b: Appeals Unit staff case notes

Exhibit 4: Hearing Request Form submitted by Appellant on June 28, 2018

Exhibit 5: Connector letter dated June 6, 2018 to Appellant regarding special enrollment period

Exhibit 6: Summary and results of Appellant's application for Connector plan dated June 20, 2018, no special enrollment period

Exhibit 7: Summary and results of Appellant's application for Connector plan dated June 20, 2018, special enrollment period until August 31, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. On June 6, 2018, Appellant applied for health insurance through the Connector. The Connector determined, based upon information supplied by the appellant, that she was eligible for a special enrollment period until June 29, 2018 (Testimony of Appellant, Exhibit 5).
2. Notice of the determinations was sent to the appellant (Exhibit 5).
3. On June 20, 2018, the appellant called Customer Service. She felt she could not afford coverage. As a result of this call, the Connector posted results for Appellant's application which showed that the appellant was not eligible for a special enrollment period (Exhibit 6, Testimony of Appellant).
4. The appellant did not enroll in a plan by June 29, 2018 (Testimony of Appellant).
5. Appellant filed a request for an appeal of the Connector's determination on June 28, 2018 (Exhibit 4).
6. The appellant has been given another chance to enroll outside of the open enrollment period by the Connector. She was given until August 31st to enroll in a plan. As of the date of this hearing, Appellant had not enrolled in a plan (Exhibit 7, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined that the appellant was ineligible to enroll in a Health Connector plan because the appellant, while eligible for coverage through a Connector Health Plan, was not eligible to enroll until the next open enrollment period because she had no qualifying life event. This determination was made after an earlier determination found that the appellant was eligible for a special enrollment period. See Exhibits 5 and 6.

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

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

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

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

In this matter, the Connector made contradictory determinations, one giving the appellant until June 29th to enroll during a special enrollment period, the other finding the appellant ineligible to enroll outside of the open enrollment period. At the least, these differing determinations would have been confusing to the appellant. Because of this, the June 20th determination of the Connector, which found the appellant ineligible to enroll in a plan, is overturned. I note that before this hearing, the Connector recognized that the appellant had received confusing information and, therefore, gave the appellant another special enrollment period until August 31, 2018.

ORDER: The action taken by the Connector on June 20, 2018 regarding Appellant's ineligibility to enroll in a Connector Health plan until the next open enrollment period 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. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

Addendum: If the appellant did not enroll in a plan by August 31, 2018, appellant may request an application for a waiver regarding the open enrollment period through the Office of Patient Protection. She may contact the office at 1-800-436-7757.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA185711

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

Hearing Issue:

Whether the Connector correctly determined the appellant's eligibility to purchase a Health ConnectorCare plan, Type 3A.

Hearing Date: August 28, 2018

Decision Date: August 31, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 22, 2018, the Connector determined that the appellant was eligible to purchase a Health ConnectorCare plan, Type 3A, based upon information supplied by the appellant to the Connector.

ISSUE

Whether the Connector correctly determined that the appellant was eligible to purchase a Health ConnectorCare plan, Type 3A.

HEARING RECORD

The appellant and his representative appeared at the hearing which was held by telephone on August 28, 2018. The procedures to be followed during the hearing were reviewed with the appellant and his representative who were then sworn in. Exhibits were also reviewed with them, marked as exhibits, and admitted in evidence with no objection. Appellant and his representative 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: Connector Appeals Unit Notice of Hearing dated July 26, 2018 addressed to Appellant for August 28, 2018 hearing

Exhibit 3: Connector Appeals Unit letter dated July 9, 2018 addressed to Appellant acknowledging receipt of Appellant's Request for Hearing

Exhibit 3a: Appeals Unit outreach notes

Exhibit 4: Hearing Request Form from Appellant received by the Connector on July 2, 2018

- Exhibit 5: Connector letter dated June 15, 2018 to Appellant regarding eligibility to purchase a ConnectorCare health insurance plan
- Exhibit 6: Summary and results of Appellant's application for Connector health plan dated June 15, 2018
- Exhibit 7: Summary and results of Appellant's application for Connector health plan dated June 22, 2018
- Exhibit 8: Appellant's Connector profile print-out
- Exhibit 9: Connector print-out regarding Appellant's applications for coverage

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Connector in June, 2018. He applied twice, creating two application files. On June 15, 2018, the Connector denied the appellant eligibility to purchase a plan through the Connector under one of the applications. The Connector notified the appellant that he was eligible under the other application (Exhibit 5).
2. Appellant's projected annual income as of June 15 and June 22, 2018 according to his active application equaled 242.52.% of the Federal Poverty Level. Based upon this percentage, Appellant was determined to be eligible for a ConnectorCare Type 3A plan. On his application, Appellant attested to a monthly income of \$2,427.31. He claimed that he earned \$535.66 a week. He also sent the Connector a pay stub which showed this weekly income (Exhibits 6,7, and Testimony of Appellant and Representative).
3. Appellant submitted a request for an appeal of the Connector's eligibility determination on July 2, 2018 (Exhibit 4).
4. In 2017, the appellant had MassHealth coverage (Testimony of Appellant and Representative).
5. Appellant's job is seasonal. He does not work during the winter months. He also does not regularly earn \$535 a week when he is working. The pay stub Appellant submitted to the Connector included overtime. Appellant does not always receive overtime pay. In 2017, he earned \$19,506 (Testimony of Appellant and Representative).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined on June 20, 2018 that the appellant was eligible to purchase a Health ConnectorCare plan, Type 3A with an advance premium tax credit.

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

If an applicant's projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for to an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If

the individual's income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, 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 appellant applied for health insurance through the Connector in June, 2018. On his application, Appellant attested to a monthly income of \$2,427.31. He claimed that he earned \$535.66 a week. He also sent the Connector a pay stub which showed this weekly income. Appellant's projected annual income as of June 15 and June 22, 2018 according to his application equaled 242.52% of the Federal Poverty Level. Based upon this percentage, Appellant was determined to be eligible for a ConnectorCare Type 3A plan. See Exhibits 6,7, and the testimony of Appellant and Representative which I find to be credible.

Based upon the information given by the appellant to the Connector, the Connector correctly determined that the appellant was eligible for a ConnectorCare plan Type 3A health plan with an advance premium tax credit. If an individual is otherwise eligible to purchase health insurance through the Connector and if the individual has an income which is between 100% and 400% of the Federal Poverty level, the individual is eligible to purchase a plan with an advance premium tax credit. See cites above for eligibility requirements for an advance premium tax credit. Appellant testified that he had submitted to the Connector pay stub showing a weekly income of \$535.66 a week.

Appellant and his representative testified that Appellant's application does not accurately reflect the appellant's annual income. His job is seasonal; he is unemployed for months each year; and the pay stub he submitted to the Connector showed overtime pay which he does not consistently earn. But, what is at issue here is whether the Connector correctly determined Appellant's eligibility based upon the information supplied by the appellant. The determination of the Connector was correct at the time it was made, given the information supplied by the appellant. The appellant may certainly amend his application to show that his employment is seasonal and that he does not always receive overtime pay. Depending upon his newly projected annual income, the Connector may reach a different determination about plan eligibility.

The determination of the Connector is, therefore, affirmed.

ORDER: The action taken by the Connector regarding Appellant's eligibility to purchase a ConnectorCare Health plan, Type 3A with an advance premium tax credit is affirmed.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5780

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; tax filing status

Hearing Date: August 7, 2018

Decision Date: October 17, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 9, 2018, Appellant was determined eligible for Health Connector plans with no subsidies, because Appellant was married but indicated filing taxes separately.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Care plans without subsidies, based on the information available to the Connector at that time.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 7, 2018. The hearing was recorded. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Affidavit of Record Verification (1 page);
- Exhibit 2: Notice of Hearing (7-13-18) (5 pages);
- Exhibit 3: Acknowledgement of Appeal (7-11-18) (4 pages);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (7-1-18) (3 pages);

- Exhibit 6: Eligibility Approval Letter (6-9-18) (10 pages);
Exhibit 7: Information from application and results (5 pages);
Exhibit 8: AVV form (1 page); and
Exhibit 9: Medicaid Household Determination (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector on or about June 9, 2018.
2. Appellant was deemed eligible for Health Connector plans without subsidies based upon information available to the Health Connector. Appellant was married but had not indicated tax filing status as married filing jointly.
3. Appellant had previously been enrolled in Mass Health Standard.
4. Appellant confirmed that she was married and did not file her taxes as married filing jointly.
5. Appellant did not indicate that there was domestic violence.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans without subsidies based on tax filing status. Under 26 IRC § 36B and 45 CFR § 155.305(f), certain tax households are eligible for a premium tax credit 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 applies to married couples. In general, married applicants must attest that they will file a joint tax return in order to claim APTC (even if only one spouse is seeking coverage). 26 CFR § 1.36B-2T(b)(2)(i). However, if one of the spouses is the victim of domestic abuse or spousal abandonment, that taxpayer may attest to filing as married filing separately, and still receive APTC. 26 CFR § 1.36B-2T(b)(2)(ii). To claim domestic abuse, the taxpayer must certify that he or she is living apart from the other spouse at the time of tax filing, and is unable to file a joint return because the taxpayer is a victim of “physical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate, and intimidate, or to undermine the victim’s ability to reason independently.” 26 CFR § 1.36B-2T(b)(2)(ii), (b)(2)(iii). Spousal abandonment similarly requires that the taxpayer certify that he or she is living apart from the other spouse at the time of tax filing, and that the taxpayer is unable to file a joint tax return because “the taxpayer is unable to locate his or her spouse after reasonable diligence.” 26 CFR § 1.36B-2T(b)(2)(iv), (b)(2)(ii), (iv). Each exception may be claimed only if it has not been claimed in each of the three preceding taxable years. 26CFR § 1.36B-2T(b)(2)(v). Applicants looking to claim one of these exceptions must attest that they will file their taxes in accordance with the required certification, which appears on Form 8962.

In this case, the issue presented was whether the determination of eligibility was correct based upon the information provided and available to the Connector. Based upon the information available to the Connector, the determination was correct.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2017 from the federal government will be reconciled when you file your taxes in 2018. This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2017 (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2017 (meaning the modified adjusted gross income on file with us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

Note: If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2017 will be paid to you when you file your taxes in 2018.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5818

Appeal Decision: Appeal denied because the Health Connector did not err in terminating Appellant's health insurance plan enrollment after the Health Connector was unable to verify Appellant's Massachusetts residency. .

Hearing Issue: Whether the Health Connector correctly terminated Appellant's health insurance coverage.

Hearing Date: August 30, 2018

Decision Date: September 10, 2018

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 June 27, 2018, the Health Connector notified Appellant that Appellant's enrollment in a Health Connector health insurance plan would end on June 30, 2018 because the Health Connector's records indicate that Appellant does not live in Massachusetts.

ISSUE

Whether the Health Connector correctly terminated Appellant's health insurance coverage for lack of Massachusetts residency.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 30, 2018. 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 October 28, 2017 application for health insurance coverage in 2018 with updated information added by the Health Connector on June 27, 2018;

Exhibit 2: Health Connector Print-out dated July 17, 2018 from the “AVV” tool showing information from the application database for the Appellant;

Exhibit 3: Health Connector Eligibility Termination letter dated June 27, 2018;

Exhibit 4: Health Connector Customer Service Closing Sheet dated July 24, 2018;

Exhibit 5: Appellant’s request for hearing dated July 8, 2018;

Exhibit 6: Health Connector hearing request acknowledgment letter dated July 13, 2018;

Exhibit 7: Health Connector Appeals Data form;

Exhibit 8: Notice of Hearing dated July 26, 2018; 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 applied for 2018 health insurance coverage on October 28, 2017, attesting to residency in Massachusetts. Exhibit 1 at 4-7.
2. Based on Appellant’s application, the Health Connector determined that Appellant is qualified to enroll in a subsidized ConnectorCare plan for 2018, and Appellant enrolled with a coverage effective date of January 1, 2018. Exhibit 1 at 4-5; Testimony.
3. Subsequent to enrolling in the ConnectorCare plan for 2018, Appellant moved to a new address but did not notify the Health Connector of the new address. Testimony; Exhibit 4.
4. The Health Connector was unable to verify Appellant’s Massachusetts residency, and correspondence mailed by the Health Connector to Appellant at the address listed in Appellant’s application and the Health Connector’s records was returned as undeliverable. Exhibits 2 and 4.
5. The Health Connector notified Appellant by letter dated June 27, 2018 that Appellant’s enrollment would end on June 30, 2018 because the Health Connector’s records indicate that Appellant does not live in Massachusetts. Exhibit 3.
6. Appellant filed a request for hearing on the Health Connector’s termination action, asserting to life-long residency in Massachusetts and submitting as proof copies of the following documents: (a) a residential lease dated June 27, 2018 naming Appellant as tenant at an address in Massachusetts; (b) a copy of a current Massachusetts driver’s license showing a Massachusetts address; (c) a copy of a payroll statement

dated March 23, 2108 showing Appellant's address in Massachusetts; and (d) a copy of a Massachusetts motor vehicle registration dated October 22, 2017 in Appellant's name showing a Massachusetts address. Exhibit 5.

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).

Pursuant to the federal regulations at 45 C.F.R. § 155.315(d), the Health Connector is required to attempt to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status. If the Health Connector cannot verify applicants' residency electronically, it requests verifying information from them in accordance with 45 C.F.R. § 155.315(f). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination.

In this case, the Health Connector was unable to verify Appellant's residency in Massachusetts because Appellant's address changed and correspondence mailed to Appellant at the address Appellant had provided to the Health Connector was returned as undeliverable. When the Health Connector was unable to verify Appellant's Massachusetts residency, it revised its eligibility determination and notified Appellant that his coverage under the ConnectorCare plan would end on June 30, 2018. The Connector Care regulations specifically state that an applicant or enrollee must report changes that may affect eligibility such as a change in residency or address. 956 Mass. Code Regs. 12.09(2). Since Appellant did not notify the Health Connector of the change of address which resulted in the Health Connector's inability to verify Appellant's Massachusetts residency, I find no error in the Health Connector's termination decision. See Health Connector Policy #: NG-12 (Mar. 7, 2013) (stating that the Health Connector will terminate enrollment if a new/different address cannot be found and the enrollee cannot be reached by phone or email), available at https://betterhealthconnector.com/wp-content/uploads/policies/Policy_NG_12.pdf.

Though Appellant submitted several documents with his request for hearing to establish his Massachusetts residency, none of the documents submitted satisfied the acceptable proof of residency requirements for subsidized health insurance coverage. See 130 Mass. Code Regs. 503.002(F).¹ The specific forms of acceptable proof were reviewed with Appellant during the hearing, and Appellant was advised to immediately contact Health Connector Customer Service to submit acceptable proof of residency as well as income verification.

ORDER

¹ The regulation at 130 Code Mass. Regs. 503.002(F), which was issued by the Division of Medical Assistance for MassHealth (Medicaid) eligibility, is followed by the Health Connector in regard to acceptable proof of residency. See MassHealth / Health Connector Member Booklet (July 2017) at 2-3, available at https://www.mass.gov/files/documents/2017/09/05/aca-1-english-mb.pdf?_ga=2.200036910.1616288737.1536582558-156717100.1526995502.

Based on the foregoing findings and conclusions, the appeal is DENIED, and the Heath Connector's June 27, 2018 termination decision 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

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Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5821

Appeal Decision: Appeal denied.

Hearing Issue: Whether the Health Connector erred in processing Appellant's application to reenroll in health following termination for non-payment.

Hearing Date: August 30, 2018

Decision Date: September 10, 2018

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 June 4, 2018, the Health Connector notified Appellant that based on information Appellant had provided in an application for health insurance coverage that Appellant is qualified to enroll in a new plan. Appellant attempted to enroll in a new plan and made a premium payment on June 8, 2018 for the first month of coverage in the new plan; however, Appellant's premium payment was applied to a past due balance on a prior plan from which Appellant was terminated for non-payment. Consequently, Appellant was not enrolled in the new plan which is the basis of this appeal.

ISSUES

Whether the Health Connector erred in applying Appellant's June 8, 2018 premium payment to Appellant's past due balance.

HEARING RECORD

Appellant, accompanied by her daughter, appeared at the hearing which was held by telephone on August 30, 2018 with assistance of a Spanish interpreter. The hearing record consists of Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Termination for non-payment letter dated April 9, 2018;

Exhibit 2: Print-out of the Summary and Results pages generated from Appellant's May 20, 2018 application for health insurance coverage in 2018;

Exhibit 3: Health Connector Special Enrollment Period Decision dated June 44, 2018;

Exhibit 4: Appellants' July 11, 2018 request for hearing;

Exhibit 5: Health Connector hearing request acknowledgment letter dated July 17, 2018;

Exhibit 6: Notice of Hearing dated July 26, 2018;

Exhibit 7: Health Connector Appeals Data form;

Exhibit 8: Health Connector Eligibility and Enrollment history for Appellants dated August 29, 2018; 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 residents of Massachusetts. Testimony; Exhibit 2.
2. Appellant created a Health Connector account on August 24, 2017 with the assistance of a Certified Application Counselor ("CAC"). Exhibit 8 at 3; Testimony.
3. Appellant enrolled in a ConnectorCare plan for 2018 and believed that the CAC had made arrangements for premium payments to be automatically withdrawn from Appellant's bank account. Testimony; Exhibit 4;
4. Appellant's 2018 premium payments were not automatically withdrawn from Appellant's bank account and Appellant's enrollment was terminated for non-payment effective February 28, 2018. Exhibits 1 and 4; Testimony.
5. After enrolling in the ConnectorCare plan for 2018, Appellant moved to a different address and did not receive any termination warning from the Health Connector . Testimony; Exhibit 4.

6. The Health Connector's April 9, 2018 termination notice was mailed to Appellant's new address. Exhibit 1.
7. Appellant reopened her application on May 20, 2018 in an effort to reenroll. Exhibit 2.
8. By letter dated June 4, 2018, the Health Connector notified Appellant that based on information Appellant had provided in the May 20, 2018 application for health insurance coverage that Appellant is qualified to enroll in a new plan. Exhibit 3.
9. Appellant attempted to enroll in a new plan and made a premium payment on June 8, 2018 for the first month of coverage in the new plan; however, Appellant's premium payment was applied to Appellant's past due account balance. Exhibit 4 and 7; Testimony.
10. The Health Connector contacted Appellant after receiving the request for hearing and advised her that she could proceed with reenrollment but would have to pay all past due premiums first. Exhibit 7; Testimony.

After the close of the hearing, the Health Connector notified me that Appellant selected a plan on September 6, 2018 and has until September 23, 2018 to make a premium payment in order for coverage to commence on October 1, 2018. I have taken administrative notice of this information.

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.

The record shows that Appellant was originally enrolled for 2018 in a ConnectorCare health insurance plan which is a plan with premium subsidies for eligible Massachusetts residents whose incomes do not exceed 300 percent of the Federal Poverty Level. See 956 Mass. Code Regs. 12.04, 12.08. As a result of a combination of errors consisting of the CAC's apparent failure to correctly set up automatic premium payments and Appellant's failure to timely notify the Health Connector of an address change, Appellant's Connector Care coverage was terminated effective February 28, 2018. See 956 Mass. Code Regs. 12.11.

Generally, individuals must enroll during an annual open period which for 2018 ran from November 1, 2017 to January 23, 2018. Outside of the open enrollment period, an individual may be granted a special enrollment period ("SEP"), 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. While termination of coverage due to failure to pay premium is not a qualifying life event; 45 CFR § 155.420(e)(1); it appears that the Health Connector considered the particular facts of Appellant's case to constitute an exceptional circumstance warranting a SEP. See 45 C.F.R. § 155.420(d)(9). Accordingly, Appellant's account was reopened permitting her to reenroll in coverage, subject to the requirement that "[a]ll outstanding monthly contributions must be paid in full

as well as the next month's contribution." 956 Mass. Code Regs. 12.11(d). Therefore, I find no error in the Health Connector's action in applying Appellant's June 8, 2018 premium payment to the outstanding balance on her account. The Health Connector explained this to Appellant, and Appellant has now reenrolled for coverage which will commence effective October 1, 2018 as long as Appellant pays the first month's premium and any outstanding balance by September 23, 2018.

ORDER

Based on the foregoing findings and conclusions, 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5825

Appeal Decision: Appeal Denied.

Hearing Issue: Appellant's eligibility for subsidized insurance based on access to employer sponsored health insurance

Hearing Date: August 29, 2018

Decision Date: September 7, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 9, 2018, the Appellant was determined eligible for Health Connector plans without subsidies. The reason the Appellant was denied subsidies is because the Appellant stated she had access to affordable employer sponsored insurance that met minimum value standards.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for subsidies, based on the Appellant's reported access to employer sponsored insurance.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 29, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing with attachments dated July 26, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's Hearing Request Form dated July 11, 2018.
- Exhibit 5: Health Connector's Eligibility Approval Notice dated June 9, 2018 with an Application Summary attached.

- Exhibit 6: 2018 Eligibility Results with an application summary dated July 11, 2018.
Exhibit 7: Health Connector Account Dashboard Printout of the Appellant's current eligibility.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant submitted an application for health insurance for their household of one on June 9, 2018. The Appellant reported that they had income equivalent to 233.88% of the federal poverty level. The Appellant also reported that they had access to affordable employer sponsored insurance (ESI) (Exhibit 5).
2. On June 9, 2018 the Appellant was determined eligible for Health Connector Plans without subsidies because the Appellant had reported that they had access to affordable ESI (Exhibit 5).
3. The Appellant filed an appeal on July 11, 2018 stating that the health insurance offered by their employer is not affordable (Exhibit 4).
4. On July 11, 2018 the Appellant updated their application. The Appellant reported on this application that they do not have access to affordable ESI. The Appellant reported income equivalent to 199% of the federal poverty level (Exhibit 6).
5. The Health Connector determined that the Appellant is eligible for ConnectorCare with Advance Premium Tax credits effective August 1, 2018 (Exhibit 7).
6. The Appellant testified that they made a mistake on their initial application. The Appellant requests reimbursement for the increased premium amount they were charged for the month of July and a portion of June (Exhibit 4 and Appellant Testimony).

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 health insurance through an employer. 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. *See* 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2018 if the employee's required contribution for self-only coverage is 9.56 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

The Appellant attested on their June 9, 2018 application that they had income equal to 223.88% of the federal poverty level and access to affordable employer sponsored insurance that meets minimum value standards. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination based on the information reported to the Health Connector by the Appellant. After receiving their premium bill, the Appellant updated their application and reported on July 11, 2018 that they did not have access to affordable employer sponsored insurance. The Appellant also reported a change in income. Based on this information the Health Connector determined the Appellant eligible for ConnectorCare with Advance Premium Tax Credits effective August 1, 2018.

The Health Connector correctly determined the Appellant's eligibility based on the information provided by the Appellant on their June 9, 2018 and July 11, 2018 applications. The Appellant's appeal is therefore denied.

ORDER

This Appeal is Denied.

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5865

Appeal Decision: Appeal allowed to grant Appellants a special enrollment period.

Hearing Issue: Whether the Health Connector correctly determined that Appellants are not eligible for a special enrollment period.

Hearing Date: August 30, 2018

Decision Date: September 5, 2018

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 July 24, 2018, the Health Connector notified Appellants, a married couple residing in Massachusetts, that they were not qualified to enroll in a new or different plan at that time because Appellants did not tell the Health Connector that they had a qualifying event.

ISSUES

Whether the Health Connector correctly determined that Appellants are not qualified to enroll in a new or different health insurance plan in 2018.

HEARING RECORD

Appellant D.P. appeared at the hearing, which was held by telephone on August 30, 2018. The hearing record consists of Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Print-out of the Summary pages generated from Appellants’ June 9, 2018 application for health insurance coverage in 2018;

Exhibit 2: Print-out of the Results pages generated from Appellants' June 9, 2018 application for health insurance coverage in 2018;

Exhibit 3: Health Connector Special Enrollment Period Decision dated "July 24, 2018;"

Exhibit 4: Appellants' July 12, 2018 request for hearing on the Health Connector's July 24, 2018 Special Enrollment Period Decision;¹

Exhibit 5: Health Connector hearing request acknowledgment letter dated July 17, 2018;

Exhibit 6: Notice of Hearing dated July 26, 2018;

Exhibit 7: Health Connector Appeals Data form;

Exhibit 8: Health Connector Eligibility and Enrollment history for Appellants dated July 17, 2018;

Exhibit 9: Affidavit from Health Connector Keeper of Records] and

Exhibit 10: Health Connector Letter dated August 31, 2018.²

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. Appellants are adult residents of Massachusetts. Testimony; Exhibits 1 and 2.
2. Appellants were enrolled in the Neighborhood Health Plan and the Boston Medical Center Health Plan through the Health Connector in 2016 and 2017. Testimony; Exhibit 8 at 4.
3. During the open enrollment period for 2018, which ran from November 1, 2017 to January 23, 2018, Appellants decided to enroll in the ConnectorCare Type 3 Tufts Health Direct Plan ("THDP"). Testimony; Exhibit 8.
4. Before enrolling in the TDHP, Appellant D.P. called the Health Connector's Customer Service line and was informed in that Appellants' medical providers accepted the TDHP. Testimony.

¹ Appellants' hearing request is hand-dated July 12, 2018 and is stamped as received by the Health Connector on July 16, 2018. Therefore, it appears that the SEP decision letter which is dated "July 24, 2018" was actually issued at some time prior to July 12, 2018.

² The record was held open after the conclusion of the hearing on August 30, 2018 for the Health Connector to respond to Appellants' claim of incorrect enrollment due to government error. Exhibit 10 is the Health Connector's response.

5. Subsequent to enrolling in the TDHP, Appellants' learned from their medical providers in or around June 2018 that the providers did not accept the TDHP. Testimony.
6. Appellants reopened their application on June 9, 2018 in an attempt to enroll in a different ConnectorCare plan accepted by their providers. Testimony; Exhibits 1 and 2.
7. The Health Connector notified Appellants in the July 24, 2018 Special Enrollment Period Decision letter that Appellants are not qualified to enroll in a new or different because Appellants did not tell the Health Connector that they had a qualifying event. Exhibit 3.
8. Appellants called the Customer Service line after learning that the Health Connector would not allow them to change plans, and they were informed at that time that the Health Connector's provider "tool" which is used to respond to applicant questions about which providers accept particular plans is not updated to the minute and may not be accurate. Testimony. Appellants were not provided with this disclaimer information prior to enrolling in the TDHP for 2018. *Id.*
9. The record was held open to provide the Health Connector with an opportunity to respond to Appellants' claim that they were provided incorrect participating provider information by Customer Service. However, the Health Connector administratively advised the hearing officer that it had examined the recording of Appellant's call to Customer Service and that it would not be offering any evidence in rebuttal to Appellant's testimony. Exhibit 10.

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 Mass. Code Regs. 12.04(1)(b).

Generally, individuals must enroll during an annual open period which for 2018 ran from November 1, 2017 to January 23, 2018, and changes in plan enrollment outside of the open enrollment period are only allowed in limited circumstances. In this case, I find that the credible and uncontradicted evidence establishes that Appellants were not enrolled during the open period in a plan accepted by their medical providers due to

erroneous information provided by the Health Connector. That is, Appellants inquired of Customer Service during the open enrollment period as to whether their providers accepted the TDHP, and they were informed without qualification that they did. This information was subsequently shown to be incorrect. Accordingly, I find that Appellants were not enrolled in an appropriate 2018 plan accepted by their providers because of incorrect information provided by the Health Connector.

When an otherwise qualified individual is not enrolled in a QHP “unintentionally, inadvertently, or as the result of the error, misrepresentation, misconduct, or inaction of an officer, employee or agent, of the Health Connector, the U.S. Department of Health and Human Services (HHS), or non-Exchange entities providing enrollment activities,” it is Health Connector policy that the individual and any dependents should be allowed a 60-day special enrollment period to enroll in coverage outside of the annual open enrollment period. See Policy #: NG-1E (rev. Jan. 27, 2016), available at https://www.mahealthconnector.org/wp-content/uploads/policies/Policy_NG_1E.pdf. Pursuant to this policy, in order to remedy the Health Connector’s error in not providing accurate provider information which directly resulted in Appellants not being enrolled in an appropriate plan, I conclude that Appellants must be allowed a 60-day special enrollment period and the option of electing retroactive coverage. In arriving at this conclusion and remedy, I have specifically relied on the absence of any evidence in the record that Appellants were informed at the time they enrolled in the TDHP for 2018 that the provider tool is not continuously updated and that it is an enrollee responsibility, not the Health Connector’s, to verify whether providers accept a particular plan.

ORDER

Based on the foregoing findings and conclusions, the appeal is ALLOWED, and the Health Connector’s July 24, 2018 SEP Decision is MODIFIED to allow Appellant a 60-day open enrollment period to commence on the date of this decision.

NOTIFICATION OF OPTION TO ELECT RETROACTIVE COVERAGE

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

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5906

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: August 30, 2018

Decision Date: September 10, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 13, 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 August 30, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant wife 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 July 30, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (4 Pages)
- Exhibit 4: Appeals Unit Staff Case notes (1 page)
- Exhibit 5: Appellant's appeal request form 2 pages dated July 17, 2018)
- Exhibit 6: Notice of Eligibility Determination (12 pages, dated June 13, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (7 pages, dated July 17, 2018)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (8 pages, dated June 13, 2018)
- Exhibit 9: Historical Notices and Printouts (3 pages)
- Exhibit 10: Applicable Customer Service Notes (15 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, Exhibit 8, Appellant's testimony)
2. Appellant is enrolled in a Health Connector plan with Tufts. (Appellant's testimony)
3. Appellant testified that she was appealing only the determination that her children were cancelled from MassHealth. Appellant was given the contact number for MassHealth and informed that this appeal was in regard to her health coverage with the Connector. Appellant testified that she was satisfied with her current health plan with Tufts and was not appealing that decision.

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. She and her family were found eligible for Health Connector plans and she was notified that she was required to submit documentation of proof of income to confirm their eligibility. Appellant did not submit the documentation requested. On June 13, 2018, Appellant was notified that she 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. Appellant subsequently furnished the requested information and she and her family now have Health Connector plans. On July 17, 2018, Appellant filed for an appeal based on her income.

The Connector made the correct determination based upon the information supplied by the Appellant and obtained from other sources. 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

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Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-5935

Appeal Decision: Appeal Denied

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

Hearing Date: August 30, 2018

Decision Date: September 7, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 10, 2018, 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.

CXV

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 31, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and Appellant's 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 July 30, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (2 Pages)
- Exhibit 4: Appellant's appeal request form 1 page dated July 19, 2018)
- Exhibit 5: Notice of Eligibility Determination (6 pages, dated July 10, 2018)
- Exhibit 6: Health Connector's Determination Results and Review Computer Printout (8 pages, dated July 10, 2018)
- Exhibit 7: Historical Notices and Printouts (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on July 10, 2018, based on being eligible for Medicare. (Exhibit 5, Exhibit 6, Appellant's testimony)
2. Appellant was enrolled and is enrolled in Medicare. (Appellant's testimony)
3. Appellant testified that he was disabled seven years ago and was on disability due to his injuries. He received Medicare Part A and Medicare Part B. Appellant indicated that Part B was cancelled and that he is filing to cancel Part A. Appellant indicated that he had an opportunity to obtain health insurance from his employer but that it was too expensive for him.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant stated on his appeal request form that he cannot afford the insurance that was made available to him, and disputes the finding that he is not eligible for subsidies to help make his insurance more affordable. Appellant indicated that Part B of Medicare was cancelled six years ago and that he is filing to cancel Part A. Appellant was informed about the Shine program and that he could reapply to the Health Connector when he ends his participation in Medicare.

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 2018 coverage was determined on July 10, 2018, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that he 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

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Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6099

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: September 11, 2018

Decision Date: September 24, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

Appellant submitted an application for subsidized health insurance on July 2, 2018. The Health Connector determined the Appellant to be eligible for Connector Plan Type 2B with Advance Premium Tax Credits.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was eligible for Connector Plans Type 3B with Advance Premium Tax Credits.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 11, 2018. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and her sister 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 20, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (4 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form 4 pages dated July 26, 2018)
- Exhibit 6: Notice of Eligibility Determination (10 pages, dated July 2, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (5 pages, dated July 2, 2018)
- Exhibit 8: Health Connector's Determination Results and Review Computer Printout (7 pages, dated August 2, 2018)
- Exhibit 9: Historical Notices and Printouts (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 29 year old unmarried female, who applied for subsidized health insurance on July 2, 2018 & August 2, 2018. (Exhibit 7 & 8)
2. The Appellant has a household of one. (Exhibit 7 & 8)
3. On her application, the Appellant entered a projected annual modified adjusted gross income of (MAGI) of \$31,821.55. (Exhibit 8)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 257.12% of the 2017 Federal Poverty Level (FPL). An individual at that income level would be eligible for subsidized coverage under the ACA, because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL. (Exhibit 3)
5. Appellant testified through her sister that her income of \$31,821.55 was correct and that she had enrolled in ConnectorCare program 3B. Appellant was satisfied with the program she enrolled in and did not wish to pursue her appeal.

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 her application, the Appellant stated that her projected MAGI was \$31,821.55, which for a household of one, puts the Appellant at approximately 257.12% of the 2017 Federal Poverty Level. This means that the Appellant's household was less than the 300% limit for eligibility for subsidies, and therefore the Health Connector correctly found the Appellant eligible for ConnectorCare Plan 3B. 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

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Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6126

Appeal Decision: Appeal Allowed

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

Hearing Date: September 11, 2018

Decision Date: September 24, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 15, 2018, 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 11, 2018. 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 (5 pages, dated August 20, 2018)
- Exhibit 3: Health Connector’s Acknowledgement of Appeal (4 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant’s appeal request form (2 pages dated August 4, 2018)
- Exhibit 6: Notice of Eligibility Determination (18 pages, dated August 16, 2018 & January 29, 2018)
- Exhibit 7: Health Connector’s Determination Results and Review Computer Printout 6 pages, dated January 29, 2018)
- Exhibit 8: Historical Notices and printouts (8 pages)
- Exhibit 9: Applicable Customer Service Notes (7 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Connectorcare Plan 3A with subsidies. (Exhibit 6)
2. The Appellant was not found eligible for subsidized health insurance through the Health Connector because she did not sign up for a health plan on August 15, 2018. (Exhibit 6)
3. Appellant was enrolled in MassHealth until February 28, 2018. Appellant indicated that she did not understand the difference between MassHealth and the Health Connector and did not realize she had to apply to the Health Connector. She did not understand that she had been terminated from MassHealth. (Appellant’s testimony)
4. Appellant did experience a life qualifying event. (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 s. 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2018 was November 1, 2017 to January 31, 2018. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420. Appellant did not sign up for a health plan.

Appellant was determined eligible for Health Connector plans with APTC, but she did not sign up for a health plan within the time for enrollment through March 2018. Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. At the hearing I asked the Appellant whether the Appellant had experienced any qualifying event, as listed in the Health Connector's policy NG-1E. The Appellant testified to the Appellant being on MassHealth through February 2018 and thought he was still enrolled and had not received any notification from MassHealth or the Health Connector and did not realize that her MassHealth had been discontinued and that she had to sign up for the Health Connector. Because the Appellant did experience an exceptional circumstance, which was a qualifying life event, the Health Connector's determination that the Appellant was not eligible for a special enrollment period was incorrect. 45 CFR s. 155.

ORDER

The appeal is Allowed.

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

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Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6128

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 11, 2018

Decision Date: September 24, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 17, 2018, 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 11, 2018. 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 (5 pages, dated August 20, 2018)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (4 Pages)
- Exhibit 4: Appeals Unit Staff Case Notes (2 pages)
- Exhibit 5: Appellant's appeal request form (2 pages dated July 29, 2018)
- Exhibit 6: Notice of Eligibility Determination (20 pages, dated August 18, 2018 & January 25, 2018)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout 6 pages, dated January 25, 2018)
- Exhibit 8: Historical Notices and printouts (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Connectorcare Plan 2B with subsidies. (Exhibit 6)
2. The Appellant was not found eligible for subsidized health insurance through the Health Connector because she did not sign up for a health plan by March 1, 2018. (Exhibit 6)
3. Appellant was eligible for employer offered health insurance but did not accept it because it was too expensive. (Appellant's testimony)
4. Appellant did not experience a life qualifying event. (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 s. 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2018 was November 1, 2017 to January 31, 2018. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420. Appellant did not sign up for a health plan.

Appellant was determined eligible for Health Connector plans with APTC, but he did not sign up for a health plan within the time for enrollment through April 2018. Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. At the hearing I asked the Appellant whether the Appellant had experienced any qualifying event, as listed in the Health Connector's policy NG-1E. The Appellant testified to the Appellant not experiencing any qualifying life event. Because the Appellant did not experience a qualifying life

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

ORDER

The appeal is Denied.

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Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6165

Appeal Decision: Appeal Denied.

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

Hearing Date: September 13, 2018

Decision Date: September 18, 2018

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 8, 2018, the Appellant was determined ineligible for health insurance coverage through the Health Connector. The Appellant's determination came after failing to verify residency and income.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant is ineligible for health insurance through the Health Connector based on the Appellant's failure to verify residency and income.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 13, 2018. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing, with attachments, dated August 24, 2018.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: The Appellant's online hearing request submitted on August 9, 2018.
- Exhibit 5: Health Connector's Eligibility Denial Notice with an Application Summary dated August 8, 2018.
- Exhibit 6: Health Connector's Request for Information with an Application Summary dated April 20, 2018.

FINDINGS OF FACT

The record shows, and I so find:

1. On April 20, 2018 the Health Connector determined, based on updated information reported by the Appellant, that the Appellant's household of three was eligible for ConnectorCare with Advance premium Tax Credits effective May 1, 2018. The Appellant's income was reported to be equal to 179.59% of the federal poverty level (Exhibit 6).
2. On April 20, 2018 the Health Connector issued a Request for Information. The Appellant was asked to provide proof of residency and updated income verification for both adult household members by July 19, 2018 (Exhibit 6).
3. It is undisputed that the Appellant did not submit any documentation to the Health Connector by July 19, 2018 (Exhibit 5 and Appellant Testimony).
4. The Appellant's health care coverage was terminated prior to August 8, 2018 (Exhibit 3 and Appellant Testimony).
5. On August 8, 2018 the Appellant updated their Application to reinstate their prior health care coverage. The Appellant reported income equivalent to 44.64% of the federal poverty level (Exhibit 5 and Appellant Testimony).
6. On August 8, 2018 the Health Connector denied the Appellant's request for health insurance coverage through the Health Connector because the Appellant had failed to verify their residency and income (Exhibit 5).
7. On August 9, 2018 the Appellant filed an appeal (Exhibit 4).
8. The Appellant testified that they became employed in June 2018. This employer provided employer sponsored health insurance and the Appellant believed their family was all set. The job did not work out and the Appellant said they attempted to reinstate their prior Health Connector insurance by making a premium payment and updating their income information, but the request was denied. The Appellant acknowledged that they did not submit any requested documentation to the Health Connector (Appellant Testimony).

ANALYSIS AND CONCLUSION OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to verify residency and income. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. Applicants and Enrollees are required to cooperate with the Health Connector by providing the information needed to establish and maintain eligibility. 956 CMR 12.09(1).

The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' residency status, in accordance with 45 CFR § 155.315(d) and income 45 CFR § 155.315(f). Where the Health Connector cannot verify applicants' residency and/or income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f) and 155.320(d). If applicants do not provide verifying information, the Health Connector will consider the information not verified and issue a new eligibility determination in accordance with 45 CFR §§ 155.315(f)(5) and 155.320(c)(3)(i)(D).

On April 20, 2018 the Health Connector determined based on income information provided by the Appellant that the Appellant's household was eligible for ConnectorCare with Advance Premium Tax Credits for the period beginning May 1, 2018. On April 20, 2018 the Health Connector issued a Request for Information. The Appellant

was asked to submit proof of residency and income for all household members. The Appellant was advised that failure to submit the requested documentation by July 19, 2018 could result in the termination of the Appellant's eligibility. The Appellant failed to send in documents verifying their residency, and income. On August 8, 2018 was determined ineligible for Health Connector plans. This process complied with federal law at 45 CFR §§ 155.315(d), 155.315(f) and 155.320(d) and is the correct decision for a household that has not verified their Massachusetts residency or income. 45 CFR § 155.305(a), 26 CFR § 1.36B-2 and 45 CFR § 155.305(f).

ORDER

This appeal is denied.

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Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA18-6231

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; timeclock expiration; income

Hearing Date: August 28, 2018

Decision Date: August 31, 2018

AUTHORITY

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 or about February 9, 2018, Appellant applied for insurance, and was approved for ConnectorCare Plan Type 3A, and was also asked to submit proof of income. Appellant was required to submit the information by May 10, 2018. Appellant did not submit acceptable proof of income. On or about June 15, 2018, Appellant applied (or updated her application), and was approved for Health Connector plans without financial assistance due to the failure to have submitted acceptable proof of income.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 28, 2018. The hearing was expedited at Appellant's request. 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 and procedure (1 page);
- Exhibit 2: Notice of Expedited Hearing (8-22-18) (5 pages);

- Exhibit 3: Acknowledgement of Appeal (8-20-18) (3 pages);
- Exhibit 4: Outreach notes and email (8 pages);
- Exhibit 5: Hearing Request form (8-17-18) (2 pages);
- Exhibit 6: Eligibility Approval letter (6-15-18) (10 pages);
- Exhibit 7: Eligibility detail printout and application summary printout (from different application dates or updates) (17 pages);
- Exhibit 8: Request for Information letter (2-9-18) (6 pages);
- Exhibit 9: Eligibility Approval letter (7-20-18) (6 pages);
- Exhibit 10: Enrollment information (4 pages); and
- Exhibit 11: Workspace form and documents from Appellant (8-17-18) (18 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for health insurance through the Health Connector in February 2018. Appellant was approved for ConnectorCare Plan Type 3A, and was asked to submit proof of income.
2. Appellant testified that she submitted some documents in April 2018, but she did not submit any income information about her husband, and she submitted only her Schedule C.
3. Appellant's application was updated or resubmitted in June 2018, and Appellant was deemed eligible for Health Connector plans without subsidies based on failure to submit acceptable proof of income.
4. In July 2018, Appellant was deemed eligible for ConnectorCare Plan Type 3B and again was asked to submit proof of income.
5. Appellant submitted documents in August 2018.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant applied in February 2018. Appellant was deemed eligible at that time for ConnectorCare Plan Type 3A but was required to submit proof of income. Appellant did not submit sufficient proof of income within the time required, and was then deemed eligible for Health Connector plans without subsidies based on failure to submit adequate proof of income. Appellant was again deemed eligible for ConnectorCare 3B and was again asked to submit proof of income in July 2018.

While Appellant thereafter submitted additional documents for proof of income in August 2018, the Health Connector made the correct determination based on the information available to the Connector at the time.

ORDER

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

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Cc: Connector Appeals Unit

ADDENDUM

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

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

Note: Appellant was advised to confirm that the documents submitted in August 2018 were sufficient, as there was still a request for information for proof of income outstanding at the time of the hearing.