

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 23-19573

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** August 4, 2023

**Decision Date:** September 19, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 12, 2023, Appellant was determined ineligible for ConnectorCare Plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is or is enrolled in Medicare health plans and that Appellant's income was too high.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was not eligible for ConnectorCare Plans based on the Appellant's access to Medicare Administration health plans and that his income was too high.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 4, 2023. 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 and the record was left open for the Appellant to provide documentation regarding the sale of his building:

- Exhibit 1: Health Connector’s Hearing Affidavit (1 page)
- Exhibit 2: Health Connector’s Hearing Notice (3 pages, dated July 6, 2023)
- Exhibit 3: Health Connector’s Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeal Unit Staff Case Notes (6 Pages)
- Exhibit 5: Appellant’s appeal request form (2 pages dated June 22, 2023)
- Exhibit 6: Health Connector’s Determination Results and Review Computer Printout (6 pages, dated June 12, 2023)
- Exhibit 7: Historical Notices & Printouts (7 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for ConnectorCare Plans on June 12, 2023, based on being eligible for Medicare health plans. Appellant indicated that the Health Connector had his income as too high because of his sale of a building and that his income was not that high. Appellant was requested to send in proof of the proceeds of the sale of the building located at 17 Carlton Street, Worcester, MA. Appellant did not forward any documents into the Health Connector. (Exhibit 6 & 7 &, Appellant’s testimony)
2. Appellant is enrolled in Medicare health plans. (Exhibit 6 & Appellant’s testimony)
3. Appellant testified that he currently has a Medicare health plan. Appellant testified that he has Medicare but he needs more assistance in paying his bills because of his living expenses.

## **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 health plans. 42 USC s. 1395ss(d)(3)(A)(i); 45 CFR § 155.305(f)(1)(ii)(B); 26 IRC § 5000A(f)(1)(A)(i).

When the Appellant’s eligibility for 2021 coverage was determined on June 12, 2023, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare health plans. The Appellant confirmed at hearing that he was eligible for Medicare health plans. Because

the Appellant was eligible for Medicare health plans, the Health Connector found that the Appellant was not eligible to receive ConnectorCare Plans. The Appellant did not send in information to rebut the Health Connector's assertion as to the level of his income. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

**Massachusetts Health Connector Appeals Unit**

**FINAL APPEAL DECISION: ACA 23-19727**

**Appeal Decision:** Appeal denied

**Hearing Issue:** Appeal of eligibility Health Connector plans and Advance Premium Tax Credit (APTC's).

**Hearing Date:** September 15, 2023

**Decision Date:** September 21, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

By notice dated July 10, 2023, the Appellant was advised that he was determined eligible for ConnectorCare with Advanced Premium Tax Credits ("APTC's"). The Appellant filed an appeal (Ex. 2). The matter was referred to a hearing after receipt of the appeal. (Ex.7).

**ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector Plan with APTC's based on the income used in the Health Connector's verification process.

**HEARING RECORD**

The Appellant household consists of the Appellant. The Appellant appeared at the hearing, which was held by telephone on September 15, 2023, and testified under oath. The hearing record consists of testimony and the following documents which were admitted into evidence without objection:

Exhibit 1:	Health Connector's Hearing Record Affidavit	( 1 P, undated )
Exhibit 2:	Appellant's Appeal Request Form	(6 PP, received 7/26/2023)
Exhibit 3:	Health Connector's Acknowledgment of Appeal	( 1 P, dated 7/26/ 2023)
Exhibit 4:	Health Connector's Notice of Appeal Hearing	( 1 P, dated 7/26/ 2023)
Exhibit 5:	Health Connector's Application Summary	(3 PP, dated 7/26/ 2023)
Exhibit 6:	Health Connector's Eligibility Results	(3 PP, dated 7/10/2023)
Exhibit 7	Health Connector's Eligibility Approval	(8 PP, dated 7/10/2023)
Exhibit 8	Medicaid Household Determination	(8 PP, dated 7/10/ 2023)

Exhibit 9:	Health Connector's Appeals Unit Staff Notes	( 1 P, dated	7/10/ 2023)
Exhibit 10:	Email from Connectorcare to Appellant	(1 P, dated	6/11/2023)
Exhibit 11:	Health Connector's Application Summary	(3 PP, dated	7/19/ 2023)
Exhibit 12:	Health Connector's Eligibility Results	(3 PP, dated	7/11/2023)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant has never been enrolled in Connectorcare. (Testimony, Exhibits 1, 5-9).
2. The Appellant's income was verified on July 10, 2023, and the annual household income was determined to be 388.34 % of Federal Poverty Level("FPL") based on an attested monthly income of \$4,398 and manual verification of annual income at \$52,775. (Appellant Testimony, Exhibits 1, 4-7, 11, and 12).
3. The Appellant testified that his only source of income is unemployment which he is receiving for 22 weeks but will end in eight (8) weeks. (Appellant Testimony).
4. The Appellant testified he nets \$864 a week in unemployment income. (Appellant Testimony).
5. The Appellant testified that although he is eligible, he is not receiving any advanced premium tax credits in the plan which makes the plan unaffordable given the substantial amount of copays. (Appellant Testimony, Exhibits 1 and 7).
6. The Appellant credibly testified that he is unable to afford to pay the cost of the plans that are being offered because of the substantial expense of the copays and deductibles. (Appellant Testimony, Exhibits 1,2, and 7).
7. This appeal addresses the issue of the Connector's income eligibility determination on July 10, 2023, in verification of the Appellant's income. (Exhibits 1,6, and 7).
8. The Appellant was advised the appeal only addresses whether the Connector's decision regarding eligibility based on income was correct. The Appellant was encouraged to contact customer service to report a change in income and to contact Health Safety Net.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant has not been enrolled in Connectorcare. (Testimony, Exhibits 1 and 9). The Appellant's income was verified on July 10, 2023, wherein it was determined his FPL was 388.34% based on a based on an attested monthly income of \$4,398. (Testimony, Exhibits 1, 7-9). The Appellant asserts that this determination is incorrect

because the current net unemployment income that he receives is substantially less than the income from the manual verification. Moreover, his unemployment will end soon. The Appellant, despite being eligible for Advanced Premium Tax Credits is not receiving any APTC's because the plan being offered is deemed to be affordable. However, the Appellant testified the the plan being offered is unaffordable, especially given the substantial amount of copays and deductibles. (Testimony, Exhibits 1,7 and 12).

The Connector's notice on May 16, 2023, and the determination based on the Appellant's income verification was determined to be 388.34% of Federal Poverty Level("FPL") based on an attested monthly income of \$4,398 is consistent with rules in federal regulation at 45 CFR § 155.335. (Testimony, Exhibits 1, 7, and 8). The final determination was correct for the Appellant. (Exhibits 1,7). This was used to determine a household income equivalent to 388.34 % of the Federal Poverty Level. (Exhibits 1,7, and 9). 26 CFR § 1.36B-2, 45 CFR § 155.305(f), and 956 CFR § 12.04(3)(c). This process complied with federal law at 45 CFR §§ 155.335. I find the Appellant's income was properly verified according to the above regulations.

Based upon the totality of the evidence, it is concluded that the Connector's determination on July 10, 2023, regarding the Appellant's eligibility for Health Connector Plans with APTC's was correct. The Appellant was advised to update his application or call Customer Service to report any changes in income, any other information on his application, regarding those issues. The Appellant was also encouraged to contact Health Safety Net.

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

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 2023 from the

federal government will be reconciled when you file your 2023 federal income tax return (usually in the spring of 2024). 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 2023 (meaning the modified adjusted gross income on your application was too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during 2023 (meaning the modified adjusted gross income on your application was too high), you will get the rest of the tax credits you are owed when you file your taxes.

*Note:* If you qualify for advance payments of the premium tax credit, you may choose to take less than the full value of the tax credit in advance. This means your monthly premium will be higher. Any extra tax credit you are owed but have not used during 2023 will be paid to you when you file your 2023 federal income tax return.

## FINAL APPEAL DECISION

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Denial of eligibility to obtain Health Connector insurance.

**Hearing Date:** September 27, 2023

**Decision Date:** September 29, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

Appellant was notified by the Health Connector on July 14, 2023, that he was not eligible for health insurance through the Health Connector.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was not eligible for health insurance through the Health Connector.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on September 29, 2023. The hearing record consists of testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Appeals Request Form (7/31/2023) (2 pages)
- Exhibit 2: Health Connector Record Affidavit (2 page)
- Exhibit 3: Eligibility Denial Notice (7/14/23) (6 pages)
- Exhibit 4: Screen Shot of Eligibility Determination (2 pages)
- Exhibit 5: Screen Shot of Application Summary (3 pages)



- Exhibit 6: Medicaid eligibility determination (6 pages)
- Exhibit 7: Appeals Unit database notes (1 page)
- Exhibit 8: MMIS Records (1 page)
- Exhibit 9: Eligibility Denial (2/19/2023) (6 pages)
- Exhibit 10: Eligibility summary (2/19/2023) (2 pages)
- Exhibit 11: Application summary (2/19/2023) (3 pages)
- Exhibit 12: Medicaid determination (7 pages)
- Exhibit 13: Notice of Appeal Hearing (8/16/23) (3 pages)
- Exhibit 14: Acknowledgement of Appeal (1 page)

## FINDINGS OF FACT

The findings of fact are based on the testimony of Appellant, or, if noted, from the exhibits taken into evidence, and the reasonable inferences drawn therefrom.

The record shows, and I so find:

1. At the time of the hearing, Appellant was 67 years old.
2. Appellant was enrolled in Medicare from his 65th birthday in 2021. Medicare is a federally-funded program of health coverage for persons over 65 years old.
3. In July 2023, Appellant applied for health insurance through the Health Connector. In his application, Appellant stated that he was 67 and that he was receiving Medicare. Exhibit 5. Appellant confirmed both those facts at the hearing.
4. On July 14, 2023, he was sent a notice stating that he was not eligible for coverage because he was receiving Medicare. Exhibit 3.
5. Appellant filed a timely appeal of this determination on July 31, 2023. Exhibit 1.

## CONCLUSIONS OF LAW

The issue in this appeal is whether the Health Connector correctly determined that Appellant was not eligible to obtain health insurance through the Health Connector.

The Health Connector provides subsidized health insurance. To do that, the Health Connector determines eligibility of individuals to receive federal subsidies to purchase health insurance under the Affordable Care Act (ACA). 26 U.S.C. § 36B. These subsidies are called Advance Premium Tax Credits (APTCs). The eligibility criteria for APTCs are established by federal law. 26 U.S.C. § 36B. That statute provides that an individual is not eligible for APTCs if that individual is eligible for “minimum essential coverage.” *Id.* § 36B(c)(2)(b). In turn, “minimum essential coverage” means coverage through certain designated programs, specifically including Medicare. *Id.* § 5000A(f)(1)(A)(i),(ii). Thus, an individual who is eligible for or receiving Medicare is *not* eligible under federal law for APTCs.

Additionally, the Health Connector determines eligibility for Connector Care. That is a program under which state-funded subsidies are added to the APTCs for eligible individuals. To be eligible for Connector Care, an individual

## Massachusetts Health Connector Appeals Unit



must be eligible to receive APTCs. 956 C.M.R. § 12.04. Thus a person who is receiving Medicare is not eligible for Connector Care because they are not eligible for APTCs. Indeed, it is unlawful for any entity to provide a health insurance plan to anyone who is entitled to benefits under Medicare. 42 U.S.C. § 1395ss(d)(3)(a)(i).

In this case, Appellant is eligible for and receiving Medicare. Accordingly, he is not eligible for subsidized coverage through the Health Connector.

However, based on the income that Appellant reported in his application and at the hearing, he may be eligible to receive certain benefits from MassHealth, which is the state Medicaid agency. MassHealth is a separate entity from the Health Connector with different eligibility rules.

If he is eligible for MassHealth, these benefits would supplement his Medicare benefits, including potentially paying the Medicare premium and certain out-of-pocket costs for medical services. In order to determine whether he is eligible for those MassHealth benefits, Appellant must submit an application for seniors seeking MassHealth. The application is available at this website:

[https://search.mass.gov/?q=senior+masshealth+application&\\_gl=1\\*1kl1qqq\\*\\_ga\\*MTYyMDQ2MDYxNC4xNjc2NzE0MTU0\\*\\_ga\\_E2HYQ6TW32\\*MTY5NjAxNTI2OS4xMy4wLjE2OTYwMTUyNzUuMC4wLjA.\\*\\_ga\\_SW2TVH2WBY\\*MTY5NjAxNTI2OS40LjAuMTY5NjAxNTI3NS4wLjAuMA..](https://search.mass.gov/?q=senior+masshealth+application&_gl=1*1kl1qqq*_ga*MTYyMDQ2MDYxNC4xNjc2NzE0MTU0*_ga_E2HYQ6TW32*MTY5NjAxNTI2OS4xMy4wLjE2OTYwMTUyNzUuMC4wLjA.*_ga_SW2TVH2WBY*MTY5NjAxNTI2OS40LjAuMTY5NjAxNTI3NS4wLjAuMA..)

If Appellant wants assistance in preparing this application, he can obtain it through SHINE (Serving Health Insurance Needs of Everyone), which is a state-funded program providing free counseling on health insurance benefits to seniors. To set up an appointment with a SHINE counselor in his area, he can call 508-422-9931.

In this case, the Health Connector correctly determined that Appellant was not eligible for benefits through the Connector, because he was already receiving Medicare. Accordingly, I must deny this 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 decision. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this decision.

Hearing Officer

# Massachusetts Health Connector Appeals Unit



Cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-19472

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

**Hearing Issue:** Eligibility for Health Connector plans, based on failure to verify residency

**Hearing Date:** August 16, 2023

**Decision Date:** September 11, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 1, 2023, Appellant was determined ineligible for Health Connector plans, due to failure to verify residency.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 16, 2023. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit and Appeal Request dated June 1, 2023
- Exhibit 2: Eligibility results and Summary dated June 1, 2023
- Exhibit 3: Research and Resolution
- Exhibit 4: Historic Notices Eligibility notice Feb. 15, 2023 and Requests for information dated Feb. 15, 2023 and April 16, 2023
- Exhibit 5: None
- Exhibit 6: Correspondence from Health Connector dated July 12, 2023

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was covered by subsidized health insurance in early 2023 (Testimony of Appellant).
2. On February 15, 2023, and April 16, 2023, Appellant was notified that Appellant was required to provide proof of residency by May 16, 2023 to continue coverage by the Health Connector (Exhibit 4).
3. On June 1, 2023, Appellant was determined ineligible for Health Connector plans after failing to send in documents verifying residency (Exhibit 2).
4. Although Appellant had previously sent in documents regarding residency and was told that the documents were received by the Health Connector, the documents were from an old address where Appellant no longer resided (Exhibit 3 and Testimony of Appellant).
5. On June 21, 2023, the Health Connector Appeals Unit sent Appellant an Affidavit of Residency to complete so Appellant could verify residency (Exhibit 3).
6. Appellant filed an appeal on June 1, 2023 (Exhibit 1).

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

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

On February 15, 2023, and April 16, 2023, Appellant was asked to verify residency by May 16, 2023. Appellant failed to send in a proper document verifying residency. On June 1, 2023, Appellant was determined ineligible for Health Connector plans for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

The decision by the Health Connector on June 1, 2023 correctly found that the Appellant was no longer eligible for Health Connector plans and that determination is upheld.

### **ORDER**

The appeal is denied.

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

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

**ADDENDUM:**

**After the hearing, the Health Connector mailed Appellant an Affidavit of Residency to submit to the Health Connector regarding residency. Appellant should complete and return the Affidavit and contact the Health Connector regarding enrollment.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-19490

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

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

**Hearing Date:** August 16, 2023

**Decision Date:** September 15, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On April 20, 2023, Appellant was determined eligible for Health Connector Plans. On May 1, 2023, Appellant determined not eligible for a Special Enrollment Period and was not permitted to enroll in a Health Connector Plan.

### ISSUE

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

### HEARING RECORD

Appellant appeared at the hearing which was held by telephone on August 16, 2023. The procedures to be followed during the hearing were reviewed with Appellant and Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Affidavit and Appeal Request dated June 20, 2023

Exhibit 2: Eligibility on Appeal dated April 20, 2023 and May 1, 2023

Exhibit 3: Appeals Unit Research and Resolution

Exhibit 4: None

Exhibit 5: None

Exhibit 6: Notice from Appeals Unit dated July 12, 2023

## **FINDINGS OF FACT**

The record shows, and I so find:

1. On April 20, 2023, Appellant applied for health insurance through the Health Connector (Testimony of Appellant and Exhibit 2).
2. On April 20, 2023, Appellant was found to be eligible for a Health Connector Plan (Exhibit 2).
3. On May 1, 2023, Appellant was found not eligible for a Special Enrollment Period due to not having a qualifying life event that would allow Appellant to enroll outside of the Open Enrollment Period (Exhibit 2).
4. Appellant has not had health insurance since 2020 (Testimony of Appellant).
5. Appellant did not have any of the changes in circumstances within sixty days or the applicable time period that would allow Appellant to enroll outside of the Open Enrollment Period (Testimony of Appellant).
6. On June 1, 2023, Appellant filed an appeal for the denial of a Special Enrollment Period (Exhibit 1).

## **ANALYSIS AND CONCLUSIONS OF LAW**

In general, qualified individuals must enroll in health plans or change health plans during open enrollment periods, unless the individual meets one of the criteria to qualify for a special enrollment period. Appellant had applied for a Health Connector Plan on April 20, 2023, which was outside of the open enrollment period. Appellant had not been covered by health insurance since 2020. Appellant did not have any of the changes in circumstances within sixty days or other applicable time period that would qualify Appellant for a special enrollment period. Appellant was correctly found not to meet any of the grounds for enrolling outside of the open enrollment period. See 45 CFR 155.410, 155.420 and Exhibits 1, 2, 3 and Testimony of Appellant, which I find to be credible.

## **ORDER**

Appellant's appeal is denied.

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

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

## **ADDENDUM**

**Appellant was provided with information for applying for a waiver from the Office of Patient Protection. Appellant is encouraged to follow up with the Office of Patient Protection at 1 800 436-7757.**



## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA23-19502

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector based on income.

**Hearing Date:** August 15, 2023

**Decision Date:** September 19, 2023

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#### **AUTHORITY**

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

#### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.13.

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

Appellant submitted an application for subsidized health insurance on June 7, 2023. The Health Connector determined the Appellant to be eligible for a Health Connector plan 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 a Health Connector plan with Advance Premium Tax Credits.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on August 15, 2023. 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 (3 pages, dated July 12, 2023)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant's appeal request form (4 pages dated June 13, 2023)
- Exhibit 6: Notice of Eligibility Determination (8 pages, dated June 7, 2023)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (6 pages, dated June 7, 2023)
- Exhibit 8: Historical Notices and Printouts (6 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 48 year old single female (Exhibit 7,)
2. The Appellant has a household of one. (Exhibit 7 )
3. On her application, dated June 7, 2023 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) of \$53,139.91 (Exhibit 8)  
The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 327.86% of the 2023 Federal Poverty Level (FPL). The Health Connector determined from other sources that the Appellant's annual modified adjusted gross income (MAGI) would place her at 327.86% of the 2023 Federal Poverty Level (FPL).
4. An individual at that income level would be eligible for subsidized coverage under the ACA, with Advanced Premium Tax Credits because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

5. The Appellant testified that this FPL and the amount that was stated of \$45,551.51 was incorrect. An open record request was sent to the Appellant which requested either pay stubs from her employer or a letter from her employer showing the amount earned this year to date. No records were provided by the Appellant.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Health Connector correctly found The Appellant eligible for Health Connector Plans. The Appellant then appealed. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant is urged to contact the Health Connector Service Desk and report any change in her income.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-19550

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

**Hearing Issue:** Eligibility for Health Connector plans, based on failure to verify residency

**Hearing Date:** September 7, 2023

**Decision Date:** September 28, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 26, 2023, Appellant was determined ineligible for Health Connector plans, due to failure to verify residency.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 7, 2023. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit and Appeal Request dated June 26, 2023
- Exhibit 2: Eligibility results and Summary dated June 26, 2023
- Exhibit 3: Research and Resolution
- Exhibit 4: Historic Notices Requests for information dated October 12, 2016 and June 26, 2023
- Exhibit 5: Recent Determination Eligibility of July 19, 2023
- Exhibit 6: Correspondence from Health Connector dated August 8, 2023 and June 30, 2023

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant applied for subsidized health insurance on June 26, 2023 (Testimony of Appellant)

2. Appellant had last applied for subsidized Health Connector insurance in August, 2016. At that time, Appellant had been asked for proof of residency but had not provided it (Exhibit 4).
3. Appellant had been covered by other insurance since 2016 (Testimony of Appellant).
4. On June 26, 2023, Appellant was notified that Appellant was not eligible for Health Connector Plans for failure to reside in Massachusetts (Exhibit 4).
5. Appellant provided proof of residency on July 17, 2023 (Exhibit 3 and Testimony of Appellant).
6. On July 19, Appellant was determined eligible for Health Connector Plans with no subsidies (Exhibit 5).
7. Appellant filed an appeal on June 26, 2023 (Exhibit 1).

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

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

In August 2016, Appellant was asked to verify residency when Appellant applied for subsidized health insurance. Appellant failed to send in a proper document verifying residency. When Appellant applied for health insurance on June 26, 2023, Appellant was determined ineligible for Health Connector plans for not being a resident of Massachusetts. This process complied with federal law at 45 CFR §§ 155.315(d) and 155.315(f), and is the correct determination for a person who has not verified compliance with the requirement to be a resident of Massachusetts. 45 CFR § 155.305(a).

The decision by the Health Connector on June 26, 2023, correctly found that the Appellant was not eligible for Health Connector plans and that determination is upheld.

### **ORDER**

The appeal is denied.

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

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

**ADDENDUM:**

**At the time of the hearing, Appellant was covered by employer sponsored health insurance and was on medical leave due to a serious illness. Appellant was seeking financial assistance. Appellant was given the number for MassHealth ( 1 800 841-2900) and Healthcare for All (1 800 272-4232) to discuss the new situation .**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2319597

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income

**Hearing Date:** August 15, 2023

**Decision Date:** September 11, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On June 17, 2023, the Appellant was determined eligible for Connector Care Plan2B, with Advanced Premium Tax Credits and an additional Massachusetts subsidy.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Connector Care Plan2B, based on the Appellant's reported and verified income.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on August 15, 2023. 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 (7-12-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (7-6-23) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (6-23-23) (with documents) (10 pages);
- Exhibit 6: Eligibility Approval letter (6-17-23) (8 pages);



Exhibit 7: Eligibility detail printout and applications summary printouts (11 pages); and  
Exhibit 8: Medicaid Household Determinations (12 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant previously had health insurance through Mass Health. (Appellant Testimony Exhibit 7).
2. Appellant filed an updated application on June 17, 2023. (Exhibit 6, 7).
3. The Health Connector determined that Appellant was eligible for Connector Care Plan Type 2B based on Appellant's income resulting in a Federal Poverty Level of 198%. (Exhibits 6, and 7).
4. Appellant was not sure what income amount was used and appealed. (Exhibit 5).
5. At hearing, Appellant confirmed that the income listed on the June 17, 2023 application was the correct income amounts. (Appellant Testimony, Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed eligible for Connector Care Plan Type 2B based on income reported and verified from other sources. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). 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 consider the information not verified and issue a new eligibility determination.

In June 2023, the Appellant was determined eligible for Connector Care Plan Type 2B based on information in Appellant's application, but Appellant was not sure the correct income was used to make the determination. Appellant filed an appeal. Appellant confirmed at hearing that the income used for the determination resulting in Connector Care Plan Type 2B was correct. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for Connector Care Plan Type 2B on June 17, 2023, and that determination is upheld.

## **ORDER**

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

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. You also have the right to appeal to state court in accordance with Chapter 30A of the

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2319599

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Eligibility for Health Connector plans, income verification

**Hearing Date:** August 15, 2023

**Decision Date:** September 11, 2023

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### **AUTHORITY**

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

### **JURISDICTION**

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

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

On June 27, 2023, the Appellant was determined eligible for Health Care plans with Advanced Premium Tax Credits.

### **ISSUE**

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Care plans with APTC based on Appellant's reported and verified income.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on August 15, 2023. 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 (7-12-23) (3 pages);
- Exhibit 3: Acknowledgement of Appeal (7-6-23) (1 page);
- Exhibit 4: Outreach notes (1 page);
- Exhibit 5: Hearing Request form (6-30-23) (6 pages);
- Exhibit 6: Eligibility Approval letter (6-27-23) (8 pages);

- Exhibit 7: Eligibility detail printout and applications summary printouts (19 pages);  
Exhibit 8: Medicaid Household Determination (7 pages); and  
Exhibit 9: Workspace forms and documents (37 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant previously had health insurance through the Health Connector and had qualified for Connector Care Plan Type 3A. (Appellant Testimony Exhibit 7).
2. Appellant filed an updated application on June 27, 2023. (Exhibit 6, 7).
3. The Health Connector determined that Appellant was eligible for Health Connector plans with APTC based on Appellant's income resulting in a Federal Poverty Level of 337%. (Exhibits 6, and 7).
4. Appellant was not sure what income amount was used and provided additional documents and appealed. (Exhibit 5).
5. At hearing, Appellant indicated that they were uncertain how to calculate their self-employment income for purposes of qualifying for Health Connector subsidies. (Appellant Testimony, Exhibit 7).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Appellant was deemed eligible for Health Connector Plans with APTC based on income reported and verified from other sources. Under 45 CFR § 155.305(a), residents of Massachusetts who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Health Connector attempts to verify applicants' eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants' income, in accordance with 45 CFR § 155.320(c). 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 consider the information not verified and issue a new eligibility determination.

In June 2023, the Appellant was determined eligible for Health Connector Plans with APTC based on information in Appellant's application, but Appellant was not sure the correct income was used to make the determination. Appellant filed an appeal. This process complied with federal law at 45 CFR §§ 155.320(c) and 155.315(f), and is the correct determination based on the documents submitted and information available to the Health Connector. 45 CFR § 155.305(f).

The Health Connector correctly found that the Appellant was eligible for Health Connector Plans with APTC on June 27, 2023, and that determination is upheld.

## **ORDER**

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

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

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

Cc: Connector Appeals Unit

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### **ADDENDUM**

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

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

NOTE: The pronouns “they” and “their” is used in order to be gender neutral, regardless of the singular or plural

NOTE: Members may report any change in their income throughout the year and have their eligibility redetermined, if necessary.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-19624

**Appeal Decision:** Appeal denied.

**Hearing Issue:** Appeal of eligibility for subsidized Health Connector plans and Advance Premium Tax Credit

**Hearing Date:** September 5, 2023

**Decision Date:** September 11, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated July 6, 2023, the appellants (husband and wife) were advised that they were eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) effective on August 1, 2023. (Ex. 3) The appellants filed an appeal which was received on July 8, 2023. (Ex. 9) The matter was referred to a hearing after receipt of the appeal. (Ex. 15)

### ISSUE

Was the Connector's decision regarding the appellants' eligibility for Health Connector Plans with an APTC on July 6, 2023, correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant husband appeared at the hearing which was held by telephone on September 5, 2023, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results based on a program determination for July 6, 2023 (3 pages)
- Ex. 2—Health Connector's Review of Application (4 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated July 6, 2023 (9 pages)
- Ex. 4—Medicaid Household Determination Document (6 pages)

- Ex. 5—Health Connector’s Eligibility Determination Results based on a program determination date of March 21, 2023 (3 pages)
- Ex. 6—Health Connector’s Review of Application (4 pages)
- Ex. 7—My Workspace document dated May 5, 2023 (2 pages)
- Ex. 8—Proof of unemployment income for appellant husband (2 pages)
- Ex. 9—Online Appeal Form received on July 8, 2023 (6 pages)
- Ex. 10—Income detail form for appellant husband (2 pages)
- Ex. 11—Income detail form for appellant wife (2 pages)
- Ex. 12—Acknowledgment of Appeal dated July 12, 2023 (1 page)
- Ex. 13--Appeals Unit case notes (2 pages)
- Ex. 14—Health Connector email dated July 12, 2023 (1 page)
- Ex. 15—Notice of Hearing (3 pages)
- Ex. 16—Affidavit of Connector representative (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant husband is 62-years-old and the appellant wife is 59-years-old. They have a tax household size of two. (Testimony, Exs. 2,6)
2. By notice dated March 21, 2023, the appellants were determined eligible for Health Connector Plans with an APTC of \$1006.00/month and their household income was determined to be within 388.46% of the Federal Poverty Level (FPL). On the application on which the determination was based, the appellant husband projected his annual income from unemployment to be \$36,397.00, and the appellant wife projected her annual income from self-employment to be \$34,800.00. A request for proof of income was made with the determination. (Testimony, Exs. 5,6)
3. In response to the March 21, 2023, request, the appellant husband submitted pay stubs showing a weekly income of \$1015.00. The appellant wife submitted proof showing a monthly income of \$3934.75/month. (Exs. 7,8,9)
4. Based on the appellants’ submission, the Connector verified the appellant husband’s projected gross income to be \$52,775.00 and the appellant wife’s projected gross income to be \$42,217.00. (Exs. 10,11)
5. By notice dated July 6, 2023, the appellants were determined eligible for Health Connector Plans with an APTC of \$786.00/month effective August 1, 2023. Their household income was determined to be within 546.11% of the FPL. (Ex. 3)
6. The appellants appealed the Connector’s July 6, 2023, determination on July 8, 2023, and stated in part that the husband’s income from unemployment is \$30,450.00/year and his benefits will be ending in September. They further stated that their premium went from \$449.00/month to \$669.00/month and is not affordable. (Testimony, Ex. 9)
7. The appellant husband anticipates that his unemployment compensation benefits will be ending at the end of September, 2023, and he will have no income for the rest of the year. (Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

The appellants do not dispute that the projected gross incomes used by the Connector to redetermine their eligibility for insurance on July 6, 2023, were accurate. It appears that the March 21, 2023, eligibility determinations were calculated based on net income information provided by the appellants in their application. Since the Connector uses gross income to calculate eligibility, this resulted in the appellants being placed in a plan with a higher premium.

Accordingly, based upon the totality of the evidence, it is concluded that the Connector's determination on July 6, 2023, regarding the appellants' eligibility for Health Connector Plans with an APTC of \$786.00/month was correct, and is therefore affirmed.

## **ORDER**

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

The appellant husband was advised to contact customer service at 1-877-623-6765 for assistance with a recalculation of his projected income when his unemployment compensation ends.





# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA2319626

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

**Hearing Issue:** Eligibility for subsidized Health Connector plans, based on tax filing status

**Hearing Date:** September 7, 2023

**Decision Date:** September 20, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On June 27, 2023, Appellant was determined eligible for Health Connector plans with no subsidies.

### ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no subsidies on June 27, 2023, based on Appellant being a non-tax filer.

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 7, 2023. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Affidavit and Appeal Request July 9, 2023
- Exhibit 2: Eligibility on Appeal dated June 27, 2023
- Exhibit 3: Research and Resolution
- Exhibit 4: Historic Notes None
- Exhibit 5: Recent Determination None
- Exhibit 6: Notice from Appeals Unit dated August 10, 2023

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant updated Appellant's application for health insurance on June 27, 2023 (Exhibit 2 and Testimony of Appellant).
2. On June 27, 2023, Appellant's Federal Poverty Level was determined to be 392.25% (Exhibit 2).
3. On June 27, 2023, Appellant was sent a notice that Appellant was eligible for a Health Connector Plan with no subsidies (Exhibit 2).
4. Appellant was not determined to be eligible for subsidies because Appellant's application stated that Appellant was non-tax filer ( Exhibit 2).
5. Appellant files taxes jointly with Appellant Spouse every year (Testimony of Appellant).
6. Appellant may have made a mistake when filling out the application for subsidized health insurance (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health Connector Plans may receive an Advance Premium Tax Credit depending on their household income. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. In order to be eligible for subsidized health insurance, Appellants must meet tax filing requirements. Appellants must agree to file a tax return and to file taxes jointly if legally married. 45 CFR § 155.305(f)(4).

When Appellant completed the application for subsidized health insurance on June 27, 2023, Appellant indicated that Appellant did not plan to file a tax return. This was the correct determination. See Exhibit 2 and 45 CFR § 155.305(f)(4).

## **ORDER**

The appeal is denied.

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

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

## **ADDENDUM**

**If Appellant has not already done so, Appellant should contact the Health Connector (1 877 623-6765) to update the Application and indicate Appellant's tax filing status.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA 23-19643

**Appeal Decision:** Denied

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

**Hearing Date:** September 8, 2023

**Decision Date:** September 11, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 1, 2023 Health Connector determined that the Appellant was not eligible for a Special Enrollment Period because the Appellant had failed to verify that they had a qualifying life event.

### ISSUE

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

### HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on September 8, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector's Hearing Record Affidavit.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated August 10, 2023.
- Exhibit 3: Health Connector Appeals Unit Outreach Notes.
- Exhibit 4: Health Connector Special Enrollment Period (SEP) Decision Denial dated July 1, 2023.
- Exhibit 5: 2023 Eligibility Results with an Application Summary dated June 28, 2023.
- Exhibit 6: The Appellant's Online appeal request dated July 11, 2023.

Exhibit 7: Health Connector Appeals Unit Outreach Email dated 7/12/23 with a referral to the Office of Patient Protection to request a Waiver.

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant applied for health insurance coverage for one of their children on June 28, 2023. The Appellant, their spouse and a second child did not seek coverage and the Appellant did not request financial assistance. The household member was determined eligible for Health Connector Plans (Exhibits 3, 5).
2. On July 1, 2023 Health Connector determined that the Appellant's child was not eligible for a Special Enrollment Period (SEP) to enroll in a plan because the Appellant failed to verify that they had experienced a Qualifying Life Event (Exhibit 4).
3. I take administrative notice of the fact that for tax year 2023 the Open Enrollment period to obtain health insurance through the Health Connector was November 1, 2022 through January 15, 2023.
4. The Appellant filed an Appeal on July 11, 2023 (Exhibit 6).
5. On July 12, 2023 the Health Connector Appeals Unit referred the Appellant to the Office of Patient Protection to request a Waiver (Exhibit 7).
6. The Appellant testified that they did file a Waiver request but was told that they should first file an appeal of the denial. The Appellant explained that their child has serious medical needs and they applied for extra insurance for this child to address those needs (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

On June 28, 2023 the Appellant applied for health insurance through the Health Connector for one member of their four-person household. The Appellant did not request coverage for themselves, their spouse or their other child and did not request financial assistance. The Appellant's child was determined eligible for Health Connector Plans.

On July 1, 2023, Health Connector determined that the Appellant was not eligible for a special enrollment period to enroll their child in a plan because the Appellant had failed to verify that they experienced a qualifying life event in the sixty-day period preceding their attempted enrollment. Open Enrollment for tax year 2023 was from November 1, 2022 through January 15, 2023. The Appellant filed an appeal on July 11, 2023.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG-5. Qualifying life events include marriage, birth or adoption of a child, loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances.

On July 12, 2023 the Health Connector Appeals Unit referred the Appellant to the Office of Patient Protection to request a waiver of the Special Enrollment Period restrictions. The Appellant testified that they did file a Waiver Request but was told that they should first file this appeal and attend the hearing. The Appellant indicated that they did not receive written notice of the status of their Waiver Request.

The evidence in this administrative record verifies that on July 1, 2023 Health Connector correctly denied the Appellant's request for an SEP to enroll in a Health Connector plan because the Appellant did not verify that they experienced a qualifying life event in the sixty-day period preceding the June 28, 2023 application and attempt to enroll in a Health Connector Plan. 45 CFR § 155 and 956 CMR 12.10(5).

**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.

Cc: Connector Appeals Unit

**ADDENDUM**

The Appellant is reminded to contact the Office of Patient Protection at 1-800-436-7757 to determine the status of their Waiver Request.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-19649

**Appeal Decision:** Appeal denied.

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

**Hearing Date:** September 12, 2023

**Decision Date:** October 1, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated July 10, 2023, the Connector advised the appellant that she did not qualify to enroll in a new or different insurance plan because she did not have a qualifying event. (Ex. 4) The appellant filed an appeal which was received on July 10, 2023. (Ex. 8) The matter was referred to a hearing after receipt of the appeal. (Ex. 12)

### ISSUE

Is the appellant eligible for a special enrollment period for health insurance coverage pursuant to 45 C.F.R.155.420 and 956 CMR 12.10(5)?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on September 12, 2023, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1— Health Connector’s Eligibility Determination Results based on a program determination date of June 23, 2023 (3 pages)
- Ex. 2—Health Connector’s Review of Application (3 pages)
- Ex. 3—Health Connector’s Notice of Eligibility Approval dated June 23, 2023 (9 pages)
- Ex. 4—Health Connector’s Notice of Special Enrollment Period Decision dated July 10, 2023 (6 pages)
- Ex. 5—Medicaid Household Determination document (6 pages)

- Ex. 6—MassHealth Notice of Termination dated March 16, 2023 (4 pages)
- Ex. 7--Health Connector’s Notice of Eligibility Approval dated March 16, 2023 (7 pages)
- Ex. 8—Online Appeal Form received on July 10, 2023 (6 pages)
- Ex. 9—Acknowledgment of Appeal dated July 14, 2023 (1page)
- Ex. 10—Appeals Unit notes (1 page)
- Ex. 11—Health Connector email with Office of Patient Protection link dated July 14, 2023 (1 page)
- Ex. 12—Notice of Hearing (3 pages)
- Ex. 13—Affidavit of Connector representative (1 page)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 64 -years-old, is single and has a tax household size of one. (Testimony, Ex. 2)
2. The appellant was enrolled in health insurance through MassHealth until her coverage ended on March 30, 2023, because she “withdrew her application”. (Testimony, Ex. 6)
3. By notice dated March 16, 2023, the appellant was determined eligible for Health Connector Plans with no financial help effective April 1, 2023. She was advised that she had until May 15, 2023, to enroll because she had a qualifying event which allowed her to enroll outside of the Open Enrollment Period. She was further advised that if she did not enroll by that date, she would have to wait until the next Open Enrollment Period to get coverage. (Testimony, Ex. 7)
4. The appellant “may not have opened” the aforementioned March 16, 2023, notice because she had read the MassHealth letter and thought that the Health Connector notice may have been duplicative. (Testimony)
5. The appellant attempted to enroll and determined that a monthly premium would cost approximately \$600.00 which she thought was a mistake. She did not continue the process for over 30 days and when she resumed sometime later, she could not access her account. She contacted technical support at the Connector several times and continued to have difficulty until on or about June 23, 2023. (Testimony)
6. By notice dated June 23, 2023, the appellant was determined eligible for Health Connector Plans with an Advanced Premium Tax Credit (APTC) of \$497.00/month, effective July 1, 2023. (Testimony, Exs. 1,3)
7. By notice dated July 10, 2023, the Health Connector notified the appellant that she did not qualify to enroll in health insurance because she did not have a qualifying life event that would allow her to enroll or change plans outside of the open enrollment period. (Testimony, Ex. 4)
8. The appellant filed an appeal which was received on July 10, 2023, in which she stated in part that she began to reapply for MassHealth coverage in February and continued the process into March and maybe April. She further stated that she saw information about \$500.00 plus for a monthly premium and gave up for a while because she thought she had messed up. Finally, she stated that when she went back to her application in June, more than 30 days had transpired and she had to contact technical support to access her application. (Testimony, Ex. 8)
9. The appellant does not think that she received the July 14, 2023, email from the Health Connector with information on requesting a waiver of the Special Enrollment Period from the Office of Patient Protection (OPP). (Testimony)



## **ANALYSIS AND CONCLUSIONS OF LAW**

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

I take administrative notice of the fact that the open enrollment period for health insurance for 2023 ended on January 23, 2023, for the commercial non-group market, and that closed enrollment runs from January 24, 2023, to October 31, 2023.

It appears that the appellant did not open the March 16, 2023, notice from the Connector with information on a new eligibility determination and instructions on enrollment prior to May 15, 2023. That notice specifically advised her that if she did not enroll by that date, she would have to wait until the next Open Enrollment Period for coverage. By the time she returned to enroll on or about June 23, 2023, she was long past the May 15<sup>th</sup> deadline and had forfeited the Special Enrollment Period (SEP) that she had been granted in the March 16<sup>th</sup> notice.

Based on the foregoing, it is concluded that the applicant did not enroll in insurance on or prior to May 15, 2023, and failed to establish that she experienced a qualifying life event in order to be eligible for a SEP.

## **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**

At the close of the hearing, the appellant was provided with information on requesting a waiver of the SEP through the OPP including the telephone number and website of the agency. She is advised to open and read all notices and correspondence from the Health Connector in the future.

## Connector Appeals Unit

### FINAL APPEAL DECISION: ACA23-19670

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** September 11, 2023

**Decision Date:** September 14, 2023

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#### **AUTHORITY**

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

#### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.13.

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

Appellant submitted an application for subsidized health insurance on May 24, 2023. The Health Connector determined the Appellant to be eligible for a ConnectorCare plan 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 a ConnectorCare plan with Advance Premium Tax Credits.

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 5, 2023. 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 (3 pages, dated August 10, 2023)
- Exhibit 3: Health Connector's Acknowledgement of Appeal (1 Page)
- Exhibit 4: Appeals Unit Staff Case Notes (1 pages)
- Exhibit 5: Appellant's appeal request form (4 pages dated July 13, 2023)
- Exhibit 6: Notice of Eligibility Determination (8 pages, dated May 24, 2023)
- Exhibit 7: Health Connector's Determination Results and Review Computer Printout (7 pages, dated May 24, 2023)
- Exhibit 7: Historical Notices and Printouts (7 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant is a 63 year old married female (Exhibit 7)
2. The Appellant has a household of two. (Exhibit 7 )
3. On her application, dated May 24, 2023 the Appellant entered a manual verified annual modified adjusted gross income of (MAGI) of \$41,500.00 (Exhibit 7)
4. The Health Connector found, based on this projected income and household size, that the Appellant's projected MAGI would place her at 226.65% of the 2023 Federal Poverty Level (FPL). The Health Connector determined from other sources that the Appellant's annual modified adjusted gross income (MAGI) would place her at 226.65% of the 2023 Federal Poverty Level (FPL).
5. An individual at that income level would be eligible for subsidized coverage under the ACA, with Advanced Premium Tax Credits because subsidized coverage through the state's ConnectorCare program is available to individuals whose household income is below 300% FPL and Advanced Premium Tax Credits are only available to individuals with income below 400% of the FPL.

6. The Appellant testified that she could not afford the amount charged to her for coverage.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Health Connector correctly found The Appellant eligible for ConnectorCare Plans. The Appellant then appealed. This was the correct determination and the Appellant's appeal is therefore denied.

## **ORDER**

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

## **ADDENDUM**

The Appellant is urged to contact the Health Connector Customer Service and inquire whether she has received the correct credits.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA23-19734

**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, 2023

**Decision Date:** September 14, 2023

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On July 20, 2023 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, 2023. 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 Appellants:

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

- Exhibit 2: Health Connector’s Hearing Notice (3 pages, dated August 11, 2023)
- Exhibit 3: Health Connector’s Acknowledgement of Appeal 1 Page )
- Exhibit 4: Appeals Unit Staff Case Notes (1 page)
- Exhibit 5: Appellant’s appeal request form (7 pages dated July 20, 2023)
- Exhibit 6: Notice of Eligibility Determination (6 pages, dated July 20, 2023)
- Exhibit 7: Health Connector’s Determination Results and Review Computer Printout 4 pages, dated July 20, 2023)
- Exhibit 8: Historical Notices and Printouts (8 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans because she did not have a life qualifying event. (Exhibit 6)
2. Appellant stated that she lost her health insurance due to her leaving her job. When Appellant started working again she worked per-diem. Appellant attempted to obtain Cobra coverage but it was too expensive. Appellant went overseas on June 6, 2023 and did not return until July 2023. Appellant applied to the Health Connector on July 20, 2023.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellant left her job in which she had health insurance in March of 2023. Appellant applied to the Health Connector on July 20, 2023. Appellant was determined ineligible and not granted a special enrollment period because she did not have a life qualifying event. Under 45 CFR s. 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2023 was November 1, 2022, to January 23, 2023. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the individual experiences a qualifying event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420.

Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. Appellant did not produce any records that would indicate that she had a life qualifying event. The Health Connector’s determination that the Appellants were 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**

The appellant should contact the Office of Patient Protection at 1-800-436-7757 to apply for a waiver of the Special Enrollment Period.