Apartment Decision: Appeal Denied.

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

Hearing Date: April 2, 2019    Decision Date:  April 8, 2019

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

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
On January 18, 2019, the Appellant and their spouse were determined ineligible for Health Connector plans because the Appellant and their spouse are eligible for Medicare.

ISSUE
The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant and their spouse are not eligible for Health Connector plans, based on their access to Medicare.

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone on April 2, 2019. The Appellant Spouse did not attend the Hearing. 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 as well as the following documents which were admitted into evidence:

Exhibit 1: Health Connector’s Hearing Record Affidavit.
Exhibit 3: Health Connector Appeals Unit Outreach Notes.
FINDINGS OF FACT
The record shows, and I so find:

1. On January 18, 2019 the Appellant, age 71 and their spouse, age 75 applied for health insurance. The Appellant and their spouse are receiving Medicare (Exhibit 5 and Appellant Testimony).
2. On January 18, 2019 the Health Connector determined that the Appellant and their spouse are ineligible for Health Connector plans because the Appellant and their spouse are eligible for Medicare (Exhibit 5).
3. The Appellant filed an appeal on February 19, 2019. The Appellant argues that they need help paying for supplemental health insurance to cover the expenses not covered by Medicare (Exhibit 4 and Appellant Testimony).
4. On February 26, 2019 the Appellant updated their application and reported that their household of two persons has income equal to approximately 179.18% of the federal poverty level (Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW
The Appellant and their spouse applied for health insurance on January 18, 2019. Both household members are receiving Medicare. The Appellants were notified on January 18, 2019 at they were not eligible for health insurance coverage through the Health Connector because they are eligible for Medicare. The Appellants filed an appeal to dispute that determination.

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

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where the individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to perform (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their “same policy or contract of insurance.” See 45 CFR § 147.106 and 45 CFR § 148.122; and discussion generally at 81 FR 94068, December 22, 2016.

The Appellant does not dispute that both household members are receiving Medicare. The Appellant argues that they need financial assistance in order to purchase a supplemental health insurance policy that will cover the things Medicare does not cover. As explained at the Hearing, the Health Connector does not provide this type of insurance coverage. Since the Appellant and their spouse have access to Medicare, in accordance with the regulation cited above, the Health Connector correctly determined on January 18, 2019 that the Appellant and their spouse are not eligible for coverage through the Health Connector.
ORDER
This appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT
If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals 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 advised to contact Health Care For All at 1-800-272-4232. The Appellant may also contact the SHINE Program at 1-800-243-4636
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8148

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: March 14, 2019  Decision Date: April 22, 2019

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

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
By decision dated February 15, 2019, the Connector advised the Appellant’s they did not qualify to enroll in a new insurance plan because they did not have a qualifying event. (Ex. 1) The Appellants filed an online appeal dated February 15, 2019. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Ex. 6)

ISSUE
Are 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 appellants are married. The appellant wife appeared at the hearing which was held by telephone on March 14, 2019, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence:

Ex. 1— Health Connector’s Hearing Record Affidavit (1 page, undated)
Ex. 2- Health Connector’s Hearing Notice (4 pages, dated February 26, 2019)
Ex. 3- Health Connector’s Acknowledgment of Appeal (2 pages, dated February 25, 2019)
Ex. 4—Online Appeal Form dated February 15, 2019 (1 page)
Ex. 5- Health Connector Special Enrollment Period Decision (8 pages, dated February 15, 2019)
Ex. 6- 2019 Eligibility Results-Massachusetts Connector-Agent Portal (5 pages, dated February 25, 2019)
FINDINGS OF FACT
The record shows, and I so find:

1. The appellants are married, are ages 48 and 49 respectively, and have a tax household size of two. (Testimony, Ex. 6)

2. The appellants testified they applied and were approved for Connector Care in December 2018 but were unable to afford the premium payment of $322 per month in January and February 2019 because the appellant’s husband’s hours and income in his seasonal job were reduced. The Appellant’s testified they were also paying back the Internal Revenue Service. (Testimony, Exhibit 4)

3. The appellants applied to the Health Connector by phone on about reenrolling and a premium waiver. (Exhibit 4)

4. By letter dated February 15, 2019, the Health Connector advised the appellants that they did not qualify to enroll in a new or different health insurance plan because they did not have a qualifying event. (Ex. 5)

5. The appellants filed an appeal dated February 15, 2019, in which she stated they were having a hard time coming up with the money because appellant’s husband’s hours and income were reduced, and they were also paying back the Internal Revenue Service. (Ex. 4, Testimony)

6. The appellant testified she worked 40 hours a week at an Assisted Living Facility and she was compensated at $12/hour. Her husband’s hourly rate was $22/hour. (Testimony).

7. The appellant testified her husband’s hours were reduced from 40 to 22 hours in January and February 2019 which resulted in a substantial loss of monthly income. (Testimony).

8. The Appellant’s MassHealth Federal Poverty Level (FPL) used to decide MassHealth eligibility was 338.06%(Ex. 6, P. 4).

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, bus/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 2019 ended on January 23, 2019 for the commercial non-group market, and that closed enrollment runs from February 1, 2019 to December 31, 2019.
The appellants seek to enroll in plans outside of the open enrollment period because they were unable to afford the premium payments for their prior insurance which was discontinued for lack of payment. It is indeed unfortunate leaving her in the unanticipated situation of covering their expenses. Their frustration and distress are understandable. Unfortunately, however, their circumstances do not fall within the parameters of the foregoing regulations, including the category of “exceptional circumstances” set forth in 45 CFR 155.420(d)(9), and as such, are not considered a qualifying event which would entitle them to an SEP.

Based on the totality of the evidence, it is concluded that the appellants failed to establish that their circumstances qualify them for an SEP.

ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

If you are a Massachusetts resident, you may also have the option to apply for an open enrollment waiver from the Office of Patient Protection. You may qualify for the waiver if you were not able to enroll in health insurance during the last open enrollment or special enrollment period for reasons that were not under your control, other than an administrative problem with the Health Connector. Further information may be obtained at the website for the Massachusetts Office of Patient Protection at the Health Policy Commission at mass.gov/hpc/opp.
FINAL APPEAL DECISION: ACA19-8201

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for Health Connector plans, based on Income and Special Enrollment Program

Hearing Date: April 4, 2019          Decision Date: April 22, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 28, 2019, Appellant and his Spouse were determined eligible for Health Connector Plan (No financial help) based on household income of 288.53% of the Federal Poverty Level. (Exhibit 6). The appellant filed an appeal dated February 21, 2019 (Ex. 4) based on Income and Special Enrollment Period (“SEP”). The matter was referred to a hearing after receipt of the appeal. (Ex. 2)

ISSUES

1. Was the Connector’s decision regarding the appellant’s qualification for Health Connector Plans correct at the time of its determination on January 28, 2019, pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

2. Was the Connector’s decision regarding the appellant’s appeal of eligibility for a special enrollment period for health insurance coverage with the Massachusetts Health Connector correct?

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 4, 2019.

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

Exhibit 1: Health Connector’s Hearing Record Affidavit (1 page, undated)
Exhibit 2: Health Connector’s Hearing Notice (4 pages, dated March 11, 2019)
FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is married and his spouse is listed as a Household Member. Appellant has a tax household size of two. (Ex. 6).

2. The appellant testified he was charged for a plan he did not chose and could not afford. (Testimony, Exhibit 4).

3. The appellant indicated the appellant and his spouse had access to Employer Sponsored Insurance ("ESI") when he applied. (Testimony, Exhibit 3(a)).

4. The appellant testified he applied for and became eligible for ESI through his Employer in February 2019. (Testimony).

5. The appellant testified his spouse also has ESI through her Employer. (Testimony).

6. The appellant applied through the Health Connector on January 28, 2019. (Exhibits 5 and 6).

7. By letter dated January 28, 2019, the Health Connector advised the appellant that he did not qualify to enroll in a new or different health insurance plan because he did not have a qualifying event. (Ex. 7).

8. The appellant filed an appeal dated February 21, 2019, in which he stated that he was charged for a plan he did not chose and could not afford (Ex. 3(a), Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans unsubsidized because he had ESI. Upon realizing that his premium would increase substantially, he attempted to reapply but applied past the end of the enrollment period deadline of January 23, 2019. Appellant called on February 11, 2019 to cancel coverage. Appellant was able to obtain ESI in February. Appellant’s coverage with subsidies ended on February 28, 2019.

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an APTC (advanced premium tax credit) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if a) their household income does not exceed 300 percent of the FPL and b) they are eligible for an APTC. See 956 CMR 12.09(1).
An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

The appellant was determined eligible for Health Connector Plans with no financial help based on a report of him reporting he had ESI. He testified that he has been enrolled in employer sponsored insurance since February 2019.

Based upon the totality of the evidence, it is concluded that the Connector’s determination on January 28, 2019, regarding the appellant’s eligibility for Health Connector Plans without subsidies was correct.

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, bus/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 2019 ended on January 23, 2019 for the commercial non-group market, and that closed enrollment runs from February 1, 2019 to December 31, 2019.

The appellants seek to enroll in plans outside of the open enrollment period because of the approved plan was without subsidies and the appellant could not afford the substantially increased premium payments. It is indeed unfortunate and the Appellant’s frustration and distress are understandable. Unfortunately, however, his circumstances do not fall within the parameters of the foregoing regulations, including the category of “exceptional circumstances” set forth in 45 CFR 155.420(d)(9), and as such, are not considered a qualifying event which would entitle the Appellant to an SEP.

Based on the totality of the evidence, it is concluded that the appellant failed to establish that his circumstances qualify him for an SEP. Accordingly, the Connector’s determination on January 28, 2019, regarding the appellant’s non-qualification to enroll in a new health insurance plan under the Special Enrollment criteria 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. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2018 from the federal government will be reconciled when you file your 2018 federal income tax return (usually in the spring of 2019). This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2018 (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 2018 (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 2018 will be paid to you when you file your 2018 federal income tax return.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA197477

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

Hearing Issue: Whether the Connector correctly determined that the appellant was ineligible to purchase health insurance through the Connector because of the appellant’s failure to submit proof of residency.

Hearing Date: February 22, 2019

Decision Date: April 29, 2019

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

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
On November 18, 2018, the Connector determined that the appellant was ineligible to purchase health insurance through the Connector.

HEARING RECORD
The appellant’s representative appeared at the hearing which was held by telephone on February 22, 2019. The procedures to be followed during the hearing were reviewed with the representative who was then sworn in. Exhibits were also reviewed with the representative, marked as exhibits, and admitted in evidence with no objection from the representative. The representative testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant’s file, undated
Exhibit 2: Connector Appeals Unit Notice of Hearing dated January 16, 2019 addressed to Appellant for February 22, 2019 hearing
Exhibit 3: Connector Appeals Unit letter dated December 14, 2018 addressed to Appellant acknowledging receipt of Appellant’s Request for Hearing
Exhibit 3a: Connector Appeals Unit Staff Notes
Exhibit 3b: Appeals Unit staff e-mails to Appellant dated January 19, 2019
Exhibit 4: Hearing Request Form submitted by Appellant on December 12, 2018 with attachments
Exhibit 4a: Appellant’s Affidavit of Residence received by Connector on December 28, 2018
Exhibit 5: Connector letter dated November 18, 2018 to Appellant regarding eligibility denial
Exhibit 6: Summary and results of Appellant’s application for Connector plan dated November 18, 2018
Exhibit 7: Connector letter to Appellant dated July 30, 2018 requesting information and documents

Exhibit 8: Connector letter dated February 19, 2019
Exhibit 9: Connector Appeals Unit Notice of Hearing dated January 16, 2019 addressed to Appellant for February 22, 2019 hearing
Exhibit 10: Connector Appeals Unit letter dated December 14, 2018 addressed to Appellant acknowledging receipt of Appellant’s Request for Hearing
Exhibit 11: Connector Appeals Unit Staff Notes
Exhibit 12: Appeals Unit staff e-mails to Appellant dated January 19, 2019
Exhibit 13: Hearing Request Form submitted by Appellant on December 12, 2018 with attachments
Exhibit 14: Appellant’s Affidavit of Residence received by Connector on December 28, 2018
Exhibit 15: Connector letter dated November 18, 2018 to Appellant regarding eligibility denial
Exhibit 16: Summary and results of Appellant’s application for Connector plan dated November 18, 2018
Exhibit 17: Connector letter to Appellant dated July 30, 2018 requesting information and documents

Exhibit 18: Connector letter dated February 19, 2019
FINDINGS OF FACT
The record shows, and I so find:

1. In a letter dated July 30, 2018, the Connector notified the appellant that Appellant needed to provide proof of residency by October 7, 2018 and proof of income and a non-custodial parent form by October 28, 2018. The Connector notified the appellant that if Appellant already had coverage through the Connector, the coverage was temporary and might be decreased or ended if the required proof was not submitted. A list of acceptable forms of proof was included in the letter (Exhibit 7).

2. Appellant did not send in the required proof of income and residency, and non-custodial parent form on time. The Connector then determined that the appellant was ineligible for coverage through the Connector (Exhibit 5, and Testimony of Representative).

3. Appellant received a letter from the Connector dated November 18, 2018 notifying Appellant that Appellant was not eligible for Connector coverage because of Appellant’s failure to submit the required documentation (Exhibit 5).

4. Proof of residency was not received from the appellant until December 28, 2018 (Exhibit 4a).

5. Appellant filed a request for an appeal of the Connector’s November 18, 2018 determination on December 12, 2018 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW
The issue on appeal is whether the Connector correctly determined on November 18, 2018 that the appellant was ineligible to enroll in a Health Connector plan because the appellant had not submitted proof of income and residency, and a non-custodial parent form by the required deadline.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq. If a household’s projected income is between 100% and 400% of the Federal Poverty Level, the household members may be entitled to an advance premium tax credit to help cover the cost of health insurance premiums. If additional documentation is requested from an applicant and the documentation is not received, the Connector seeks data from other sources and eligibility to enroll in a plan may be terminated. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5), 956 CMR 12.05 and 12.09(1) which provides that an applicant for health insurance coverage must cooperate with the Connector in providing information necessary to establish and maintain eligibility.

In a letter dated July 30, 2018, the Connector asked Appellant to submit proof of income and residency, and a non-custodial parent form by October 7th and October 28th, 2018. See Exhibit 7. The appellant did not send in the required documentation by the deadline set. Proof of residence was not received from the appellant until December 28, 2018, well after the October deadline set but the Connector. After the deadline, having not received the required documentation, the Connector determined that Appellant was
ineligible for ConnectorCare or any plan offered by the Connector. See Exhibit 5. Appellant appealed the November 18, 2018 determination. See Exhibit 4.

What is at issue here is whether the determination made by the Connector was correct on the date it was made. Under the Affordable Care Act and Massachusetts state law (Chapter 111M, Section 2) in order to obtain coverage through the Connector, an applicant, among other things, must establish residency in the Commonwealth. Appellant failed to comply with the request for proof of residence, and her eligibility for coverage was denied. No error was made by the Connector. See cites above.

The determination of the Connector is affirmed.

ORDER: The action taken by the Connector regarding Appellant’s ineligibility to purchase a Connector Health plan is affirmed.

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

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: As of the date of this hearing, Appellant had sent in proof of residency and was determined to be eligible for a ConnectorCare plan. Appellant had enrolled in a plan.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-7613

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: March 20, 2019          Decision Date: April 9, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On December 14, 2018, Appellant was determined ineligible for Health Connector plans without subsidies. The Appellant’s determination came after failing to verify residency.

ISSUE

The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant was ineligible for Health Connector plans, based on the Appellant’s failure to verify residence.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 20, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

Exhibit 1: Health Connector’s Hearing Affidavit (1 page)
FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant applied to obtain subsidized health insurance through the Connector. (Exhibit 7 & 8, Appellant’s testimony)
2. Appellant was notified that she had to provide proof of residency. However, the Appellant did not do so (Exhibit 6 and Appellant’s testimony).
3. During Appellant’s testimony she indicated that she did not notify the Health Connector but had done so now. Appellant also indicated that she was no longer working.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to verify residency. 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.
The Appellant was determined eligible for Connector Care Plans and was asked to verify her residency. The Appellant failed to send in documents verifying her residency, and was determined ineligible for Health Connector plans on December 14, 2018, 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 Health Connector correctly found that the Appellant was no longer eligible for Health Connector plans on December 14, 2018, and that determination is upheld.

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 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 requested to contact Customer Service in regard to her current status as to residency and income
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-7735

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for subsidized health insurance; failure to reconcile prior tax credits

Hearing Date: April 2, 2019    Decision Date: April 9, 2019

AUTHORITY
This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 et seq.; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 December 27, 2018, the Appellant was deemed eligible for Health Connector plans with no financial help for plan year 2019. The determination was a result of the Health Connector’s renewal process.

ISSUE
The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with no financial help, based on information used in the Health Connector’s renewal process.

HEARING RECORD
The Appellant and the Appellant’s representative appeared at the hearing, which was held by telephone, on April 2, 2019. The hearing was recorded. The hearing record consists of the Appellant’s and the Appellant’s representative’s testimony, through an interpreter, 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 (3-11-19) (4 pages);
Exhibit 3: Acknowledgement of Appeal (1-23-19) (2 pages);
Exhibit 4: Outreach notes (1 page);
FINDINGS OF FACT

The record shows, and I so find:

1. In 2016 and 2017, Appellant had been covered by ConnectorCare. During 2017, Appellant was out of the country for most of the year, but still had the ConnectorCare plan.
2. Appellant had failed to file an income tax return and reconcile receipt of advance premium tax credits prior to the date of the renewal determination.
3. On October 10, 2018, Appellant was sent a Final Renewal Notice, informing Appellant of eligibility of Health Connector plans with no financial help. This was based on data from other sources (Exhibit 6).
4. Appellant had not updated the information with the Health Connector prior to October 10, 2018.
5. Appellant filed an appeal.
6. Appellant subsequently attested to filing a tax return, but as of the hearing date had not done so.
7. The determination of the Connector was correct based on the information available to the Connector.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans with no financial help for 2019. Appellant asserts that this determination was incorrect, because the Appellant’s income otherwise qualifies her for subsidies. Under 26 CFR § 1.36B-2 and 45 CFR § 155.305(f), individuals who are otherwise eligible to purchase Health connector Plans may receive an Advance Premium Tax Credit (APTC) if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the health connector’s ConnectorCare program. 956 CMR § 12.04. One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year, and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4).

On October 10, 2018, the Appellant was determined eligible for Health Connector plans without subsidies. In 2017, the Appellant was eligible for ConnectorCare plans and received APTC. The Health Connector is required to redetermine eligibility for its members annually, and as part of this process, is required to reverify member income information, including by using electronic data sources, in accordance with 45 CFR § 155.335(b). The annual renewal process requires the Health Connector to notify members of the renewal year eligibility determination, and offer the member at least 30 days to report changes if the determination is not correct. 45 CFR § 155.335(c) – (g). Where the member does not report any changes, the Health connector must finalize the member’s eligibility based on the information it used in its renewal process. 45 CFR § 155.335(h).

On October 10, 2018, the Appellant was found eligible for Health Connector plans without financial help for plan year 2019, based on having failed to file the required reconciliation. This determination came as part of the Health Connector’s annual renewal process, and followed the preliminary eligibility notice for plan year 2019, which asked the Appellant to review this information and report any changes within 30 days if it was incorrect.
The Appellant did not report any changes, and the eligibility was finalized on October 10, 2018. This is consistent with annual renewal rules in federal regulation at 45 CFR § 155.335. The final determination was correct for Appellant, based on information available to the Connector. This process complied with federal law at 45 CFR § 155.335. Appellant subsequently updated her application and attested to filing the reconciliation, but testified that she had not done so prior to the hearing.

ORDER

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

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

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

Cc: Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during the tax year from the federal government will be reconciled when you file your taxes. This means that the federal government will look at how much premium tax credit you should have received and compare it to how much you actually received. If you got too much in tax credits during the tax year (meaning the modified adjusted gross income on file for us is too low), you may have to pay some of those tax credits back. On the other hand, if you got too little in tax credits during the tax year (meaning the modified adjusted gross income on file with was 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 Appeals Unit sent out additional copies of the Form 1095A’s to the Appellant after the hearing.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-7783

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare; income

Hearing Date: April 3, 2019  Decision Date: April 11, 2019

AUTHORITY
This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 et seq.; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 September 20, 2018, the Appellant was deemed eligible for ConnectorCare Plan Type 2B, and was asked to submit proof of income. On December 13, 2018, Appellant received a Request for Information to submit documents for income. On December 28, 2018, the Appellant was deemed eligible for Health Connector plans with no financial assistance based on a failure to submit adequate documentation of income.

ISSUE
The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans without financial assistance, based on Appellant’s failure to submit adequate documentation.

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on April 11, 2019. The hearing was recorded. The hearing record consists of the Appellant’s testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Affidavit of Record Verification (1 page);
Exhibit 2: Notice of Hearing (3-11-19) (4 pages);
Exhibit 3: Acknowledgement of Appeal (1-15-19) (4 pages);
FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance through the Health Connector during 2018.
2. Appellant was requested to submit proof of income in December 2018 to establish eligibility for 2019.
3. Appellant submitted documents in December, 2018, but those documents were determined to be inadequate.
4. Appellant made telephone calls and submitted additional documents, but was still deemed not to have submitted the required documents.
5. On December 28, 2018, Appellant was deemed eligible for Health Connector plans without financial assistance, based on a failure to submit adequate documentation.
6. Appellant was subsequently deemed eligible for Connector Care Plan 3A on January 10, 2019, but is still required to submit additional proof of income.
7. The Connector determination on December 28, 2018 was correct.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for ConnectorCare Plan Type 3A, and was asked to submit proof of income. Appellant submitted documents but they were determined to be inadequate. 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 status.

In October and again in December 2018, Appellant was asked to verify their income and submit proof of income. Appellant submitted income information which was determined to be inadequate and Appellant was found eligible on December 28, 2018 for Health Connector plans without financial assistance. Appellant was then found eligible for ConnectorCare Plan Type 3A in January 2019, but again was asked to submit proof of income.

The Health Connector correctly found that the Appellant was eligible for Health Connector plans without financial assistance on December 28, 2018, 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

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 was us was too high), you will get the rest of the tax credits you are owed when you file your taxes.

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

Note: Appellant was advised to contact the Appeals Unit for assistance in the documents needed for proof of income.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-7832

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

Hearing Issue: Whether the Health Connector correctly determined Appellants’ eligibility for subsidized health insurance coverage.

Hearing Date: March 25, 2019        Decision Date: April 1, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On January 3, 2019, the Health Connector notified Appellant that Appellant is eligible to enroll in an unsubsidized Health Connector plan for 2019 but not qualified for subsidized health insurance through the Health Connector.

ISSUE

Whether the Health Connector correctly determined Appellant’s eligibility for subsidized health insurance coverage in 2019.

HEARING RECORD

Appellant’s daughter and designated representative appeared at the hearing which was held by telephone on March 25, 2019. The hearing record consists of the testimony of Appellant’s daughter and the following documents which were admitted into evidence:

1
FINDINGS OF FACT

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

1. Appellant is an adult resident of Massachusetts. Testimony; Exhibits 1 and 2.
2. Appellant is over 65 but is not eligible for Medicare. Testimony; Exhibits 1 and 2.
3. Appellant has assets which exceed the levels allowed for Medicaid eligibility. Testimony.
4. Appellant does not have access to insurance through an employer. Exhibit 1 at 4; Exhibit 3 at 4.
5. Appellant was enrolled in a subsidized ConnectorCare health insurance plan in 2018. Exhibit 4 at 1.
6. Appellant applied to the Health Connector on December 10, 2018 for subsidized health insurance coverage in 2019. Exhibit 1. In this application, Appellant reported income which the Health Connector calculated at 86.03 percent of the Federal Poverty Level (“FPL”). Exhibit 1 at 1.
7. The Health Connector issued an “Eligibility Approval” letter dated December 10, 2018 which notified Appellant that she was eligible to enroll in a Health Connector plan for 2019 with no financial help, and that Appellant was not eligible for financial assistance through subsidized ConnectorCare or federal Advance Premium Tax Credits (“APTCs”). Exhibit 2. This letter explained to Appellant that the determination of ineligibility was based on one of the following reasons: (1) income in excess of 400% FPL; (2) access to health insurance through another source such as an employer; (3) failure to indicate an intention on the application to comply with tax-filing requirements; (4) failure to file a tax return for a prior year in which APTCs were received; or (5) failure to respond to a request or requirement from MassHealth. Id. at 2

8. Appellant updated the 2019 application on January 3, 2019, in which Appellant again reported income which the Health Connector calculated at 86.03 percent of FPL. Exhibit 3 at 1


10. Appellant requested a hearing to appeal the Health Connector’s eligibility determination. Exhibit 5.

11. None of the possible reasons listed in the Health Connector’s eligibility determination letters are applicable to Appellant which led to confusion on Appellant’s part as to the actual reason for the Health Connector’s denial of financial assistance. Testimony.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

In this case, Appellant applied for coverage in a subsidized ConnectorCare plan. Exhibits 1 and 3. However, because Appellant’s projected income for 2019 is less than 100 percent of the FPL, the Health Connector was constrained by the federal ACA regulations to find her ineligible for ConnectorCare since Appellant is not qualified...
by reason of income for an APTC. Accordingly, I find no error in the Health Connector’s determination that Appellant is not eligible for financial assistance from the Health Connector toward purchasing health insurance in 2019. I note that Appellant was enrolled in a ConnectorCare plan during 2018 despite having income below 100 percent of FPL, but this appears to have been a result of administrative error and, in any event, it does not provide a lawful basis for continuing Appellant’s ConnectorCare eligibility in 2019 when it is not permitted by the federal ACA regulations.

I recognize that the Health Connector’s determination places Appellant in the somewhat unusual and difficult situation of being ineligible for ConnectorCare because her income is too low, while at the same time she is ineligible for Medicaid (MassHealth) due to excess assets. During the hearing, Appellant’s representative was encouraged to contact MassHealth or a Certified Application Counselor to explore what alternative sources of financial assistance are available for someone in her circumstances.

ORDER

Based on the foregoing findings and conclusions, the appeal is **DENIED**, and the Health Connector’s January 3, 2019 eligibility determination is **AFFIRMED** as correct under the ACA and Massachusetts law.

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

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

Hearing Officer

Cc: Connector Appeals Unit
FINAL APPEAL DECISION: ACA19-7940

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

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

**Hearing Date:** March 14, 2019  
**Decision Date:** April 22, 2019

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**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On January 11, 2019, Appellant was determined ineligible for Health Connector plans effective January 31, 2019, 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 March 14, 2019.

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

- **Exhibit 1:** Health Connector’s Hearing Record Affidavit (1 page, undated)
- **Exhibit 2:** Health Connector’s Hearing Notice (4 pages, dated February 20, 2019)
- **Exhibit 3:** Health Connector’s Acknowledgment of Appeal (1 page, dated January 31, 2019)
- **Exhibit 3(a):** Health Connector’s Appeals Unit Staff Notes (1 page)
- **Exhibit 4:** Appellant’s Appeal Request Form (4 pages, dated January 28, 2019)
- **Exhibit 5:** Health Connector Notice of Eligibility Termination Including Application Summary (9 pages, dated January 11, 2019)
FINDINGS OF FACT

The record shows, and I so find:

1. In a prior eligibility determination, the Appellant was found eligible for ConnectorCare Plan Type 3A on October 8, 2018, and was asked to send in documents verifying the Appellant’s residency. (Exhibit 7)
2. The Appellant indicated she received her ConnectorCare Card sometime in November 2018. (Testimony and Exhibit 4, Page 3).
3. The Appellant spoke with a Connector Representative in December 2018 who contacted the Appellant about her address. (Exhibit 4, pp. 3 of 3).
4. The Appellant confirmed with the Connector Representative that the address the Connector had on file was proper. (Testimony and Exhibits 4, pp. 3 of 3)
5. The Appellant was determined ineligible for Health Connector plans on January 11, 2018 effective January 31, 2019, after failing to send in documents verifying residency. (Exhibit 4, Exhibit 1).
6. Appellant lives in Massachusetts, but did not send in documents verifying residency by the deadline. (Appellant testimony)
7. Appellant moved to the address the Connector had on file in September 2018. (Appellant Testimony).
8. Appellant indicated she received other mail at the address but “it was touch and go.” (Appellant Testimony).
9. Appellant indicated that she did not log onto the Health Connector portal but was made aware her coverage was terminated when she logged into her account on January 28, 2019 to pay her balance. (Exhibit 4, P. 3).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to verify residency. 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 October 8, 2018, the Appellant was determined eligible ConnectorCare Plan Type 3A and was asked to verify her residency. The Appellant was reminded to send in residency verification documents on October 8, 2018. The Appellant failed to send in documents verifying her residency, and was determined ineligible for Health Connector plans on January 31, 2019. 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 Appellant testified that she had received her Eligibility Card in the mail in October 2018 after being approved. The Appellant also verified with the Connector it had the correct address in December 2018 when she was contacted by the Connector.

Based upon the evidence in the record, it is concluded that the Connector’s determination on January 11, 2019, regarding the appellants’ eligibility for Health Connector Plan 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. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2018 from the federal government will be reconciled when you file your 2018 federal income tax return (usually in the spring of 2019). This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2018 (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 2018 (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 2018 will be paid to you when you file your 2018 federal income tax return.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-7968

Appeal Decision: Appeal Approved

Hearing Issue: Eligibility for ConnectorCare; income

Hearing Date: March 28, 2019

Decision Date: April 2, 2019

AUTHORITY
This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 et seq.; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and title 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 January 1, 2019, the Appellant was deemed eligible for Health Connector plans with APTC, with a FPL of 300.38%, based on counting weekly income as received for entire year.

ISSUE
The issue addressed on this appeal is whether the Health Connector correctly determined that Appellant was eligible for Health Connector plans with APTC, based on Appellant’s income information.

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone, on March 28, 2019. The hearing was recorded. The hearing record consists of the Appellant’s testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Affidavit of Record Verification (1 page);
Exhibit 2: Notice of Hearing (3-1-19) (4 pages);
Exhibit 3: Notice of prior hearing date (2-20-19) (4 pages);
Exhibit 4: Acknowledgement of Appeal (2-12-19) (2 pages);
Exhibit 5: Outreach notes (1 page);
Exhibit 6: Hearing Request form (2-1-19) (2 pages);
FINDINGS OF FACT

The record shows, and I so find:

1. Appellant had health insurance through the Health Connector during 2018.
2. Appellant was requested to submit proof of income in 2018 to establish eligibility for 2019.
3. Appellant works as a bus driver and works only 42 weeks per year, not 52 weeks per year.
4. Appellant reported weekly income of $475 which equates for 42 weeks to an annual income of $19,500.00. However, the Health Connector listed Appellant as having an annual income of $24,700. This income, together with the other household income, resulted in a Federal Poverty Level of 300.38%.
5. Appellant updated this income information and submitted documents showing the correct weekly income resulting but did not submit a statement from the employer confirming only 42 weeks per year as the work schedule.
6. The Connector made the change to reflect the Federal Poverty Level of 271.53% based upon working 42 weeks per year, but it did not apply for January or February. Appellant was also asked to submit additional documentation.
7. Appellant’s testimony that she works only 42 weeks per year is accepted as adequate proof, and the determination for January and February of 2019 was incorrect.
8. Appellant’s revised eligibility for ConnectorCare Plan Type 3B was correct, as made as of March 1, 2019.

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector Plans with APTC (without Massachusetts subsidies) based on incorrectly projecting annual income information of the Appellant. Appellant was asked to submit proof of income which she did the Connector then made the change to reflect a Federal Poverty Level of 271.53%. 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 status.

Appellant informed the Health Connector of her weekly income and submitted documents showing the weekly income. Appellant verbally told the Health Connector she worked only 42 weeks per year, but the determination was made on the basis that she worked 52 weeks per year. The hearing officer found her testimony sufficient to establish that she works only 42 weeks per year, and that the Health Connector determination for January and February of 2019 was incorrect.

The Health Connector incorrectly found that the Appellant was eligible for Health Connector Plans with APTC on January 1, 2019 and that determination is not upheld.
ORDER

The Connector determination was incorrect. The appeal is therefore allowed.

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

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

Cc: Connector Appeals Unit

ADDENDUM

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

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

Note: Appellant listed as a dependent and part of her tax household her mother, and therefore, her mother’s income was also used to calculate the eligibility for Appellant. If Appellant does not claim her mother as a dependent, she should contact the Health Connector to update her application.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8152

Appeal Decision: Appeal Allowed

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

Hearing Date: March 21, 2019

Decision Date: April 29, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 27, 2019, the Appellant was determined ineligible for Health Connector plans without subsidies, due to failure to have a life qualifying event.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 21, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

Exhibit 1: Health Connector’s Hearing Affidavit (1 page)
FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined eligible for Health Connector plans with Advanced Premium Tax Credits. (Exhibit 7)
2. The Appellant was unhappy with Health plan she signed up for because of the cost of out of pocket expenses and wanted to change health insurance plans. Appellant telephoned the Health Connector on February 8, 2019 and requested a change in health plans. (Exhibit 4 & 5, Appellant testimony)
3. Appellant was asked during her testimony if she had a life qualifying event and did not answer in the affirmative. Appellant was offered an opportunity to produce documents that showed that Appellant had a life qualifying event but did not produce any records. (Appellant’s testimony, Exhibit 9)
4. Appellant did not experience a life qualifying event. (Appellant’s testimony and failure to produce documents of a life qualifying event, Exhibit 9)

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found eligible for Health Connector plans with APTC but was not granted a special enrollment period and did enroll in coverage. The Appellant asserts that this enrollment in a plan is too expensive and wants to enroll in another plan. Under 45 CFR s. 155.410, individuals may enroll in coverage only during Open Enrollment, which for 2019 was November 1, 2018 to January 23, 2019. Outside of open enrollment an individual may be granted a special enrollment period, during which the individual can enroll in coverage, but only if the
individual experiences a qualifying event, such as a change in household composition or loss of coverage, 45 CFR s. 155.420.

Appellant was determined eligible for Health Connector plans with APTC, but she wanted to change plans. Appellant was found not eligible for a special enrollment period due to failure to have a qualifying life event. At the hearing I asked the Appellant whether the Appellant had experienced any qualifying event, as listed in the Health Connector’s policy NG-1E. The Appellant testified to not having a qualifying event and the hearing was left open for the Appellant to send in documentation of a life qualifying event but no documentation was received. Because the Appellant did not experience an exceptional circumstance, which was a qualifying life event, the Health Connector’s determination that the Appellant was not eligible for a special enrollment period was 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 or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 1-877-369-0130. The mailing address is, Health Insurance Marketplace, Attention Appeals, 465 Industrial Blvd, London, KY 40750-0061. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8173

Appeal Decision: Denied

Hearing Issues: Appellant’s Eligibility for ConnectorCare and Advance Premium Tax Credits. Ineligibility of a household member based on failure to establish lawful presence

Hearing Date: April 2, 2019   Decision Date: April 9, 2019

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

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

ORIGINAL ACTIONS TAKEN BY THE HEALTH CONNECTOR
On February 5, 2019, the Appellant was determined eligible for ConnectorCare Plan Type 2B with Advance Premium Tax Credits.

On February 5, 2019 the Appellant’s spouse was determined ineligible for health insurance through the Health Connector for failing to establish lawful presence.

ISSUES
The first issue addressed on this appeal is whether the Health Connector correctly determined the Appellant’s financial eligibility based on the income information provided.

The second issue addressed is whether the Health Connector correctly determined that Appellant’s spouse was not eligible for Health Connector plans, based on the Appellant’s failure to establish lawful presence to the Health Connector.

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone on April 2, 2019. The Appellant’s spouse attended the hearing but did not testify. Interpreter services were provided at the Appellant’s request. 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.
FINDINGS OF FACT
The record shows, and I so find:

1. On February 5, 2019 the Appellant completed an application for health insurance for them self, their spouse and one child, age fourteen. The Appellant and their child are citizens of the United States. The Appellant’s spouse is not a citizen. The spouse did not attest to being lawfully present and did not provide documentation of their immigration status (Exhibits 7, 8 and Appellant Testimony).
2. The Appellant verified annual rental and self-employment income totaling $34,976 (Exhibit 8).
3. On February 5, 2019, the Health Connector found, based on this projected income and household size, that the Appellant’s projected MAGI would place Appellant at approximately 168.32% of the 2018 Federal Poverty Level (FPL) (Exhibit 8).
4. On February 5, 2019, the Health Connector correctly found that the Appellant was eligible for state subsidized health insurance ConnectorCare Plan Type 2B with Advance Premium Tax Credit of $317 because the Appellant’s self-attested projected income placed their household at more than 150% but less than 200% of the Federal Poverty Level. The Appellant’s child was determined eligible for MassHealth Family Assistance (Exhibits 5, 8).
5. On February 5, 2019 the Health Connector correctly found that the Appellant’s spouse was not eligible for Health Connector Plans because the Appellant and their spouse did not provide evidence to establish that the Appellant’s spouse is lawfully present in Massachusetts (Exhibits 6, 7, 8 and Appellant Testimony).
6. On February 19, 2019 the Appellant filed an appeal to dispute the eligibility determinations for both adult household members (Exhibit 4).
7. As of the date of the Hearing, April 2, 2019, the Appellant had not selected or enrolled in a health plan (Exhibit 3 and Appellant Testimony).
8. The Appellant testified that their income has changed since the time of application. The Appellant said that their rental property was unoccupied for a period of time and their self-employment income also decreased because the Appellant was ill and unable to work. The Appellant also testified that they are in the process of obtaining legal status for their spouse (Appellant Testimony).
9. The ConnectorCare premium amount was explained and the Appellant was advised to contact Health Connector Customer Service as soon as possible to report their change in income and to enroll in a health insurance plan.

ANALYSIS AND CONCLUSIONS OF LAW
The Appellant applied for subsidized health insurance for their household of three through the Health Connector on February 5, 2019. The Appellant and their child are citizens of the United States. The Appellant’s spouse is not a citizen and did not attest to being lawfully present in the United States. The Appellant’s child was determined eligible for MassHealth. The Appellant was determined eligible for ConnectorCare. The Appellant’s spouse was
determined to be ineligible for health connector plans. On February 21, 2019 the Appellant filed an appeal to dispute the eligibility determinations for both adult household members.

Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Appellant and their spouse did not present any evidence to establish that the Appellant’s spouse is lawfully present. The Health Connector correctly found on February 5, 2019 that the Appellant’s spouse was not eligible for Health Connector plans. 45 CFR § 155.305(a)(1).

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

The Appellant stated on their application that their projected MAGI was $34,976. This income is equivalent to approximately 168.32% of the Federal Poverty Level and renders the Appellant financially eligible for state and federal subsidies. Since the Appellant’s projected MAGI is more than 150% but less than 200% of the Federal Poverty Level the Health Connector correctly determined that the Appellant is eligible for ConnectorCare Plan Type 2B. 956 CMR 12.04(3). The Appellant was also determined eligible for Advance Premium Tax Credit of $317.00 monthly.

At the Hearing, the Appellant testified that they are going through the process to obtain legal status for their spouse. The Appellant also said that their income is less than they attested to and verified in February 2019. The Appellant was advised that the monthly premium amount for ConnectorCare Plan Type 2B is $44.00. The Appellant was informed that they could choose a plan and enroll. The Appellant was also advised that they could update their application at any time and report the change in income. The Health Connector’s February 5, 2019 eligibility determinations for the Appellant’s household were correct.

ORDER
This appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT
If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals 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 may contact Customer Service at 1-877-623-6765 to enroll in a plan and report their change in income.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8179

Apologies Decision: Denied

Hearing Issue: Ineligibility of a household member based on failure to establish lawful presence

Hearing Date: April 2, 2019          Decision Date: April 9, 2019

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

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
On February 6, 2019 the Appellant was determined ineligible for health insurance through the Health Connector for failing to establish lawful presence.

ISSUE
Did the Health Connector correctly determined that Appellant was not eligible for Health Connector plans, based on the Appellant’s failure to establish lawful presence to the Health Connector.

HEARING RECORD
The Appellant appeared at the hearing, which was held by telephone on April 2, 2019. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector’s Hearing Record Affidavit.
Exhibit 3: Health Connector Appeals Unit Outreach Notes.
Exhibit 4: The Appellant’s Hearing Request Form submitted on February 19, 2019.
Exhibit 6: An AVV printout.
Exhibit 7: 2019 Eligibility Results with an application summary dated March 13, 2019.
Exhibit 8: An Address verification printout.
FINDINGS OF FACT
The record shows, and I so find:

1. On February 6, 2019 the Appellant completed an application for health insurance. The Appellant reported that they live with their spouse, but the spouse was not applying for coverage. The Appellant is not a US citizen did not attest to being lawfully present on their application (Exhibits 3, 5).
2. The Appellant reported that their spouse has self-employment income of $1,600, but the income was not verified. In addition, the Appellant did not attest to planning to file an income tax return (Exhibit 5).
3. On February 6, 2019 the Health Connector correctly found that the Appellant was not eligible for Health Connector Plans because the Appellant did not provide evidence to establish that the Appellant is lawfully present in Massachusetts (Exhibits 5, 6, 7).
4. On February 19, 2019 the Appellant filed an appeal to dispute the eligibility denial (Exhibit 4).
5. On March 13, 2019 the Appellant updated their application to report increased income of their spouse. The Appellant did not attest to being lawfully present on this application (Exhibit 7).
6. The Appellant testified that they are in the process of adjusting their legal status with immigration authorities. The Appellant said that they could not submit documentation to verify lawful presence but they need health insurance (Exhibit 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW
The Appellant applied for health insurance through the Health Connector on February 6, 2019. The Appellant reported that they live with their spouse, but the spouse was not applying for health insurance. The Appellant is not a citizen and did not attest to being lawfully present in the United States on their February 6, 2019 or March 13, 2019 applications. The Appellant’s was determined to be ineligible for health connector plans. On February 19, 2019 the Appellant filed an appeal to dispute the eligibility determination.

Under 45 CFR § 155.305(a), only persons who are lawfully present in the United States and who are otherwise eligible may purchase health and dental insurance through the Health Connector. The Appellant testified that they are in the process of adjusting their legal status with the immigration authorities. When asked about documentation, the Appellant indicated that they are unable to present any evidence to establish that the Appellant is lawfully present. Based on the evidence in this administrative record, the Health Connector correctly found on February 6, 2019 that the Appellant was not eligible to purchase insurance through the Health Connector. 45 CFR § 155.305(a)(1).

ORDER
This appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT
If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals 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
FINAL APPEAL DECISION: ACA19-8214

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

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

**Hearing Date:** April 4, 2019  
**Decision Date:** April 22, 2019

**AUTHORITY**

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

**JURISDICTION**

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On February 7, 2019, Appellant was determined ineligible for Health Connector plans with coverage ending on February 28, 2019, 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 April 4, 2019.

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

- **Exhibit 1:** Health Connector’s Hearing Record Affidavit (1 page, undated)
- **Exhibit 2:** Health Connector’s Hearing Notice (4 pages, dated March 11, 2019)
- **Exhibit 3:** Health Connector’s Acknowledgment of Appeal (6 pages, dated February 26, 2019)
- **Exhibit 3(a):** Health Connector’s Appeals Unit Staff Notes (1 page)
- **Exhibit 4:** Appellant’s Appeal Request Form (2 pages, dated February 22, 2019)
- **Exhibit 5:** Health Connector Notice of Eligibility Termination (6 pages, dated February 7, 2019)
Exhibit 6: Appellant’s Application Summary Results (4 pages, dated February 22, 2019)
Exhibit 7: Health Connector Information Request to Appellant, requesting documents verifying the Appellant’s residency (12 pages, dated November 4, 2018)
Exhibit 8: Affidavit of Residence Supporting Documents submitted by Appellant received on March 11, 2019 (6 pages).

The record was kept open until April 11, 2019 for the Appellant to submit additional documents regarding confirmation of documents sent for proof of residency.


FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was sent a Request for Information on November 4, 2018 requesting the Appellant send in Proof of Residency with a due date of February 2, 2019. (Exhibit 7)
2. The Appellant indicated on his Appeal Request he called the Connector in November 2018 and faxed the documents proving his new residency in November 2018. (Exhibit 4, Pages 1,2).
3. The testified he went to a copy store and faxed the proof of residency documents on December 15, 2019 and received a fax confirmation. (Testimony).
4. The Connector’s Notes reflect no document from the Appellant was received prior to March 11, 2018. (Exhibits 3(a)).
5. The Appellant was determined ineligible for Health Connector plans on February 7, 2019 with coverage ending on February 28, 2019 after failing to send in documents verifying residency. (Exhibit 1, Exhibit 5)
6. The Appellant sent in residency documents received by the Connector received on March 11, 2019. (Appellant testimony, Exhibit 8).

ANALYSIS AND CONCLUSIONS OF LAW

The Appellant was found ineligible for Health Connector Plans based on failing to verify residency. 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 November 4, 2018, the Appellant was asked to verify his residency. The Appellant was reminded to send in residency verification documents. The Appellant failed to send in documents verifying his residency, and was determined ineligible for Health Connector plans on February 7, 2019 with his coverage ending on February 28,
2019. 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 Appellant testified that he had faxed proof of residency documents on December 15, 2018, The Appellant referenced in his hearing request form he had faxed the appropriate documents in November 2018. The Connector has no record of receipt of residency verification from the Appellant in November or December 2018. The Connector did not receive proof of residency document from the Appellant until March 11, 2019. (Exhibit 9).

Based upon the evidence in the record, it is concluded that the Connector’s determination on February 7, 2019, regarding the appellants’ eligibility for Health Connector Plan 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. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of receiving this letter.

Hearing Officer

Cc: Health Connector Appeals Unit

ADDENDUM

If you are found eligible for a Health Connector plan with Advanced Premium Tax Credits, or a ConnectorCare plan (which also includes Advanced Premium Tax Credits), it is important to report changes in your income or family size to the Health Connector as soon as possible. Any advance premium tax credits you get during 2018 from the federal government will be reconciled when you file your 2018 federal income tax return (usually in the spring of 2019). This means that the federal government will look at how much premium tax credit you should have received, and compare it to how much you actually received. If you got too much in tax credits during 2018 (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 2018 (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 2018 will be paid to you when you file your 2018 federal income tax return.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8246

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income.

Hearing Date: March 20, 2019  Decision Date: April 29, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

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

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 20, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant was sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

Exhibit 1: Health Connector’s Hearing Affidavit (1 page)
FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is a 33 year old married female, who applied with her husband and child for subsidized health insurance on several occasions including January 25, 2019, February 2, 2019 and March 20, 2019. (Exhibit 7, Exhibit 8 & Exhibit 9)
2. The Appellant has a household of three. (Exhibit 7 & 8)
3. On her application, the Appellant entered a projected annual modified adjusted gross income of (MAGI) of $54,516.00.
4. Appellant sent in a copy of the front page of her 1040 income return to prove income. Appellant was notified that the one-page document was insufficient to prove income. Appellant was sent information of what was necessary to prove income as a self-employed individual on 1/24/19. The required information included 1040 SE with schedules C,F or SE or, self-employment ledger or bookkeeping records (Exhibit 9)
5. Appellant paid a premium of $88.00 in November 2018, $252.00 in December 2018, $252.00 in January 2019 and $170.00 in February 2019. Appellant appeal was requesting the difference between her premium of $88.00 and what she paid for the above months.
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).

Appellant applied for health insurance coverage through the Connector. She was found eligible for Health Connector plans and she was notified that she was required to submit documentation of proof of income to confirm their eligibility. Appellant did not submit the documentation requested. The new determination was based on data from other sources because the Appellant did not send in the documents that were requested. On February 25, 2019, Appellant filed for an appeal based on her income.

The Connector made the correct determination based upon the information supplied by the Appellant and obtained from other sources. When Appellant did not supply the required documentation, the Connector changed the determination based on data from other sources.

ORDER

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

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

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Hearing Officer

Cc: Connector Appeals Unit
ADDENDUM
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8294

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for subsidized Health Connector plans, based on failure to verify income

Hearing Date: April 17, 2019   Decision Date: April 24, 2019

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

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
On February 2, 2019, Appellant was determined eligible for Health Connector plans, but ineligible for subsidies due to failure to verify income

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

HEARING RECORD
Appellant appeared at the hearing, which was held by telephone, on April 17, 2019. The hearing record consists of the Testimony of Appellant and the following documents which were admitted into evidence:

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant’s file,
Exhibit 2: Correspondence from Connector Appeals Unit
Exhibit 3: Hearing Request Form and support documents
Exhibit 4: Notices on Appeal
Exhibit 5: Eligibility Results and Application Summary
Exhibit 6: Request for Information, dated October 30, 2018
FINDINGS OF FACT
The record shows, and I so find:

1. On October 30, 2018, Appellant was sent a notice to send in proof of income on or before January 28, 2019 in order to continue the subsidized health insurance (Exhibit 6).
2. Appellant did not send in the information by January 28, 2019 (Exhibit 5).
3. On February 2, 2019, Appellant was sent a notice that beginning on March 1, 2019, Appellant was eligible for a Health Connector Plan but was not eligible for subsidies due to not sending in the requested information (Exhibit 4).
4. Appellant lost a job in October 2018 and was unsure of what the projected income would be (Testimony of Appellant).
5. At the time of the hearing, Appellant still had not sent in the requested information about Appellant’s income (Testimony of Appellant).
6. Appellant’s application also listed people that were not part of the same household as Appellant (Testimony of Appellant and Exhibits 4 and 5).
7. Appellant also was requested to send in a document regarding information about the children, which Appellant still had not sent in (Exhibit 4 and 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 if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector’s ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants’ eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants’ income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants’ income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

The Health Connector requested income information on October 30, 2018 to be sent to the Connector by January 28, 2019. The Health Connector did not receive the requested income information by January 28, 2019. As a result, Appellant was found eligible for Health Connector Plans with no subsidies beginning on March 1, 2019, based upon electronic data sources. 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 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 given the number of the Health Connector (1-877 623-6765). It was suggested that Appellant call the Health Connector as soon as possible, to update the application about family members and income, as well as provide all requested documents.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8299

Appeal Decision: Appeal Denied, Eligibility determination upheld

Hearing Issue: Eligibility for subsidized Health Connector plans, based on failure to verify residency and income

Hearing Date: April 17, 2019  Decision Date: April 29, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

In February 2019, Appellant was determined ineligible for Health Connector Plans for failure to provide proof of residency and proof of income. After providing proof of residency, on March 21, 2019, Appellant was found eligible for Health Connector plans, but ineligible for subsidies due to failure to verify income

ISSUE

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 17, 2019. Also present was Appellant’s family member and a duly sworn interpreter. The hearing record consists of the Testimony of Appellant and the following documents which were admitted into evidence:

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant’s file,
Exhibit 2: Correspondence from Connector Appeals Unit
Exhibit 3: Hearing Request Form and support documents
Exhibit 4: Notices on Appeal
Exhibit 5: Request for Information, dated November 29, 2018
FINDINGS OF FACT
The record shows, and I so find:

1. On November 29, 2018, Appellant was sent a notice to send in proof of residency and proof of income on or before February 27, 2019 in order to be eligible for subsidized health insurance (Exhibit 6).
2. Appellant had moved in November 2018 and did not change the address with the Health Connector for several months (Testimony of Appellant).
3. Appellant did not receive the notice from November 29, 2018 and Appellant did not contact the Health Connector until February 2019.
4. Appellant did not send in the required information by February 27, 2019 (Exhibit 5).
5. In March 2019, Appellant provided proof of residency and a corrected address to the Health Connector (Exhibit 4 and Testimony of Appellant).
6. On March 21, 2019, Appellant was sent a notice that beginning on April 1, 2019, Appellant was eligible for a Health Connector Plan but was not eligible for subsidies due to not sending in the requested income information (Exhibit 4).
7. As of March 21, 2019, Appellant still had not sent in the income information because they were waiting to complete income taxes (Testimony of Appellant).
8. Appellant sent some income information to the Health Connector in early April. Appellant was not sure where the information was mailed to (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 if their household income is at or below 400% of the Federal Poverty Level. Applicants who qualify for APTC and who have projected yearly MAGI less than or equal to 300% FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program. 956 CMR § 12.04. The Health Connector attempts to verify applicants’ eligibility by checking electronic data sources to confirm the information provided by applicants, including applicants’ income, in accordance with 45 CFR § 155.320(d). Where the Health Connector cannot verify applicants’ income electronically, it requests verifying information from them, in accordance with 45 CFR § 155.315(f). If applicants do not provide verifying information, the Health Connector will revert to electronic data sources for a household income value, and issue a new eligibility determination, in accordance with 45 CFR §§ 155.315(f)(5), 155.320(c)(3)(i)(D).

On November 29, 2018 The Health Connector requested income and residency information to be sent to the Connector by February 27, 2019. Appellant provided residency information in March 2019 but the Health Connector still had not been provided with income information in March. On March 21, 2019, Appellant was found eligible for Health Connector Plans with no subsidies beginning on April 1, 2019, based upon electronic data sources. 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 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 given the number of the Health Connector (1-877 623-6765). It was suggested that Appellant call the Health Connector as soon as possible, to find out exactly what income information was still needed and how to send it to the Connector as soon as possible.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8304

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** April 19, 2019  
**Decision Date:** April 24, 2019

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

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**
On February 22, 2019, the Appellant was determined eligible for Health Connector plans without subsidies. The Appellant’s determination came after failing to verify income.

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

**HEARING RECORD**
The Appellant appeared at the hearing, which was held by telephone, on April 19, 2019. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

- **Exhibit 1:** Health Connector’s Hearing Record Affidavit.
- **Exhibit 2:** Health Connector Appeals Unit Notice of Hearing, with attachments, dated March 20, 2019.
- **Exhibit 3:** Health Connector Appeals Unit Outreach Notes.
- **Exhibit 4:** The Appellant’s Online Appeal Request submitted on March 4, 2019.
- **Exhibit 5:** Documentation sent by the Appellant to the Health Connector Appeals Unit on March 22, 2019.
- **Exhibit 6:** An Eligibility Approval notice issued by the Health Connector on February 22, 2019, with an Application Summary attached.
FINDINGS OF FACT
The record shows, and I so find:

1. Prior to March 1, 2019 the Appellant was receiving ConnectorCare with Advance Premium Tax Credits based on the Appellant’s having attested to having income equal to 205.63% of the federal poverty level (Exhibits 3, 4, 6, 7 and Appellant Testimony).
2. On November 19, 2018 the Health Connector issued a Request for Information. The Appellant was asked to provide updated income verification by February 17, 2019. The Notice advised the Appellant of the types of documents needed to verify income as well as the contact information to submit the documentation requested by mail or fax (Exhibit 7).
3. As of February 22, 2019, the Health Connector had not received updated income verification from the Appellant. The Health Connector was unable to obtain proof of the Appellant’s income from third party data sources (Exhibit 6).
4. On February 22, 2019 the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial help effective March 1, 2019 because the Health Connector was unable to determine the Appellant’s countable income (Exhibit 6).
5. On March 4, 2019 the Appellant filed an appeal. The Appellant maintains that they mailed copies of their wage stubs to the Health Connector prior to the February due date (Exhibit 4 and Appellant Testimony).
6. On March 22, 2019 the Appellant sent proof of income to the Health Connector Appeals Unit. This documentation was forwarded to Health Connector Customer Service (Exhibits 3, 5).
7. On March 27, 2019 the Health Connector determined that the Appellant remained eligible for Health Connector plans without subsidies despite the Appellant’s verified income of approximately 184.21% of the federal poverty level (Exhibit 8).
8. On January 12, 2018 the Health Connector sent the Appellant a copy of Form 1095-A for filing 2017 taxes. The Appellant was informed that they must use the information to file their 2017 income tax return including IRS Form 8962 to reconcile their taxes for tax year 2017 (Exhibit 9).
9. The Appellant testified that they thought they had filed their tax return but could not say with certainty that they had filed IRS Form 8962 to reconcile their taxes for tax year 2017. The Appellant testified that they would have to check (Appellant Testimony).
10. The Appellant was advised to file all necessary tax documents for tax year 2017 and to call Health Connector Customer Service to attest to having done so as soon as possible.
11. On January 14, 2019 the Health Connector sent the Appellant a copy of Form 1095-A for filing 2018 taxes. The Appellant was informed that they must use the information to file their 2018 income tax return including IRS Form 8962 to reconcile their taxes for tax year 2018 (Exhibit 10).
ANALYSIS AND CONCLUSION OF LAW

Prior to March 1, 2019 the Appellant was determined eligible for ConnectorCare with Advance Premium Tax Credits. On November 19, 2018 the Health Connector issued a Request for Information. The Appellant was informed, in writing, that updated income information was required to be submitted to the Health Connector by February 17, 2019. As of February 22, 2019, the Health Connector had not received the information requested.

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

The Health Connector resorted to third party data sources for information, but no information was available. On February 22, 2019 the Appellant was notified that they were eligible for Health Connector Plans without subsidies for the period beginning March 1, 2019. This process complied with federal law at 45 CFR §§ 155.315(f) and 155.320(d). The Appellant was correctly found eligible for Health Connector plans, without subsidy for the period beginning March 1, 2019.

The Appellant filed an appeal to dispute the determination on March 4, 2019. The Appellant testified that they sent the information to the Health Connector by mail prior to the February 17, 2019 deadline and have no idea why the information was not received. The Appellant sent income documentation to the Health Connector Appeals Unit on March 22, 2019. This information was forwarded to Customer Service. Although the Appellant verified income less than 300% of the federal poverty level, on March 27, 2019 the Health Connector notified the Appellant that they remain ineligible for subsidies.

One of the requirements to be eligible for APTC is that an individual who received APTC in a prior tax year file a federal income tax return for that year and reconcile the amount of APTC received against the amount the individual is eligible for. 45 CFR § 155.305(f)(4). In 2017, the Appellant was eligible for ConnectorCare, and received APTC. As of March 27, 2019, the Health Connector was unable to verify that the Appellant had filed an income tax return with the required IRS Form 8962. The Health Connector had issued Form 1095-A for 2017 with instructions for filing on January 12, 2018.

The Appellant testified that they were unsure if they had filed the required IRS Form 8962 and would have to check their records. The Appellant was advised to do so and contact Health Connector Customer Service to report that they had filed their complete tax year 2017 return as soon as possible. Based on available evidence, the Health Connector correctly determined that the Appellant is not eligible for APTC or ConnectorCare. 45 CFR § 155.305(f)(4), 956 CMR § 12.04.

ORDER

This appeal is denied.
NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals 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 should comply with the requirement to reconcile receipt of 2017 premium tax credits by filing a 2017 federal income tax return, including Form 8962. The Appellant will need to use Form 1095A in order to complete Form 8962. If the Appellant does not have their Form 1095A, and because the Appellant received APTC in 2017 through the Health Connector, the Appellant should contact the Health Connector’s customer service center to request a duplicate 1095A form. Once the Appellant complies with the requirement to reconcile 2017 APTC, the Appellant can report a change to their 2019 application, attesting to compliance with the reconciliation requirement. The Appellant is also reminded to comply with the reconciliation requirement by filing a 2018 federal income tax return with Form 8962 and reconciling any APTC received in 2018.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8321

Appeal Decision:  Appeal Approved

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

Hearing Date:  April 19, 2019          Decision Date:  April 22, 2019

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AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTIONS TAKEN BY THE HEALTH CONNECTOR

On February 25, 2019 the Appellant was determined eligible for Health Connector Plans. On March 2, 2019 the Appellant was determined ineligible for a special enrollment period.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on April 19, 2019. The hearing record consists of the Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1:    Health Connector’s Hearing Record Affidavit.
Exhibit 3:    Health Connector Appeals Unit Outreach Notes.
Exhibit 4:    The Appellant’s Hearing Request Form submitted on March 5, 2019.
Exhibit 9: Health Connector Agent Portal printout.
Exhibit 10: Payment Portal My Payments printout verifying the Appellant’s premium payment history.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to December 31, 2018 the Appellant was enrolled in a Non-Standard Tufts Health Direct Bronze plan through the Health Connector (Exhibit 9 and Appellant Testimony).
2. On January 7, 2019 the Appellant was notified that their eligibility for Health Connector coverage ended effective November 30, 2018 because the Health Connector did not receive full payment of the monthly premiums. The Notice advised the Appellant that if they wished to reinstate their insurance, they must telephone Health Connector Customer Service and pay the full amount due by February 6, 2019 (Exhibit 8).
3. The Appellant made multiple payments to the Health Connector on January 1, 2019, January 24, 2019 and January 31, 2018. Although the Appellant had paid the premium arrearages in full by the February 6, 2019 deadline, the Appellant’s Health Connector insurance ended December 31, 2018 (Exhibits 9, 10 and Appellant Testimony).
4. On February 25, 2019 the Appellant completed an application to reinstate their insurance (Exhibit 6).
5. On February 25, 2019 the Health Connector determined that the Appellant has income equal to 700% of the federal poverty level and therefore continues to be eligible for Health Connector plans without subsidies (Exhibits 6, 7).
6. On March 2, 2019 the Appellant’s request for a Special Enrollment Period was denied for failing to document a qualifying life event (Exhibit 5 and Appellant Testimony).
7. The Appellant filed an appeal on March 5, 2019 (Exhibit 4).
8. The Appellant testified that they did not receive the January 7, 2019 letter informing them that they had to specifically contact Customer Service to request reinstatement of their health insurance. The Appellant said that they thought if they paid what they owed they would be all set. The Appellant testified that the street address for their new home is a three-digit number. Notices sent by the Health Connector were sent to a two-digit street address. It appears that the Appellant made a clerical error when entering their new address into the system (Exhibits 2, 5, 7, 8 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

On March 2, 2019 the Health Connector denied the Appellant’s request for a Special Enrollment period because the Appellant had failed to verify a qualifying life event. The Appellant appealed that determination on March 5, 2019.

Prior to December 31, 2018 the Appellant was enrolled in a health insurance plan through the Health Connector. On January 7, 2019 the Health Connector notified the Appellant that their health insurance coverage ended effective November 30, 2018 because the Appellant had not paid the full amount of their health monthly health insurance premiums as required. The notice advised the Appellant that if they wished to reinstate their coverage, they must call Health Connector Customer Service to request reinstatement and pay all premiums plus the full amount of coverage for the next month by February 6, 2019. This information is consistent with Health Connector Policy NG-6B.
The Appellant’s Payment Portal history verifies that the Appellant did make the required payments by the February 6, 2019 deadline. According to the Agent Portal printout, the Appellant’s coverage ended December 31, 2018, not November 30, 2018.

Once the Appellant realized their coverage ended, the Appellant completed an application on February 25, 2019 and the application was approved. Once again, the Appellant was determined eligible for Health Connector Plans, but their request for a Special Enrollment Period was denied by notice dated March 2, 2019 for failing to verify a qualifying life event.

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee’s Service Area during any open enrollment periods established by state or federal law. Typically, enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the enrollee experiences a qualifying life event as listed in the Health Connector’s Policy NG 1E. Losing health insurance is a triggering event unless the loss is due to non-payment of the monthly premiums. While the Appellant did lose their insurance for this reason, as noted above the Appellant took steps to cure this termination by making the full monthly payments owed by February 6, 2019 as requested by the Health Connector. The Appellant’s attempt to reinstate their insurance was not perfected because the Appellant did not specifically telephone Customer Service to request reinstatement as outlined in Health Connector Policy NG-6B.

The Appellant explained that they received some, but not all the notices issued by the Health Connector and did not realize that they were specifically required to telephone Customer Service. The Appellant’s testimony is supported by the fact that the Appellant’s address of record did contain a clerical error. The Appellant was aware that they owed money and the evidence establishes that the Appellant paid the full amount due by February 6, 2019. The Appellant’s health insurance did not end on November 30, 2018 as indicated on the January 7, 2019 notice. This would have led the Appellant to assume that their attempt to reinstate their insurance was successful. Under these circumstances the Appellant should be given a Special Enrollment Period to allow the Appellant to enroll in a health plan. This Appeal is approved.

ORDER
The Health Connector should notify the Appellant of their Special Enrollment Period as soon as possible.

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

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8340

Appeal Decision: Appeal Denied

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

Hearing Date: March 11, 2019
Decision Date: April 2, 2019

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

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
On March 5, 2019, Appellant was determined eligible for Health Connector plans, but ineligible for subsidies. The reason the Appellant was found ineligible for subsidies is because Appellant had access to Medicare or was enrolled in Medicare.

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

HEARING RECORD
Appellant appeared at the hearing which was held by telephone, on March 11, 2019.
The hearing record consists of Appellant’s testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector’s Hearing Record Affidavit
Exhibit 2: Correspondence from Appeals Unit
Exhibit 3: Notice of Appeal and support documents
Exhibit 4: Health Connector Notices on Appeal
Exhibit 5: Eligibility Results and Application
Exhibit 6: Eligibility Results for family member
FINDINGS OF FACT
The record shows, and I so find:

1. Appellant was covered by MassHealth in early 2017 (Testimony of Appellant).
2. Due to a change in family income, Appellant was enrolled in a subsidized Health Connector Plan beginning in January 2019 (Testimony of Appellant).
3. On or about March 1, 2019, Appellant became eligible for and enrolled in Medicare Part A and Part B (Testimony of Appellant).
4. On or about March 1, 2019, Appellant was determined eligible for Health Connector plans but ineligible for subsidies, based on having access to Medicare or being enrolled in Medicare (Exhibit 4).
5. Appellant filed a Notice of Appeal on March 6, 2019, claiming that Appellant wanted to continue coverage in a Health Connector Plan (Exhibit 3 and Testimony of Appellant).

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

For new sales, the Health Connector is prohibited by the anti-duplication rule from ever selling coverage to an individual eligible for Medicare. For renewals, where individuals are seeking to continue in coverage after the end of a plan year and which health insurance issuers are generally required to perform (45 CFR § 147.106), the federal government has clarified the applicability of the anti-duplication rule, by noting that health insurance issuers would not violate that rule if they allowed Medicare-eligible enrollees to renew their “same policy or contract of insurance.” See 45 CFR § 147.106 and 45 CFR § 148.122; and discussion generally at 81 FR 94068, December 22, 2016.

Since Appellant’s Medicare eligibility began in March 2019, after Appellant was enrolled in a plan for 2019, Appellant is eligible to remain in the plan until the end of the plan year on December 2019. However, since Appellant is enrolled in Medicare, which is minimum essential coverage, Appellant is not eligible for Advance Premium Tax Credits. See 45 CFR § 155.305 (f)(1)(ii)(B). Since Appellant is not eligible for Advance Premium Tax Credits, Appellant would also not be eligible for Massachusetts subsidies. See 956 CMR § 12.04.

ORDER
Appellant is eligible to continue in a Health Connector Plan for 2019, but is not eligible for subsidies. The appeal is denied.
NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT
If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals or write a letter requesting an appeal. Include your name, address and the reason you are requesting the appeal. Fax your appeal to a secure fax line 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 should be aware that Appellant’s eligibility for enrollment in an unsubsidized Health Connector Plan will continue only until December 31, 2019. After that time, Appellant will no longer be eligible for a Health Connector Plan. Appellant may want to contact the SHINE program, at 1 800 841-2900. SHINE is a state health insurance assistance program that provides health insurance information, counseling and assistance to Massachusetts residents with Medicare.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-8437

Appeal Decision: Appeal Denied

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

Hearing Date: April 25, 2019                  Decision Date: April 26, 2019

AUTHORITY

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

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On February 13, 2019, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because the Appellant has access to Medicare or is or is enrolled in Medicare.

ISSUE

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 25, 2019. The procedures to be followed during the hearing were reviewed with all who were present. The Appellant and his representative were sworn in and testified. The following documents were admitted into evidence with no objection from the Appellant:

Exhibit 1: Health Connector’s Hearing Affidavit (1 page)
Exhibit 2: Health Connector’s Hearing Notice (4 pages, dated April 2, 2019)
Exhibit 3: Health Connector’s Acknowledgement of Appeal (3 Pages)
Exhibit 4: Appeals Unit Staff Case Notes (1 page)
Exhibit 5: Appellant’s appeal request form (1 pages dated March 16, 2019)
Exhibit 6: Notice of Eligibility Determination (6 pages, dated February 13, 2019)
Exhibit 7: Health Connector’s Determination Results and Review Computer Printout (4 pages, dated February 13, 2019)
Exhibit 8: Health Connector Historical Notices and Printouts (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on February 13, 2019, based on being eligible for Medicare. (Exhibit 6, Appellant’s testimony)
2. Appellant was enrolled or is enrolled in Medicare. (Exhibit 6, & Appellant’s testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

When the Appellant’s eligibility for 2018 coverage was determined on February 13, 2019, the federal government provided information to the Health Connector that the Appellant was eligible for Medicare. The Appellant confirmed at hearing that he was eligible for Medicare. Because the Appellant was eligible for Medicare, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare. This was the correct determination and the Appellant’s appeal is therefore denied.
ORDER

The appeal is denied.

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

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM