Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9966

Appeal Decision: Appeal Denied.

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

Hearing Date: November 14, 2019

Decision Date: November 18, 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 September 6, 2019, the Appellant was determined ineligible for Health Connector plans because the Appellant is eligible for Medicare.

ISSUE
The issue addressed on this appeal is whether the Health Connector correctly determined that the Appellant is 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 November 14, 2019. The procedures to be followed during the hearing were reviewed with the Appellant’s Representative 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 2: Health Connector Appeals Unit Notice of Hearing with attachments dated October 9, 2019.
Exhibit 3: Health Connector Appeals Unit Outreach Notes.
Exhibit 4: The Appellant’s Hearing Request Form with attachments dated September 23, 2019.
FINDINGS OF FACT
The record shows, and I so find:

1. On September 6, 2019 the Appellant applied for health insurance. The Appellant is eligible for Medicare (Exhibit 5).

2. On September 6, 2019 the Health Connector determined that the Appellant is ineligible for Health Connector plans because the Appellant is eligible for Medicare (Exhibit 5).

3. The Appellant filed an appeal on September 23, 2019 (Exhibit 4).

4. The Appellant was receiving MassHealth Senior buy in prior to August 29, 2018. MassHealth terminated this benefit due to an address issue (Exhibit 3 and Appellant Testimony).

5. The Appellant testified that they are seeking to obtain reinstatement of their MassHealth. The Appellant does not dispute that they are enrolled in Medicare (Appellant Testimony).

6. The Appellant was informed that Health Connector could not reinstate the Appellant’s MassHealth. The Appellant was given the telephone number for MassHealth Customer Service and was advised to contact MassHealth as soon as possible.

ANALYSIS AND CONCLUSIONS OF LAW
The Appellant applied for health insurance on September 6, 2019. The Health Connector verified that the Appellant is eligible for Medicare. The Appellant was notified on September 6, 2019 at they were not eligible for health insurance coverage through the Health Connector because they are eligible for Medicare. The Appellant 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
The Appellant does not dispute that they are enrolled in Medicare. The Appellant was enrolled in MassHealth senior buy in prior to August 29, 2019. The Appellant filed an appeal believing that they would be able to dispute the MassHealth termination or obtain some financial help from the Health Connector. The Appellant was advised to contact MassHealth with any questions regarding MassHealth eligibility because the Health Connector regulations do not allow the Health Connector to review MassHealth decisions. 956 CMR 12.02.

Since the Appellant is eligible for Medicare, in accordance with the regulation cited above, the Health Connector correctly determined on September 6, 2019 that the Appellant is 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 MassHealth Customer Service at 1-800-841-2900 regarding their eligibility.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9172

Appeal Decision: Appeal Denied, Eligibility determination upheld

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

Hearing Date: September 27, 2019          Decision Date: November 5, 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 1, 2019, Appellant was determined eligible for Health Connector plans with Advance Premium Tax Credits, but ineligible for the ConnectorCare. The Appellant’s determination came after failure to verify income.

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

HEARING RECORD
Appellant appeared at the hearing, which was held by telephone, on September 27, 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 19, 2018
FINDINGS OF FACT
The record shows, and I so find:

1. Appellant was covered by a ConnectorCare Plan in 2018 (Testimony of Appellant).
2. On October 19, 2018, Appellant was sent a notice to send in proof of income on or before January 17, 2019 in order to continue the ConnectorCare Plan (Exhibit 6).
3. Appellant did not send in the information by January 17, 2019 (Exhibit 5).
4. On March 1, 2019, Appellant was sent a notice that beginning on April 1, 2019, Appellant was eligible for a Health Connector Plan with Advance Premium Tax Credit, but no longer eligible for ConnectorCare (Exhibit 4).
5. Appellant’s change in plans was based on electronic income data sources that showed Appellant’s family income to be 323.82% of the federal poverty level.
6. Appellant had been paying for the ConnectorCare Plan by having money deducted from Appellant’s checking account (Testimony of Appellant).
7. In April 2019, the premium for the new health plan that Appellant had been placed in was deducted from Appellant’s checking account (Testimony of Appellant).
8. On May 7, 2019, Appellant provided updated income information to the Health Connector (Testimony of Appellant and Exhibit 7).
9. Based upon the updated information provided to the Health Connector in May 2019, Appellant was found eligible for a ConnectorCare Plan beginning on June 1, 2019 (Exhibit 8).
10. At the time of the hearing, Appellant was enrolled in the ConnectorCare Plan (Testimony of Appellant).
11. Appellant’s Appeal was a request for a refund of the money deducted from Appellant’s checking account during the time that Appellant had been switched to a higher cost plan based upon electronic income data sources (Testimony of Appellant and Exhibit 4).

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).

Appellant had been enrolled in a ConnectorCare plan in 2018. On October 19, 2018 the Health Connector requested income information to be sent to the Connector by January 17, 2019. Appellant did not provide the requested income information by January 17, 2019. As a result, the Health
Connector reverted to electronic data sources for a household income value. Based on electronic income sources Appellant’s family income was 323.82% of the federal poverty level. Appellant was found eligible for Health Connector Plans with Advance Premium Tax Credit, but not the ConnectorCare Plan. This is the correct determination for a person whose household income is 323.82% of the federal poverty level.

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
In May 2019, Appellant provided the necessary income documentation that was requested and Appellant was found eligible for a ConnectorCare Plan and enrolled in a ConnectorCare plan beginning on June 1, 2019
Appellant is reminded to carefully review any correspondence received from the Health Connector and to timely submit any documents that are requested.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA199645

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

Hearing Issue: Whether the Connector correctly determined the appellant’s eligibility to purchase a Health Connector plan without financial assistance.

Hearing Date: October 4, 2019          Decision Date: November 25, 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 June 27, 2019 the Connector determined Appellant to be eligible to enroll in a Health Connector plan with no advance premium tax credit based upon data from the appellant’s application and from other data sources.

ISSUE
Whether the Connector correctly determined that Appellant was eligible to enroll in a Health Connector plan without an advance premium tax credit based upon the information supplied by the appellant on the Connector application and other data sources.

HEARING RECORD
The appellant appeared at the hearing which was held by telephone on October 4, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were also reviewed with her, marked as exhibits, and admitted in evidence with no objection. Appellant testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant’s file, undated
Exhibit 2: Connector Appeals Unit notice of Hearing dated September 3, 2019 addressed to Appellant for October 4, 2019 hearing
Exhibit 3: Connector Appeals Unit letter dated August 12, 2019 addressed to Appellant acknowledging receipt of Appellant’s Request for Hearing
Exhibit 3a: Appeals Unit outreach notes, August, 2019
Exhibit 3b: Connector Appeals Unit e-mails to Appellant dated August 12, 2019, September 3, 4, and 5, 2019,
Exhibit 4: Hearing Request Form from Appellant received by the Connector on August 8, 2019
Exhibit 5: Connector letter dated June 27, 2019 to Appellant regarding eligibility to purchase a Connector Health plan
Exhibit 6: Summary and results of Appellant’s application for Connector health plan dated June 27, 2019
Exhibit 7: Summary and results of Appellant’s application for Connector health plan dated January 2, 2019
Exhibit 8: Connector letter to Appellant dated January 14, 2018 regarding tax reconciliation for 2017 with Appellant’s 1095A form for 2017 attached
Exhibit 9: Connector letter to Appellant dated January 15, 2019 regarding tax reconciliation for 2018 with Appellant’s 1095A form for 2018 attached
Exhibit 10: Customer Services notes, August 28, 2019
Exhibit 11: Summary and results of Appellant’s application dated October 1, 2019
Exhibit 12: Appellant’s Connector enrollment details
Exhibit 13: Internal Revenue Service transcript of Appellant’s 2017 tax return dated August 29, 2019 with fax coversheet
Exhibit 14: Internal Revenue Service transcript of Appellant’s 2018 tax return dated August 29, 2019 with fax coversheet
Exhibit 15: Appellant’s 2017 amended Federal tax return received at Connector on October 3, 2019

FINDINGS OF FACT
The record shows, and I so find:

1. Appellant had health insurance through the Connector in 2017, and 2018. She received advance premium tax credits (Testimony of Appellant, Exhibits 8 and 9).

2. In a letter dated January 14, 2018, the Connector informed the appellant that if she had received advance premium tax credits, she needed to file an IRS Form 8962 with her 2017 tax return. The appellant’s Form 1095-A which showed the appellant how much she had received in advance premium tax credits during 2017 was included (Exhibit 8).

3. In June, 2019, the appellant received a notice from the Connector informing her that she was now only eligible for a Health Connector plan without an advance premium tax credit. In this notification, Appellant was informed that she was not eligible for a tax credit because her income was too high; or she had access to health insurance another source that met minimum essential coverage standards; or she did not plan to file a tax return, was married and planned to file taxes separately, or she received advance premium tax credits to lower her premium in a prior year and the Connector was not able to confirm that appellant filed Federal tax returns and reconciled the advance premium tax credits on her tax returns (Exhibits 5).

4. Appellant attested on her Connector application of June 27, 2019 that she was married and planned to file taxes jointly, that she had a projected income which equated to less than 200% of the Federal Poverty Level, and that she had no access to health insurance through other sources (Exhibits 6).

5. Appellant filed Federal tax returns for tax years 2017 and 2018. Appellant did not file a Form 8962 reconciling her past advance premium tax credits either year (Testimony of Appellant, Exhibits 13 and 14).
6. Appellant has filed an amended Federal tax return for 2017 in September, 2019 (Testimony of Appellant, Exhibit 15).

7. Appellant filed an appeal request on August 8, 2019 because she wanted to receive advance premium tax credits (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the Connector correctly determined in June, 2019 that the appellant was eligible to enroll in a Health Connector plan without any financial assistance. Appellant appealed this determination in August, 2019. See Exhibits 4 and 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(4), 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. The recipient of tax credits must file Federal taxes, jointly if married, and must reconcile the advance premium tax credits for the period in which the recipient’s credits were received by filing a Form 8962. If additional documentation is requested from an applicant and the documentation is not received, the Connector verifies data from other sources. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

Appellant had health insurance through the Connector in 2017, and 2018. She received advance premium tax credits for part of 2017 and all of 2018. In a letter dated January 14, 2018, the Connector informed the appellant that if she had received advance premium tax credits, she needed to file an IRS Form 8962 with her 2017 tax return. The appellant’s Form 1095-A which showed the appellant how much she had received in advance premium tax credits during 2017 was included. See Exhibits 8 and 9.

In June, 2019, the appellant received a notice from the Connector that she was now only eligible for a Health Connector plan without an advance premium tax credit. In the notification Appellant was informed that she was not eligible for a tax credit because her income was too high; or she had access to health insurance another source that met minimum essential coverage standards; or she did not plan to file a tax return, was married and planned to file taxes separately, or she received advance premium tax credits to lower her premium in a prior year and the Connector was not able to confirm that appellant filed a Federal tax return and reconciled the advance premium tax credits on her tax return. See Exhibit 5.

Appellant attested on her Connector application of June, 2019 that she planned to file taxes jointly, that she had a projected income which was equal to less than 200% of the Federal Poverty Level, and that she had no access to other health insurance through other sources. During this hearing, she also testified that these attestations were correct and that she had filed Federal tax returns for tax years 2017 and 2018. See the testimony of the appellant which I find to be credible and Exhibit 6.

Since Appellant had income that was below 200% of the Federal Poverty level, since Appellant had filed tax return for the year in question jointly, and since Appellant had no access to other health insurance through other sources, what is at issue is whether the appellant reconciled her tax return by filing Form 8962 for 2017. From Exhibit 5, given the list of reasons an applicant may be ineligible for financial assistance, we must conclude that the Connector was unable to confirm that the appellant reconciled her tax return as required by filing Form 8962 for the tax year in question. In addition, the appellant submitted an Internal Revenue Service transcript of her 2017 tax return dated August 29, 2019 to the Connector after she requested an appeal. Form 8962 was not part of the appellant’s tax return. Appellant
also testified that the form was not originally filed. In September, 2019, she filed an amended return which included the form. See the testimony of the appellant which I find to be credible, and Exhibits 5, 6, and 14, and 15.

Since Appellant had not reconciled her taxes as of the date that the Connector determined Appellant was ineligible for financial assistance, the Connector’s determination is affirmed. See 45 CFR §§155.315, 155.320. 45 CFR § 155.315(f)(5) and 956 CMR 12.05.

ORDER: The action taken by the Connector regarding Appellant’s eligibility to purchase a Connector Health plan without an advance premium tax credit is affirmed.

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

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

Hearing Officer

Cc: Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9670

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: November 12, 2019

Decision Date: November 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
By notice dated August 7, 2019, the Connector advised the appellant that she did not qualify to enroll in a new or different plan because she did not have a qualifying event. (Ex. 1) The appellant filed an online appeal which was received on August 12, 2019. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Exs. 8,10)

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

HEARING RECORD
The appellant appeared at the hearing which was held by telephone on November 12, 2019, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1— Health Connector’s Special Enrollment Period Decision dated August 7, 2019 (6 pages)
Ex. 2— Computer printout of Health Connector’s Eligibility Determination Results (3 pages)
Ex. 3— Computer printout of Health Connector’s Review of Application (11 pages)
Ex. 4—Online Appeal Request received on August 12, 2019 (2 pages)
Ex. 5—Acknowledgment of Appeal dated August 13, 2019 (2 pages)
Ex. 6—Appeals Unit notes (1 page)
**FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 37-years-old and has a tax household size of four. (Testimony, Ex. 3)

2. The appellant had health insurance with MassHealth until March 31, 2019. She was determined eligible for ConnectorCare Plan Type 2A with Advanced Premium Tax Credits (APTC) and completed her enrollment online. When she received her insurance information in the mail, she discovered that she was enrolled in a plan with BMC which she did not want. She called the Health Connector on March 15, 2019 and told the customer service representative that she wanted to enroll in a Tufts plan. She advised the representative that she wanted to keep the same doctor and was assured that the Tufts plan would enable her to do so. The representative indicated in her notes that the “appellant was within time frame to change for 4/1 start date issue resolved”. (Testimony, Exs. 2, 6, 8)

3. In August, 2019, the appellant called her doctor’s office to make an appointment and was told that her insurance was not accepted. On August 7, 2019, she called the Health Connector and told the customer service representative that she had purposely enrolled in a Tufts plan because she wanted to keep her doctor at Tufts Medical Center. She requested a change of plan and was advised her that she could not make the change because she was not entitled to a Special Enrollment Period (SEP). (Testimony, Ex. 7)

4. By notice dated August 7, 2019, the Health Connector advised the appellant that she did not qualify to enroll in new or different health insurance because she did not have a qualifying event. (Testimony, Ex. 1)

5. The appellant filed an appeal which was received on August 12, 2019, in which she stated in part that she asked to stay with her hospital several times when she picked her insurance. She stated that “the representative said she would be able to stay at the hospital” she was at. Finally, she stated that “I am not happy with them making that mistake and not being made aware of the decision that was made for me.” (Ex. 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 appellant seeks to change plans outside of the open enrollment period because she cannot see her doctor under her current plan. Her frustration and distress are understandable, particularly since she changed plans in March and thought she conveyed to the representative that she wanted to remain with her doctor. Unfortunately, she did not discover the problem until far in excess of 60 days from her March conversation. Accordingly, her circumstances do not fall within the parameters of the foregoing regulations and as such, are not considered a qualifying event which would entitle her to a SEP.

Based on the totality of the evidence, it is concluded that the appellant failed to establish that she experienced a qualifying life event in order to be eligible for a SEP.

ORDER
The appeal is denied.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO HEALTH AND HUMAN SERVICES OR STATE COURT
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.
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19971

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

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

Hearing Date: October 4, 2019
Decision Date: November 1, 2019

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

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
On August 12, 2019, the Connector determined that the appellants were eligible to purchase a Health ConnectorCare plan Type 3B with an advance premium tax credit based upon information supplied by the appellants to the Connector.

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

HEARING RECORD
One of the appellants appeared at the hearing which was held by telephone on October 4, 2019. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were reviewed with Appellant marked as exhibits, and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Connector affidavit regarding the creation and maintenance of Appellant’s file, undated
Exhibit 2: Connector Appeals Unit Notice of Hearing dated September 3, 2019 addressed to Appellant for October 4, 2019 hearing
FINDINGS OF FACT
The record shows, and I so find:

1. Appellants had MassHealth coverage. In July, 2019, the appellants received a letter from MassHealth informing them that as of August 23, 2019, they would no longer have the coverage (Testimony of Appellant, Exhibit 4, attachment, Exhibit 5a).

2. The Connector notified Appellants in a letter dated August 12, 2019 that they were eligible for ConnectorCare Type 3B coverage based upon proof of income they had sent to the Connector. The proof of income was received on August 7th and processed on August 12th (Testimony of Appellant, Exhibits 5, 6, 7, and 8).

3. Based upon the proof of income sent in to the Connector, the Connector determined the appellants had a projected income of $72,450 for 2019. The projected income equaled 261.56% of the Federal Poverty level, given their tax household size of four. The amount of student loan debt interest that the appellants had paid in 2019 was taken into account as a deduction from their projected income when the Connector determined their eligibility (Testimony of Appellant, Exhibits 5, 6, 7, and 8).

4. Appellants submitted a request for an appeal of the Connector’s determination on August 21, 2019. Appellants appealed the August 12, 2019 Connector determination because they believed that the projected income used by the Connector to determine eligibility was incorrect (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW
The issue on appeal is whether the Connector correctly determined on August 12, 2019 that the appellants were eligible to purchase a ConnectorCare plan Type 3B. See Exhibit 5.

Eligibility to purchase health insurance through the Connector and for an advance premium tax credit is defined in the Patient Protection and Affordable Care Act and the regulations issued pursuant to the act. See 26 Code of Federal Regulations Section 1.36B (1) and (2) for the rules which govern eligibility for an advance premium tax credit. The regulations also define affordability. See also 45 Code of Federal Regulations 155.305(a)(1 through 3) and 305 (f)(2), and 956 Code of Massachusetts Regulations 12.00 et. seq.
If an applicant’s projected income is between 100% and 400% of the Federal Poverty Level, the applicant is eligible for an advance premium tax credit to help cover the cost of premiums. The amount of the credit is based upon how much the Federal government determines the applicant can afford to spend on health insurance and the cost of the second least expensive Silver tier plan available to the applicant. If the individual’s income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual’s projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

In this matter, the appellants had had MassHealth coverage. This coverage was terminated as of August 23, 2019. Appellants applied to the Connector, and on August 12, 2019 were found to be eligible for Connector Care, Type 3B coverage. Based upon the proof of income sent in to the Connector, the Connector determined the appellants had a projected income of $72,450 for 2019. The projected income equaled 261.56% of the Federal Poverty level, given their tax household size of four. The amount of student loan debt interest that the appellants had paid in 2019 was taken into account as a deduction from their projected income when the Connector determined their eligibility. See the testimony of Appellant which I find to be credible and Exhibits 5, 6, 7, 8.

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

The determination of the Connector is, therefore, affirmed.

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

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

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

Cc: Connector Appeals Unit Hearing Officer
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9740

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility Denial

Hearing Date: October 7, 2019 Decision Date: November 25, 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. and for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, Section 1.02, and for hearings set forth in Title 956 of the Code of Massachusetts Regulations, Section 12.15.

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR
On July 17, 2019, the Health Connector determined that the Appellant did not qualify for health coverage through the Health Connector, at that time.

ISSUE
Whether the Appellant qualified for health insurance coverage through the Health Connector, as of July 17, 2019.

HEARING RECORD
On October 7, 2019, the Appellant and his mother appeared at the hearing by telephone. Both offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

Exhibit 1: Affidavit – Health Connector (1 page)
Exhibit 2: 7/17/19 Notice of SEP Decision (8 pages)
Exhibit 3: 8/21/19 Appeal (4 pages)
Exhibit 4: 8/21/19 Appeal-screenshot (1 page)
Exhibit 5: 7/17/19 2019 Eligibility Results (1 page)
Exhibit 6: 2019 View Appeal/ Program Determination/ Medicaid (1 page)
Exhibit 7: 9/19/19 Appeals Data (1 page)
FINDINGS OF FACT
The record shows, and I so find:

1. By letter dated July 17, 2019, the Health Connector notified the Appellant that he did not qualify to enroll in a new health insurance plan at that time because he had not said that he had experienced an event that would qualify him for a special enrollment period. The letter also stated: “If you think you have experienced a qualifying event, please call the Health Connector Customer Service.” (Exhibit 2 and Exhibit 5)
2. On August 21, 2019, the Appellant appealed the Connector’s 7/17/19 determination, circling “Qualifying Event” and attaching a 6/3/19 letter. (Exhibit 3)
3. By letter dated June 3, 2019, the Appellant’s health insurance company since January 1, 2000, notified him that his coverage would be ending on June 30, 2019. (Exhibit 3)
4. The Appellant turned twenty-six years old in June 2019. (Exhibit 3; Appellant’s testimony)
5. The Appellant did not indicate to the Health Connector that he had experienced an event that qualified him for a Special Enrollment Period until August 21, 2019, when he submitted his appeal. (Exhibit 3; Appellant’s testimony)

ANALYSIS AND CONCLUSIONS OF LAW
The issue before me is whether the Health Connector correctly determined, on July 17, 2019, that the Appellant did not qualify to enroll in new health insurance coverage at that time, because he had not stated that he had a qualifying event.

Applicants for health insurance coverage through the Health Connector must apply during the open enrollment period, unless they qualify for a special enrollment period, under 45 CFR 155.420, “Special enrollment periods.” It is the applicant’s responsibility to represent on their application that they had experienced an event that qualified them for a special enrollment period.

In this case, the Appellant did not indicate in his 7/17/19 application that he had a qualifying event. Although the Appellant submitted evidence of a qualifying event with his appeal, on August 21, 2019, the Health Connector did not have that information in making its determination on July 17, 2019. As the Appellant did not inform the Health Connector on or before July 17, 2019, that he had experienced a qualifying event, I conclude that Health Connector correctly determined, on July 17, 2019, that the Appellant did not qualify to enroll in new health insurance coverage at that time, because he had not stated that he had a qualifying event.

ORDER
The appeal is denied.

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

Cc: Health Connector Appeals Unit
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9773

Appeal Decision: Appeal Denied

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

Hearing Date: October 2, 2019

Decision Date: November 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 956 of the Code of Massachusetts Regulations, section 12.00.

JURISDICTION

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

ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

On August 8, 2019, 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 October 2, 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)
FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was determined ineligible for Health Connector plans on August 8, 2019, based on being eligible for Medicare. (Exhibit 6, Appellant’s testimony)
2. Appellant is enrolled in Medicare. (Exhibit 6, & Appellant’s testimony)
3. Appellant is 66 years old and is currently unemployed.

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).

When the Appellant’s eligibility for 2018 coverage was determined on August 8, 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
Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: ACA19-9873

Appeal Decision: Appeal Denied

Hearing Issue: Eligibility for ConnectorCare based on income and access to ESI.

Hearing Date: October 9, 2019  Decision Date: November 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 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 August 22, 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 October 9, 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 55 year old single female, who applied for subsidized health insurance on August 22, 2019. (Exhibit 6, Exhibit 7)
2. The Appellant has a household of one. (Exhibit 7)
3. On her application, the Appellant entered a projected annual modified adjusted gross income of (MAGI) of $49,900.00.
4. The Health Connector found, based on this projected income and household size, that the Appellant’s projected MAGI would place her at 411.04% of the 2018 Federal Poverty Level (FPL). An individual at that income level would not be eligible for subsidized coverage under the ACA, because subsidized coverage through the state’s ConnectorCare program is available to individuals whose household income is below 300% FPL. (Exhibit 7)
5. Appellant testified that her income was as indicated on her application.
6. Appellant indicated that she had health insurance through her employer and was seeking additional coverage for deductibles and co-pays.

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).

Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for APTC. See 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2019 if the employee’s required contribution for self-only coverage is 9.56 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

The Appellant attested on her application that she has access to affordable employer sponsored insurance that meets minimum value standards. Because of this, the Health Connector found that the Appellant was not eligible to receive APTC and was also therefore not eligible for ConnectorCare, which was the correct determination.

On her application, the Appellant stated that her projected MAGI was $49,900.00, which for a household of one, puts the Appellant at approximately 411.04% of the 2017 Federal Poverty Level. This means that the Appellant’s household was more than the 300% limit for eligibility for subsidies, and therefore the Health Connector correctly found the Appellant eligible for Health Connector plans. This was the correct determination and the Appellant’s appeal is therefore denied.

ORDER

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

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this letter. To appeal visit the United States Department of Health and Human Services website, HealthCare.gov/marketplace-appeals 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: ACA19-9876

**Appeal Decision:** Appeal Denied.

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

Hearing Date: October 24, 2019  
Decision Date: November 1, 2019

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

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**
On August 7, 2019, the Appellant was determined eligible for Health Connector plans without subsidies effective September 1, 2019. 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 in a timely manner.

**HEARING RECORD**
The Appellant appeared at the hearing, which was held by telephone, on October 24, 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 Appeals Unit Affidavit of Hearing Record.
- **Exhibit 2:** Health Connector Appeals Unit Notice of Hearing, with attachments, dated October 1, 2019.
- **Exhibit 3:** Health Connector Appeals Unit Outreach Notes.
- **Exhibit 4:** The Appellant’s Online Appeal Request submitted to the Health Connector Appeals Unit on September 8, 2019.
- **Exhibit 5:** Health Connector’s Eligibility Approval Notice dated August 7, 2019.
Exhibit 6: 2019 Eligibility Results with an Application Summary dated August 7, 2019.
Exhibit 8: A letter from the Health Connector Appeals Unit dated September 9, 2019 that was returned from the Postal Service for address unknown.
Exhibit 9: 2019 Eligibility Results with an Application Summary dated September 27, 2019.

FINDINGS OF FACT

The record shows, and I so find:

1. Prior to September 1, 2019 the Appellant was receiving ConnectorCare with Advance Premium Tax Credits based on the Appellant’s having attested to having income equal to 109.72% of the federal poverty level for the Appellant’s household of three (Exhibits 3, 6 and Appellant Testimony).

2. On May 28, 2019 the Health Connector issued a Request for Information. The Appellant was asked to provide updated income verification for both adult household members by July 8, 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 August 7, 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 August 7, 2019 the Health Connector notified the Appellant that they were eligible for Health Connector Plans with no financial help effective September 1, 2019 because the Health Connector was unable to determine the countable income for the Appellant’s household (Exhibits 5, 6).

5. The Appellant filed an appeal on September 8, 2019. The Appellant indicated that they were out of the city when the Health Connector issued notices and were unable to respond to provide documents in a timely manner (Exhibit 4 and Appellant Testimony).

6. The Appellant updated their Application on September 27, 2019 and reported that they had no change in income (Exhibit 9).

7. The Appellant testified that they are a non-citizen present in Massachusetts as a student. The Appellant said that they receive $1,900 monthly from the government of their home country as a stipend to help meet their living expenses while studying in the United States. The Appellant said that their Spouse has no income. The Appellant said that they did not know what to send as proof, so they sent a copy of their bank statement to the Health Connector in May to show the monthly income deposit (Appellant Testimony).

8. The Appellant was advised that they should submit a copy of the financial award or a letter from the government/organization verifying the source of the Appellant’s income as well as the total annual income.
ANALYSIS AND CONCLUSION OF LAW

Prior to September 1, 2019 the Appellant was determined eligible for ConnectorCare with Advance Premium Tax Credits. This determination was based on the Appellant’s having reported income equal to approximately 109.72% of the federal poverty level for the Appellant’s household of three. On May 28, 2019 the Health Connector issued a Request for Information. The Appellant was informed, in writing, that updated income information for both adult household members was required to be submitted to the Health Connector by July 8, 2019. As of August 7, 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 August 7, 2019 the Appellant was notified that they were eligible for Health Connector Plans without subsidies for the period beginning September 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 September 1, 2019.

The Appellant filed an appeal to dispute the determination on September 8, 2019. The Appellant indicated that they had been away and had not read the notices issued by the Health Connector in time to send proper documents. At the Hearing held on October 24, 2019 the Appellant testified that they were not sure what kind of documents to submit. The Appellant explained that they are a citizen of another country present in Massachusetts as a student. The Appellant said that they receive $1,900 monthly from the government of their home country to help with living expenses while attending school in Massachusetts. The Appellant said their Spouse has no income. The Appellant indicated that in May they had sent a copy of their bank statement showing the deposit.

It was explained to the Appellant that bank statements alone are not sufficient to verify annual income for their household of three. The Appellant was advised to submit a copy of the financial award documents or other letter from their government verifying the source of their income as well as the annual amount received. The Health Connector’s August 7, 2019 determination that the Appellant failed to provide sufficient proof of income was correct. 956 CMR § 12.04, 45 CFR § 155.305(f) and 45 CFR § 155.315(f).

ORDER

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

FINAL APPEAL DECISION: ACA19-9970

**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:** November 12, 2019  
**Decision Date:** November 28, 2019

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

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

**ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**
By notice dated September 9, 2019, the Connector advised the appellant that she did not qualify to enroll in a new or different insurance plan because she did not have a qualifying event. (Ex. 1) The appellant filed an appeal dated September 18, 2019. (Ex. 4) The matter was referred to a hearing after receipt of the appeal. (Ex. 7)

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

**HEARING RECORD**
The appellant and her husband appeared at the hearing which was held by telephone on November 12, 2019, and testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

- Ex. 1— Health Connector’s Special Enrollment Period Decision dated September 9, 2019 (6 pages)
- Ex. 2— Computer printout of Health Connector’s Eligibility Determination Results (3 pages)
- Ex. 3— Computer printout of Health Connector’s Review of Application (6 pages)
- Ex. 4—Hearing Request Form dated September 18, 2019 (2 pages)
- Ex. 5—Acknowledgment of Appeal dated September 23, 2019 (5 pages)
- Ex. 6—Appeals Unit notes (1 page)
Ex. 7—Notice of Hearing (4 pages)
Ex. 8—Affidavit of Connector representative (1 page)

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer from the Connector. The documentation was submitted in a timely manner and was marked as follows:

Ex. 9—Customer service log of communications (10 pages)
Ex. 10—Authorized Representative Designation Form (4 pages)
Ex. 11—Enrollment information

FINDINGS OF FACT
The record shows, and I so find:

1. The appellant is 38-years-old, is married and is in a tax household size of four. Her husband is the Head of Household and has health insurance through Medicare. (Testimony, Ex. 3)

2. The appellant applied for health insurance through the Health Connector several times since 2017 but never enrolled. She contacted the Health Connector about her problems with enrollment, but was never able to get any information because her husband is listed as the Head of Household on her application and she had not designated him to act on her behalf. (Testimony, Exs. 9,10)

3. The appellant applied for health insurance on or about July 23, 2019 and received two notices from the Health Connector dated September 9, 2019. In the first notice, the Health Connector advised her that she did not qualify to enroll in new or different health insurance plan because she did not have a qualifying event. In the second notice, the Health Connector advised her that she qualified for ConnectorCare Plan Type 2B with Advanced Premium Tax Credits (APTC) effective August 1, 2019. She was further advised that she qualified for a Special Enrollment Period (SEP) and could enroll through November 21, 2019. (Testimony, Exs. 1,2)

5. The appellant filed an appeal dated September 18, 2019, in which she stated in part that her life is in danger due to diseases and infection. She further stated that she missed the 2018 deadline to enroll in health insurance because she didn’t have access to her account. (Ex. 4)

6. On October 2, 2019, the appellant enrolled in ConnectorCare Plan Type 2A effective November 1, 2019, with a monthly premium of $44.00. On that same day, the Connector advised the appellant in a phone call she made that “medical needs is not a valid QLE” and she “did not make payment on time to get coverage for 10/01/2019 so request [for retroactive enrollment] is denied”. (Testimony, Exs. 9,10,11)

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 issue to be resolved is whether the appellant was eligible for a SEP pursuant to the foregoing regulations. It appears that after she applied for health insurance in July, the Connector provided two notices on the same date regarding her eligibility for a SEP which contradict each other. Suffice it to say she evidently was permitted to enroll in a plan effective November 1, 2019 despite the fact that she did not establish a qualifying life event. Accordingly, although her circumstances do not fall within the parameters of the regulations, she was granted a SEP.

Based on the foregoing, it is concluded that notwithstanding the fact that the appellant failed to establish that she experienced a qualifying life event in order to be eligible for a SEP, the matter was resolved to her advantage.

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
The appellant is advised that any issue regarding her enrollment and payment for the month of October was outside the scope of the hearing and should be addressed to the Connector’s enrollment and billing divisions. She is further advised that the documentation submitted as part of the Open Record Request indicates that the Connector mailed her an Authorized Designated Representative Form on at least two occasions in 2019.