

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20149

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** February 2, 2022

**Decision Date:** April 18, 2022

### AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 2, 2022. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The the appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on March 8, 2021 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 2a: Appeal Case Information from Schedule HC 2020 showing May 12, 2021 dismissal and June 15, 2021 request from Appellant to vacate dismissal

Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2021 for May 10, 2021 hearing

Exhibit 3a: Notice of Hearing sent to Appellant dated January 11, 2022 for February 2, 2022 hearing

Exhibit 4: Appellant's request to vacate dismissal received June 1, 2021

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as Head of Household, was 32 years old in 2020. Appellant has two minor children. Appellant is able to claim her children as dependents every other year. In 2020, Appellant was not able to claim them as dependents. Appellant's older child, who was 12 years old in 2020, lived with the appellant all of 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$27,878 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed almost all of 2020. The appellant was out of work for several weeks in the spring because of the pandemic. When Appellant worked, she was paid \$15 an hour for 35 hours a week. Appellant received unemployment compensation for two weeks (Testimony of Appellant).

5. Appellant was not offered health insurance through her job. The appellant was uninsured all of 2020. Appellant obtained coverage as of January 1, 2021 through the Connector (Testimony of Appellant, Exhibit 2).
6. The appellant has been assessed a tax penalty for all of 2020. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. According to Table 3 of Schedule HC for 2020, the appellant who filed her tax return as Head of Household with an adjusted gross income of \$27,878 could afford to pay \$99 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Essex County, could have purchased insurance for \$696 per month for a plan for a family, or for \$288 for an individual plan. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2020, Appellant, who earned less than \$37,470 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
10. Appellant had health insurance as of the date of this hearing (Testimony of Appellant).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant had her telephone service shut off several times in 2020 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2020: rent including heat and electricity-\$1,535; telephone and internet-\$113; food and household items-\$500; clothing and laundry-\$80; public transportation-\$20; credit card debt-\$25. Appellant was supposed to receive \$194 a week in child support, but the father of Appellant's children did not pay any support in 2020. By 2020, Appellant was owed about \$10,000 in child support (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make

the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant has been assessed a penalty for all of 2020. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws, Chapter 111M, Section 2.

To determine if the penalty should be waived, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2020, the appellant who filed her tax return as Head of Household with an adjusted gross income of \$27,878 could afford to pay \$99 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Essex County, could have purchased insurance for \$696 per month for a plan for a family, or for \$288 for an individual plan. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

In 2020, Appellant had no access to health insurance through employment. Though the appellant was employed almost all of 2020, she was not offered any health insurance through the job. See the testimony of Appellant which I find to be credible.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$27,878, less than the income limit for an individual (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

Since Appellant could have had access to ConnectorCare coverage, we need to determine if the appellant had a financial hardship pursuant to 956 CMR 6.08. Pursuant to 956 CMR 6.08(3), we can consider financial issues raised by the appellant during the hearing when determining if the appellant had a financial hardship such that health insurance coverage would have been unaffordable for the appellant.

Appellant had the following monthly expenses for basic necessities in 2020: rent including heat and electricity-\$1,535; telephone and internet-\$113; food and household items-\$500; clothing and laundry-\$80; public transportation-\$20; credit card debt-\$25. Appellant was supposed to receive \$194 a week in child support, but the father of Appellant's children did not pay any support in 2020. By 2020, Appellant was owed about \$10,000 in child support.

Appellant's expenses came to approximately \$2,300 a month. Appellant's gross income came to the same amount. If we consider that Appellant had some tax liability, Appellant had a deficit each month. In addition, Appellant had her telephone service turned off several times during the year. See the testimony of the appellant which I find to be credible and Exhibit 2.

Based on the facts noted above, I find that during the pandemic, health insurance was unaffordable for the appellant. Pursuant to 956 CMR 6.08 (1)(e) I find that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. Appellant, therefore, had a financial hardship

such that health insurance was unaffordable for the appellant. See also 956 CMR 6.08 (1)(b) which provides that having a basic utility shut off constitutes a financial hardship. Appellant's penalty is waived.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-399

**Appeal Decision:** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** February 7, 2022

**Decision Date:** April 28, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 7, 2022. The Appellant 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 the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 3/22/21 Appeal (11 pages)
- Exhibit 3: 1/21/21 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$48,476. The Appellant turned twenty-nine years old in 2020. (Exhibit 1)
2. The Appellant lived in Middlesex County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a five-month penalty on his 2020 income tax return stating, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
4. The Appellant had health insurance coverage through his employer from January 2020 through April 2020. (Appellant's testimony)
5. The Appellant lost his job and his health insurance coverage at the end of April 2020, and was unemployed for the rest of 2020. (Appellant's testimony; Exhibit 1)
6. The cost for continuing his employer coverage under COBRA was \$798.66/monthly, and the Appellant could not afford to pay this much for health insurance. (Appellant's testimony; Exhibit 2)

7. The Appellant applied for unemployment benefits at the end of August 2020 and received a weekly benefit of \$900 (\$300 base and \$600 pandemic bonus) during the last four months of 2020. (Appellant’s testimony)
8. The Appellant tried to get affordable health insurance coverage through the Health Connector after losing his job and continued to do so during the last half of 2020. (Appellant’s testimony)
9. The Appellant could have afforded to pay \$269/monthly for coverage in the private market in 2020. (Appellant’s testimony)
10. The Appellant did not seek health insurance coverage through a health insurance provider in the private market in 2020, because he was unaware that he could do this. (Appellant’s testimony)
11. The Appellant acknowledged that he could have afforded to pay \$269/monthly for coverage in the private market and up to \$307/monthly. (Appellant’s testimony)
12. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as his income was more than \$37,470 for a family size of one.
13. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$307/monthly for health insurance coverage in 2020, based on his tax filing status and 2020 AGI.
14. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$269, based on his age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant had health insurance coverage through his employer during the first four months of 2020, the Appellant had a three-month grace period through July 2020 to obtain health insurance coverage after losing his job and his health insurance coverage. At issue here then are the five months from August through December 2020, when the Appellant failed to have coverage. The Appellant had no income during this period, until he applied for and began receiving unemployment benefits (including a pandemic bonus) of \$905/weekly for a total of \$15,300 during the last four months of 2020. While I recognize that the Appellant may have concentrated first on catching up on bills for necessities when he began receiving these payments, at some point before the end of the year the Appellant should have directed his attention to obtaining health insurance coverage again. Although he did not qualify for government-subsidized health insurance coverage, the Appellant could have afforded health insurance coverage in the private market for a monthly premium of \$269. An earnest and thorough effort to obtain coverage, as the Appellant represented that he made during this period, should have revealed to him that this coverage was available to him in the private market.

Therefore, I conclude that the Appellant has failed to establish that health insurance coverage that provided minimum creditable coverage was not affordable for him during the last two months of 2020, because he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s five-month penalty for 2020 shall be reduced to a two-month penalty.

**PENALTY ASSESSED**

Number of Months Appealed:   5        Number of Months Assessed:   2

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-433

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** February 10, 2022  
**Decision Date:** April 14, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

Appellant's Representative appeared at the hearing, which was held by telephone, on February 10, 2022. The procedures to be followed during the hearing were reviewed with Representative. Representative was sworn in. Exhibits were marked and admitted in evidence with no objection from Representative. Representative testified. The hearing record consists of the testimony of Representative, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Representative, Notice of Appeal and supporting documents, dated March 21, 2021
- Exhibit 3: Correspondence from Health Connector, dated January 18, 2022
- Exhibit 4: Final Appeal Decision for 2019
- Exhibit 5: Notice of Hearing for July 21, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 35 years old in 2020 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$50,649 (Exhibit 1).
4. In 2020, Appellant worked a seasonal job which was to begin in March 2020 (Testimony of Representative and Exhibit 2).
5. Appellant's company stated that health insurance would be offered to employees returning in March 2020 (Testimony of Representative and Exhibit 2).
6. Due to the Covid 19 pandemic, Appellant was laid off in late March 2020 (Testimony of Representative and Exhibit 2).
7. After the lay-off, Appellant found a new job (Testimony of Representative and Exhibit 2).
8. Appellant's new job offered employer sponsored health insurance after a waiting period of ninety days (Testimony of Representative and Exhibit 2).
9. After the waiting period, Appellant was laid off due to the company's financial issues (Testimony of Representative and Exhibit 2).



10. Appellant immediately found new employment which offered employer sponsored health insurance (Testimony of Representative and Exhibit 2).
11. Appellant caught Covid and had to delay the start of the new job (Testimony of Representative and Exhibit 2).
12. Appellant started the new job in late 2020, and began coverage under employer sponsored health insurance in December 2020 (Testimony of Representative and Exhibit 2).
13. In 2020, Appellant required dental surgery that cost \$21,000 (Testimony of Representative and Exhibit 2).
14. No health insurance plan would have covered the dental surgery (Testimony of Representative and Exhibit 2).
15. Appellant was required to pay for the dental surgery on an out-of-pocket basis (Testimony of Representative and Exhibit 2).
16. Appellant had the following monthly expenses for necessities in 2020: Rent \$1,020; Utilities \$350; Telephone \$54; Food \$867; Clothing \$33; Car payment \$540; Car insurance \$199; Gasoline \$217; Dental expenses \$1,750. Appellant's total monthly expenses were \$5,030 (Testimony of Representative).
17. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
18. According to Table 3 of Schedule HC for 2020 Appellant, filing as single with no dependents claimed with an adjusted gross income of \$50,649 could afford to pay \$338 per month for private insurance. According to Table 4, Appellant, who was 35 years old and lived in Middlesex County could have purchased private insurance for a cost of \$298 per month.
19. Private insurance was considered affordable for Appellant in 2020 (Schedule HC for 2020).
20. Appellant, earning more than \$37,470 would not have been income eligible for government subsidized health insurance (Schedule HC for 2020).
21. Appellant did not have health insurance for eleven months of 2020 (Testimony of Representative and Exhibit 1).
22. Appellant has been assessed a penalty for eight months for 2020 (Exhibit 1).
23. Appellant filed a hardship Appeal on March 21, 2021 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for eight months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was considered able to afford private health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant worked several

different jobs in 2020, which all claimed to offer employer sponsored health insurance. Due to the pandemic, and due to Appellant catching Covid, Appellant did not begin employer sponsored health insurance until December 2020. Appellant had monthly expenses of \$5,030. Appellant's monthly income was \$4,221. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Representative, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 8

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-434

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** February 10, 2022  
**Decision Date:** April 15, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

Appellants appeared at the hearing, which was held by telephone, on August 13, 2019. Appellants were spouses. The procedures to be followed during the hearing were reviewed with Appellants. Appellants were sworn in. Exhibits were marked and admitted in evidence with no objection from Appellants. Appellants testified.

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

Exhibit 1: Schedule HC for Healthcare from DOR  
Exhibit 2: Notice of Appeal and supporting documents dated March 28, 2021  
Exhibit 3: Correspondence from Health Connector dated January 18, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were both 30 years old in 2020. They filed a 2020 Massachusetts tax return as married filing jointly, with no dependents claimed (Exhibit 1).
2. Appellants moved to Massachusetts from other countries in March 2020 (Exhibit 1 and Testimony of Appellant).
3. Appellant had a visa and lived in Massachusetts from March to December 2020 (Testimony of Appellant).
4. Appellant Spouse was unable to obtain a visa in March 2020 since the Embassy was closed due to the Covid 19 pandemic (Testimony of Appellant Spouse).
5. Appellant Spouse left the United States in May 2020 due to the issue with the visa (Testimony of Appellant Spouse).
6. Appellant Spouse returned to the United States in November 2020 and had the proper documents (Testimony of Appellant Spouse).
7. Appellant Spouse obtained health insurance beginning in January 2021 (Testimony of Appellant Spouse).
8. Appellant Spouse was assessed a penalty for seven months for 2020. Appellant was not assessed a penalty (Exhibit 1).

9. Appellants filed an appeal on March 28, 2021.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellants moved to Massachusetts in March 2020. Appellant Spouse could not get the proper immigration documents since the embassy was closed due to the Covid 19 pandemic. Appellant Spouse went to the country of origin in May 2020 and then returned to Massachusetts in November 2020 with proper immigration documents. Appellant Spouse applied for Massachusetts health insurance and began coverage in January 2021. See Exhibits 1, and 2 and Testimony of Appellant and Appellant Spouse. Given these circumstances, I find that the penalty for 2020 should be waived in full.

### **PENALTY ASSESSED**

Number of Months Appealed: 0/7

Number of Months Assessed: 0/0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-569

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** February 24, 2022

**Decision Date:** April 2, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on February 24, 2022 and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing dated August 31, 2021
- Ex. 4—Notice of Hearing dated January 25, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 29-years-old, is single, and does not have children. In 2020, he had minimum creditable coverage (MCC) health insurance for the month of January and non-MCC insurance from May through December. (Testimony, Ex. 2)
2. The appellant had employer sponsored health insurance for the month of January, 2020. He began a new job in February, 2022, on a part-time basis and was not eligible for employer insurance. He investigated his insurance options and connected with a broker who sold him to a plan that he indicated complied with state MCC requirements. The appellant enrolled in May for the remainder of the year and paid a monthly premium of \$197.00. He did not have occasion to use the insurance during the year. (Testimony, Exs. 1,2)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. The appellant did not receive a 2020 Form 1099-HC from the health insurance provider at the beginning of 2021. He contacted customer service and was advised that the insurance he purchased in 2020 did not meet MCC requirements. This was the first notice he received that there was a compliance issue with his insurance. (Testimony)
4. The appellant became a full-time employee at the end of 2020 and enrolled in employer health insurance on January 1, 2021. His enrollment has continued to date. (Testimony)
5. Massachusetts MCC-compliant plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03.  
<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>

## **ANALYSIS AND CONCLUSIONS OF LAW**

Massachusetts General Laws c. 111M, section 2, also known as the “individual mandate”, requires every adult resident of the state to obtain health insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2020 for “other” reasons. He also submitted a letter with his statement in which he stated in part that he purchased the insurance based on the broker’s representation that it complied with MCC requirements. He further stated that he did not use the insurance during the year, but would have cancelled it and obtained a compliant plan had he become aware of the issue earlier.

The appellant had MCC health insurance for January and non-MCC insurance from May through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured from May through December, he was assessed and is appealing a penalty of eight months (i.e., the months of uninsurance less the gap period of three months).

The appellant testified credibly that he began a new job on a part-time basis in February, 2020, and was not eligible for employer provided health insurance. He testified that he investigated his insurance options and connected with a broker who sold him an insurance plan that he indicated complied with state MCC requirements. He testified that he did not use the insurance during 2020 and did not become aware that it did not comply with MCC standards until he contacted the provider in early 2021 to inquire why he had not received a 2020 Form 1099-HC for the months for which he was enrolled. Finally, he testified that he became a full-time employee at the end of 2020, and has been enrolled in employer health insurance since January 1, 2021.

The appellant provided credible testimony which established that he diligently investigated his insurance options in 2020 and reasonably relied to his detriment on the broker's representation that the insurance he purchased complied with state MCC standards. Since he had no occasion to use the insurance during the year, he did not become aware of the compliance issue until it was too late for him to remedy the matter.

Based on the totality of the evidence, it is concluded that the appellant did not seek to avoid compliance with MCC standards and would have enrolled in compliant insurance but for the broker's misrepresentation. The appellant's request for a waiver from the penalty is **granted**. The determination that he is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   8   Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-681

**Appeal Decision** Appeal Denied

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** February 28, 2022

**Decision Date:** April 11, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 28, 2022. 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: Notice of Hearing dated February 1, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 20, 2022
- Exhibit 4: Written Statement of Appeal Dated April 21, 2022
- Exhibit 5: Open Record Document 1095C



## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-one years old and is single. She lived in Suffolk County in 2020. Appellant worked as a recruiter in 2020.
2. Appellant thought she had health insurance through the companies she worked. Appellant provide a form 1095C in her open record response. An examination of Appellant's open record response showed a 1H designation on line 14 and a 2A designation on line 16.
3. Appellant did have health insurance in 2021 and does have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty.

The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health

insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant provided a form 1095C. This form had a designation 1H in line 14. A designation of 1H indicates that an offer of health insurance was not made or an offer of health insurance was made but did not provide Minimum Essential Coverage. Line 16 had a designation of 2A indicates that an employee was not employed.

On these facts, I find that Appellant has not shown that she had health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is not exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2020 penalty assessed is **UPHELD**.

**PENALTY ASSESSED**

Number of Months Appealed:   12        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-855

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** March 23, 2022

**Decision Date:** April 5, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on March 23, 2022. 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 Notice of Hearing dated February 25, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 14, 2021.
- Exhibit 4: Appellant's letter in support of the Appeal with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 29 in February 2020, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2020 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$68,344 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2020 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in May, 2021 citing financial hardship (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$68,344 could afford to pay \$456 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Middlesex County, could have purchased private insurance for \$269 per month (Schedule HC for 2020). Private insurance was affordable for the Appellant.
8. The Appellant testified that that they were employed full time as a nurse in tax year 2019 paying \$160.31 for employer sponsored health insurance through July 2019. In August, the Appellant cut their hours to 20 because they chose to be employed 24 hours as a hairdresser. The Appellant said that the hairdressing job did not offer insurance and the premium for the insurance offered by the hospital increased to \$392.26. The Appellant said that they cancelled the hospital insurance in October 2019 because the cost was too high. The Appellant testified that they applied for insurance through the Health Connector and found the process frustrating. The Appellant submitted a copy of a Health Connector Approval Notice dated October 8, 2020 stating that the Appellant was approved for Health Connector Plans. The Appellant did not enroll (Exhibit 4 and Appellant Testimony).
9. The Appellant had access to affordable employer sponsored health insurance in tax year 2020. The monthly premium of \$392.26 for the Appellant's nursing job was less than the \$456 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2020.
10. The Appellant was not financially eligible for ConnectorCare in tax year 2020 because their income of \$68,344 exceeded 300% of the federal poverty level which was \$37,470 for a household of one (Table 2 of Schedule HC-2020).
11. The Appellant lived in a shared housing arrangement in 2020. The Appellant's portion of expenses totaled \$1,803 and included: rent-\$1,050; heat-\$200; telephone-\$60; MBTA Pass-\$60 and food-\$433 (Appellant Testimony).
12. The Appellant did not fall more than thirty days behind in their rent payments, did not receive any utility shut off notices or experience any other unexpected increase in expenses due to a family emergency or other human caused or natural disaster (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956

CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant did not have health insurance for any months in tax year 2020. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal in May stating that the cost of their employer sponsored health insurance was not affordable.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$68,344 could afford to pay \$456 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Middlesex County, could have purchased private insurance for \$269 per month (Schedule HC for 2020). Private insurance was affordable for the Appellant in 2020.

The Appellant did have access to employer sponsored health insurance in tax year 2020. The Appellant was employed as a nurse for 20 hours weekly and as a hairdresser for 24 hours weekly. The hair salon did not offer health insurance. The hospital offered health insurance at a cost of \$392.26 per month. This increased from \$160.31 per month when the Appellant was employed full time by the hospital in 2019. The Appellant cancelled the insurance in October 2019 and chose not to enroll for tax year 2020. The Appellant maintains that the insurance was not affordable.

The monthly premium of \$392.26 for the hospital’s insurance was less than the \$456 per month deemed affordable under Table 3 of Schedule HC for 2020. Because the Appellant had access to affordable sponsored health insurance and their income of \$68,344 exceeded 300% of the federal poverty level, which was \$37,420 for a household of one in 2020, the Appellant would not have been eligible for ConnectorCare. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant lived in a shared housing arrangement in tax year 2020. The Appellant’s portion of expenses totaled \$1,803 per month. The Appellant did not fall behind in their rent or utility payments and did not incur any unexpected increase in living expenses due to a family or other type of emergency. With income of \$68,344 and the fact that the Appellant could have purchased private health insurance at a cost of \$269 per month if they did not wish to enroll in their employer sponsored insurance, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2020 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld.

**PENALTY ASSESSED**

Number of Months Appealed:   12                        Number of Months Assessed:   12  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-866

**Appeal Decision:** Appeal Granted

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 6, 2021

**Decision Date:** April 19, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 6, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until January 9, 2022, and later extended to January 24, 2022, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on January 24, 2022, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/4/21 Appeal (8 pages)
- Exhibit 3: 11/29/21 Hearing Notice (2 pages)
- Exhibit 4: 12/6/21 Open-Record Request (2 pages)
- Exhibit 5: 1/24/22 Open-Record Response (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with one dependent. The Appellant's federal AGI in 2020 was \$42,864. The Appellant turned thirty-two years old in 2020. (Exhibit 1)
2. The Appellant lived in Berkshire County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on the Appellant's 2020 income tax return checking off, "During 2020, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice," as the basis for her appeal. (Exhibit 2)
4. The Appellant did not have health insurance coverage throughout 2020. (2020 Schedule HC)
5. On October 25, 2019, the Appellant received a 14-day Notice to Quit Tenancy. (Exhibit 2)
6. On November 25, 2019, the Appellant received a Summary Process Eviction Notice. (Exhibit 2)



7. On December 10, 2019, a judgment was entered against the Appellant for a total of \$1,937 in damages and costs suffered by her landlord. (Appellant’s testimony)
8. The Appellant went to court, paid the judgment, and reached an agreement with her landlord to pay \$425 every two weeks to stay in her residence. (Appellant’s testimony)
9. The Appellant was in arrears on her payments to her landlord until April 2020 and was able to make regular payments during this time only by taking on debt. (Appellant’s testimony; Exhibit 5)
10. On May 21, 2020, the Appellant received a past due notice of \$2,207 on a debt of \$16,924. (Appellant’s testimony; Exhibit 5)
11. On October 19, 2020, the Appellant received a 14-day Notice to Quit Tenancy. (Exhibit 2; Appellant’s testimony)
12. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as the Appellant’s income was less than \$50,730 for a family size of two.
13. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$264/monthly for health insurance coverage in 2020.
14. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$258/monthly, based on the Appellant’s age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

At issue is the Appellant’s failure to have health insurance coverage throughout 2020. Beginning in the fall of 2019, the Appellant fell behind in her rent payments, resulting in her receiving an eviction notice in November 2019 and agreeing to pay her landlord \$425/bi-weekly in order to remain in her home. As the Appellant could not afford to pay this additional monthly payment, she was forced to borrow money in order to keep up with the payments that she had agreed to make to her landlord. Even so, she was unable to keep up with her rent, as she received another notice to quit her tenancy in October 2020. Purchasing health insurance coverage in 2020 would have required her to borrow even more money.

Under these circumstances, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for the Appellant in 2020 because she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2020 shall be waived in full.

**PENALTY ASSESSED**

Number of Months Appealed:   12                        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-911

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** March 23, 2022

**Decision Date:** April 5, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on March 23, 2022. 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 Notice of Hearing dated February 25, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on June 9, 2021.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 45 in October 2020, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$174,941 (Exhibit 2).
4. The Appellant did not have insurance that met Massachusetts minimum creditable coverage requirements (MCC) for any months in tax year 2020 (Exhibits 2, 3, 4 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in June 2021 citing circumstances other than financial hardship for failing to have health insurance that met Massachusetts MCC requirements (Exhibits 2, 3, 4).

6. The Appellant testified that they were employed by a company headquartered out of state for all of tax year 2020. The Appellant enrolled in the company's health insurance plan. The Appellant explained that they did not learn until they filed their income tax return for tax year 2020 that their chosen health plan did not meet Massachusetts MCC requirements because it did not cover maternity care for dependents. The Appellant said that the plan met the federal standards and was sufficient to meet their needs for tax year 2020. The Appellant said that they chose a different health plan for tax year 2021.
7. The Appellant submitted a copy of a 1095-C 2020 and a copy of the Summary of Benefits for their Medical Healthy Standard Plan. The Appellant was insured for all of tax year 2020. The Appellant's plan covered a wide array of services and substantially met Massachusetts MCC requirements (Exhibit 4).

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

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Any health insurance policy must also satisfy the Massachusetts "minimum creditable coverage standards" (MCC) to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

The Appellant had employer sponsored health insurance for all of tax year 2020. The insurance did not meet Massachusetts MCC standards and consequently the Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment citing circumstances other than financial hardship as the basis for their appeal.

For tax year 2020 the Appellant was employed by a company headquartered in another state. The Appellant enrolled in the employer sponsored health insurance plan. This insurance met the standards of the Affordable Care Act but failed to meet Massachusetts MCC standards because it did not cover maternity benefits for dependent children. The Appellant was unaware that their health plan did not meet Massachusetts MCC requirements until they filed their income tax return for 2020. The Appellant therefore had no opportunity to address the issue until tax year 2021.

The Appellant's health plan offered a broad range of medical benefits. 956 CMR 5.03(1)(a). The Appellant testified that the plan was sufficient to meet their medical needs in tax year 2020 and the Appellant chose another health plan for tax year 2021 after being made aware of the shortcomings of their 2020 plan. See 956 CMR 6.08(2)(d). It would be unjust to impose a tax penalty under these circumstances. The Appellant's twelve-month penalty is waived.

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_12\_\_\_\_ Number of Months Assessed: \_\_0\_\_\_\_

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-446

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** February 10, 2022  
**Decision Date:** April 20, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on February 10, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 27, 2021
- Exhibit 3: Correspondence from Health Connector, dated January 18, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 54 years old in 2020 and resided in Norfolk County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$26,050 (Exhibit 1).
4. Appellant lived in another state until July 2019 and was covered by health insurance in the other state (Testimony of Appellant).
5. In 2020, Appellant worked a part-time job and employer sponsored health insurance was not offered (Testimony of Appellant).
6. During 2020, Appellant struggled to pay for basic necessities, due to the part time schedule (Testimony of Appellant).
7. Appellant learned about government subsidized health insurance in the fall of 2020 and applied for the coverage (Testimony of Appellant).
8. Appellant began coverage by government subsidized insurance in December 2020 (Exhibit 1 and Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

10. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$26,050 could afford to pay \$91 per month for private insurance. According to Table 4, Appellant, who was 54 years old and lived in Norfolk county could have purchased private insurance for a cost of \$420 per month.

11. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).

12. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).

13. Appellant did not have health insurance for eleven months of 2020 (Exhibit 1 and Testimony of Appellant).

14. Appellant has been assessed a penalty for eight months for 2020 (Exhibit 1).

15. Appellant filed a hardship Appeal on March 27, 2021 (Exhibit 2).

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

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was income eligible for government subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities in 2020. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 8

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.



# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1044

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** March 24, 2022

**Decision Date:** April 11, 2022

## **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

## **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on March 24, 2022. The procedures to be followed during the hearing were reviewed with the Appellant wife 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: Notice of Hearing dated February 25, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 16, 2021

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-eight years old and is married and her husband is sixty-two years old. They live in Essex County.
2. Appellant's husband's employer does not offer health insurance. Appellant's husband will be eligible for health insurance on her plan in May 2022 and Appellant will add him to her plan.
3. Appellant's husband did not have health insurance in 2021 and does not yet have health insurance for 2022.
4. The Appellant's monthly expenses totaled \$5,460.00, consisting of mortgage \$2,400.00, heat & light \$542.00, internet & cable \$279.00, cell phone \$124.00, car insurance \$255.00, car gas \$100.00, food \$700.00, entertainment \$90.00 toiletries \$70.00, credit card \$700.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under "During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$138,146.00 was more than \$50,730.00. The monthly premium for health insurance available on the private market in Essex County for a 60 year old married person was \$864.00. The tables reflect that Appellant could afford \$920.97 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty.

Appellant was laid off from his job in 2020 due to Covid 19. He is currently working two days a week.

The Appellant did submit a Statement of Grounds for Appeal-2020 under “During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$50,730.00 for a married person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of 138,146.00 in 2020, and Appellant’s filing status was married with two dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$920.97 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$864.00 monthly for coverage. *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

Appellant is deemed to afford \$920.97 for health insurance coverage because of his income. Private insurance in the market place was \$864.00 per month, which is less than he could afford. On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health

insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **DENIED**, and the 2020 penalty assessed is **UPHELD**.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   12  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1074

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 18, 2022

**Decision Date:** April 20, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 18, 2022. The Appellant offered testimony under oath or affirmation. At the close of the hearing, the record was left open until February 24, 2022, for the Appellant to submit additional evidence, including a list of his 2020 monthly expenses for basic necessities. The Appellant did submit any additional evidence, and the record was closed on February 24, 2022.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/28/21 Appeal (6 pages)
- Exhibit 3: 12/13/21 Hearing Notice (2 pages)
- Exhibit 4: 1/18/22 Open-Record Request for Additional Evidence

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$25,318. The Appellant turned twenty-nine years old in 2020. (Exhibit 1)
2. The Appellant lived in Bristol County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on his 2020 income tax return checking off, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities;" and, "During 2020, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for you," as the basis for his appeal. (Exhibit 2)
4. The Appellant "totaled" his car in December 2020. (Appellant's testimony)
5. The Appellant work (Appellant's testimony)

6. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as his income was less than \$37,470 for a family size of one.
7. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$88/monthly for health insurance coverage in 2020.
8. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$269/monthly, based on his age and county of residence.

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

M.G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

I am not persuaded by the Appellant’s argument that he could not afford health insurance coverage in 2020 due to his car being totaled in December 2020, as the year 2020 was nearly over and it was too late to purchase health insurance coverage in 2020.

I am also not convinced by the Appellant’s contention that purchasing health insurance coverage in 2020 would have caused him a serious deprivation of basic necessities. The Appellant could have purchased 2020 health insurance coverage for a monthly premium of just \$88, and he failed to submit any evidence in response to an open-record request for additional evidence showing his 2020 expenses for basic necessities. As a result, there is insufficient evidence in the record to support his contention.

Under these circumstances, I conclude that the Appellant has failed to establish that health insurance that provided minimum creditable coverage was not affordable for him in 2020 because he experienced a financial hardship. 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2020 shall not be waived or reduced.

### **PENALTY ASSESSED**

Number of Months Appealed:   12                        Number of Months Assessed:   12  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

### **NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1075

**Appeal Decision:** Appeal Granted

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 18, 2022

**Decision Date:** April 19, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 18, 2022. The Appellant 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 the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/24/21 Appeal (9 pages)
- Exhibit 3: 12/13/21 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Married Filing Separate with a family size of one. The Appellant's federal AGI in 2020 was \$27,044. The Appellant turned thirty-one years old in 2020. (Exhibit 1)
2. The Appellant lived in Berkshire County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a seven-month penalty on the Appellant's 2020 income tax return, checking off "Other," as the basis for his appeal. (Exhibit 2)
4. The Appellant had health insurance coverage in 2020 in November and December only. (2020 Schedule HC)
5. Near the end of 2019, the Appellant was working abroad and planning to continue working abroad in 2020. (Exhibit 2; Appellant's testimony)
6. When the Covid-19 pandemic began, the Appellant was forced to return home to the USA. (Exhibit 1)
7. The Appellant moved in with his grandmother when he returned, as he had been told that he would need to pay six months of rent in advance if he wanted an apartment since he was unemployed. (Appellant's testimony)



8. In June 2020, the Appellant’s grandmother passed away, and the Appellant began staying with friends, while he saved money to rent an apartment. (Appellant’s testimony)
9. The Appellant needed to save at least \$8,500 in order to rent an apartment. (Appellant’s testimony)
10. The Appellant did not save up enough money to rent an apartment until the end of the summer, when he signed a lease beginning October 1, 2020, with a monthly rent of \$1,400. (Exhibit 2; Appellant’s testimony)
11. The Appellant had health insurance coverage during the last two months of 2020. (Exhibit 1)
12. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as the Appellant’s income was less than \$37,470 for a family size of one.
13. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$94/monthly for health insurance coverage in 2020.
14. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$258/monthly, based on the Appellant’s age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

As the Appellant had a three-month grace period to obtain health insurance coverage at the start of 2020, after he returned from abroad, and had health insurance coverage in November and December 2020, at issue is the seven-month period from April through October when the Appellant did not have health insurance coverage. I am persuaded by the Appellant’s testimony that he wanted to obtain health insurance coverage as soon as possible in 2020 but first needed to address his virtual homelessness. As he was unemployed, seeking employment at the start of the Covid-19 pandemic, and needing to raise six month’s rent in order to have his own living space, he could not afford health insurance coverage during this period. And once he had saved the money required, the Appellant purchased coverage for the last two months of 2020.

Under these circumstances, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for the Appellant from April through October 2020 because he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s seven-month penalty for 2020 shall be waived in full.

**PENALTY ASSESSED**

Number of Months Appealed:   7        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1078

**Appeal Decision:** Appeal Granted

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 18, 2022

**Decision Date:** April 20, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 18, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until February 17, 2022, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on February 23, 2022, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/28/21 Appeal (9 pages)
- Exhibit 3: 12/13/21 Hearing Notice (2 pages)
- Exhibit 4: 1/18/22 Open-Record Request (2 pages)
- Exhibit 5: 2/23/22 Open-Record Response (19 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$55,100. The Appellant turned thirty-one years old in 2020. (Exhibit 1)
2. The Appellant lived in Norfolk County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on her 2020 income tax return checking off, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
4. The Appellant was employed by the same employer, a special needs school, throughout 2020. (Appellant's testimony)

5. The Appellant’s employer offered health insurance coverage to employees for a monthly premium of \$700. (Appellant’s testimony)
6. The Appellant declined the health insurance coverage offered by her employer because it was too expensive for her. (Appellant’s testimony)
7. The Appellant chose not to work from the end of June 2020, until the start of school in September 2020, due to the Covid-19 pandemic. (Appellant’s testimony)
8. The Appellant’s monthly expenses for basic necessities (car payment, car insurance, gas & repairs, student loan payments, food, cellphone/Internet, clothing, entertainment, personal care, gym membership) totaled \$3,339.95; and, \$40,079.40 for the year. (Exhibit 5)
9. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as the Appellant’s income was more than \$37,470 for a family size of one.
10. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$365/monthly for health insurance coverage in 2020.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$288/monthly, based on the Appellant’s age and county of residence in 2020.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant takes the position that she could not have afforded health insurance coverage in 2020, even at a monthly cost as low as \$288, and that doing so would have caused her a serious deprivation of basic necessities. However, the evidence in the record does not support her position. To the contrary, the Appellant could have afforded to pay a monthly premium of up to \$365 for 2020 coverage, and health insurance coverage for 2020 was available to her in the private market for a monthly premium of \$288, based on her age and county of residence. The Appellant’s 2020 AGI exceeded her 2020 expenses for basic necessities by over \$15,000, far more than the \$3,456 she needed to purchase health coverage for all of 2020.

Under these circumstances, I conclude that the Appellant has not established that the expense of purchasing health insurance in 2020 would have caused her a serious deprivation of food, shelter, clothing or other necessities.

Accordingly, the Appellant’s twelve-month penalty for 2020 shall not be reduce or waived in full.

**PENALTY ASSESSED**

Number of Months Appealed:   12                        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1094

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 24, 2022

**Decision Date:** April 25, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 24, 2022. The Appellant offered testimony under oath or affirmation. At the close of the hearing, the record was left open until February 23, 2022, for the Appellant to submit additional evidence, including a list of his 2020 monthly expenses for basic necessities and a receipt for any one-time significant expense for a basic necessity in 2020. The Appellant submitted additional evidence on February 23, 2022, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/28/21 Appeal (6 pages)
- Exhibit 3: 12/13/21 Hearing Notice (2 pages)
- Exhibit 4: 1/18/22 Open-Record Request for Additional Evidence
- Exhibit 5: 12/15/2020 14 Day Notice to Quit (1 page)
- Exhibit 6: 2/23/22 Response to Open-Record Request (10 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Head of Household with one dependent. The Appellant's federal AGI in 2020 was \$47,025. The Appellant turned forty-two years old in 2020. (Exhibit 1)
2. The Appellant lived in Essex County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on his 2020 income tax return stating, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities;" and, "During 2020, I received an eviction notice," as the bases for his appeal. (Appellant's testimony)

4. On December 15, 2020, the Appellant received from his landlord a 14 Day Notice to Quit for non-payment of his December monthly rent of \$878. (Appellant’s testimony)
5. The Appellant’s 2020 expenses for basic necessities included: food, \$435; rent, \$878; car payment, \$325; car insurance, \$270; car registration, \$50; clothing, \$35; shoes, \$50; household items, \$50; laundry, \$175; cable, \$60; Internet, \$80; gas/electric, \$130; phone, \$120; pet food (for cats and a dog), \$90; and, credit cards (7) minimum payment, \$200, for a total of \$2,928/monthly and \$35,136 for the year. (Appellant’s testimony)
6. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as his income was less than \$50,730 for a family size of two.
7. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$289/monthly for health insurance coverage in 2020.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

The Appellant contends that purchasing health insurance coverage in 2020 would have caused him a serious deprivation of basic necessities. While the Appellant submitted a long list of what he considered his 2020 expenses for basic necessities, he did not provide any receipts or other documentation to support his alleged substantial expenses in 2020 for personal items, his pets, or his car, contrary to the specific request for him to do so in the open-record request.

In addition, I am not persuaded by the Appellant’s argument that he was not able to afford health insurance coverage during all of 2020 due to his receiving an eviction notice, as he did not receive an eviction notice until mid-December 2020 and was not required to vacate until the end of December 2020. Nevertheless, as I recognize that the Appellant was in some financial distress near the end of 2020, the Appellant’s tax penalty shall be waived for the last three months of 2020.

Therefore, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for him only during the last three months of 2020 when he experienced a financial hardship. 956 CMR 6.08(1)(a).

Accordingly, the Appellant’s twelve-month penalty for 2020 shall be reduced to a nine-month penalty.

**PENALTY ASSESSED**

Number of Months Appealed:   12                        Number of Months Assessed:   9  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1095

**Appeal Decision:** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 24, 2022

**Decision Date:** April 25, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 24, 2022. The Appellant 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 the following documents which were admitted into evidence:

- Exhibit 1: 7/16/21 Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/23/21 Dismissed Appeal with 7/7/21 Appeal (8 pages)
- Exhibit 3: 12/14/21 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$51,090. The Appellant turned forty years old in 2020. (Exhibit 1)
2. The Appellant lived in Middlesex County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a two-month penalty on her 2020 income tax return stating, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities;" and, "During 2020, I received an eviction notice," as the bases for his appeal. (Appellant's testimony)
4. The Appellant had health insurance coverage throughout 2019. (Appellant's testimony)
5. On January 20, 2020, the Appellant started a new job that offered health insurance coverage after a 90-day waiting period. (Appellant's testimony)
6. The Appellant was laid off from her new job in March 2020, when the branch office where she worked was closed permanently. (Appellant's testimony)
7. At the end of May 2020, the Appellant was rehired at a new branch office. (Appellant's testimony)

8. The Appellant enrolled in her employer’s health insurance coverage, effective June 1, 2020, and maintained the coverage through the rest of 2020. (Exhibit 2; Appellant’s testimony)
9. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant was not eligible for government-subsidized health insurance in 2020, as her income for 2020 was more than \$37,370 for a family size of one.
10. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$340/monthly for health insurance coverage in 2020, based her filing status and 2020 AGI.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$316, based on her age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant had a three-month grace period to obtain new health insurance coverage after her job and her coverage terminated at the end of December 2019, at issue here is the Appellant’s failure to have health insurance coverage in April 2020 and May 2020. In January 2020, the Appellant started a new job that offered health insurance coverage after 90 days, and the Appellant anticipated enrolling in the coverage as soon as she was eligible to do so. However, shortly before she had completed her first 90 days of employment, the Appellant lost her job when her branch office closed. Nevertheless, when she was recalled by her former employer a couple of months later to work at another branch, the Appellant enrolled in the coverage offered by her employer as soon as she could. The coverage was effective June 1, 2020, and continued through the rest of 2020.

The Appellant clearly wanted to have health insurance coverage in 2020, after losing her coverage at the end of 2019, and she expected to have coverage after the three-month waiting period required by her new employer to start coverage. However, the Covid pandemic started up, the Appellant’s place of employment closed down suddenly, and the Appellant became unemployed just before April 2020, when she had expected to enroll in her employer’s health insurance coverage. When she was rehired in May 2020, the Appellant enrolled in her employer’s coverage as soon as possible, effective June 1, 2020. Under these circumstances, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for the Appellant in April and May 2020 because she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s two-month penalty for 2020 shall be waived in full.

**PENALTY ASSESSED**

Number of Months Appealed:   2        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1097

**Appeal Decision:** Appeal Denied

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 24, 2022

**Decision Date:** April 26, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 24, 2022. The Appellant offered testimony under oath or affirmation. At the close of the hearing, the record was left open until February 23, 2022, for the Appellant to submit additional evidence, including a list of her 2020 monthly expenses for basic necessities and a receipt for any one-time significant expense for a basic necessity in 2020. The Appellant did not submit any additional evidence, and the record was closed on February 23, 2022.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/5/21 Appeal (5 pages)
- Exhibit 3: 12/14/21 Hearing Notice (2 pages)
- Exhibit 4: 1/24/22 Open-Record Request for Additional Evidence

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$45,924. The Appellant turned twenty-nine years old in 2020. (Exhibit 1)
2. The Appellant lived in Suffolk County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a two-month penalty on her 2020 income tax return stating, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
4. The Appellant had health insurance coverage through her employer from January 2020 through March 2020. (Appellant's testimony)

5. The Appellant’s employer shut down at the end of March 2020, and the Appellant was let go and lost her health insurance coverage. (Appellant’s testimony)
6. The Appellant was unemployed from April until September 2020, when she was rehired by her former employer. (Appellant’s testimony)
7. When she was rehired, the Appellant immediately re-enrolled in the health insurance coverage offered by her employer, and this coverage was effective from September 2020 through December 2020. (Appellant’s testimony)
8. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as her income was more than \$37,470 for a family size of one.
9. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$290/monthly for health insurance coverage in 2020, based on her tax filing status and her 2020 AGI.
10. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$269.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant had health insurance coverage during the first three months of 2020, before her employer shut down and the Appellant lost her job, the Appellant then had a three-month grace period through June 2020 to obtain new coverage. At issue here is the Appellant’s failure to have health insurance coverage in July 2020 and August 2020.

The Appellant contends that purchasing health insurance coverage for July 2020 and August 2020 would have caused her a serious deprivation of basic necessities. However, the Appellant has provided insufficient evidence to support her contention. At hearing, she could not recall whether she made any attempt to get health insurance coverage after losing her employer’s coverage at the end of March. Also, the Appellant submitted no documentation in response to the 1/24/22 Open Record Request for a list of her 2020 monthly expenses for basic necessities, as well as any significant one-time expenses for necessities.

Therefore, I conclude that the Appellant has failed to establish that health insurance coverage that provided minimum creditable coverage was not affordable for her in July 2020 and August 2020, because she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s two-month penalty for 2020 shall not be reduced or waived in full.

**PENALTY ASSESSED**

Number of Months Appealed:   2        Number of Months Assessed:   2  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201129

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 28, 2022

**Hearing Decision:** April 21, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on, January 28, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Letter from Appellant signed and dated August 2, 2021

Exhibit 2: Appeal Case Information from Schedule HC 2020, showing vacating of dismissal, August 13, 2021

Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2022 for January 28, 2022 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependent claimed, was 28 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County from January through September 2020. Appellant filed her Massachusetts tax return as a part-year resident. At the end of September, Appellant moved to another state (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$43,119 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed from January through March, 2020 as a traveling nurse. The appellant worked in Arizona, though she was a resident of Massachusetts. At the end of March, Appellant lost her job. She was unemployed until July, when she got a part-time position. She had this job until mid-September when she again became unemployed. At the end of the month, Appellant left the Commonwealth (Testimony of Appellant, Exhibit 2).
5. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards from January through March. Appellant lost her coverage when she was laid off at the end of March. The appellant did not have coverage the rest of the time she resided in Massachusetts (Testimony of Appellant, Exhibit 2).
6. When Appellant obtained part-time work in July, she was offered health insurance through the job. The cost to Appellant was \$156.88 biweekly or \$339 per month. Appellant did not take the coverage (Testimony of Appellant),

7. The appellant has has been assessed a tax penalty for six months, July through December. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

9. According to Table 3 of Schedule HC for 2020, the appellant with no dependent claimed with an adjusted gross income of \$43,119 could afford to pay \$267 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Worcester County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance from January through March, 2020. Appellant is entitled to a three-month grace period without penalty after losing coverage. Appellant’s penalty for April through June is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. Appellant has been assessed a penalty for July through December. But, Appellant moved to another state at the end of September, so the assessed penalty for October through December is also waived. The appellant was no longer a resident of the Commonwealth. Appellant is left with an assessed penalty for July through September only. The appellant has appealed the assessment. See Exhibits 1, 2. See Massachusetts General Laws, Chapter 111M, Section 2.

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.



According to Table 3 of Schedule HC for 2020, the appellant with no dependent claimed with an adjusted gross income of \$43,119 could afford to pay \$267 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Worcester County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. Schedule HC for 2020 Tables 3 and 4, Exhibit 2.

Appellant had health insurance through employment which met the Commonwealth's minimum creditable coverage standards from January through March. The appellant then lost her job. Appellant was unemployed until July when she obtained a part-time job. The appellant was offered health insurance through this job, but it was unaffordable for the appellant. Appellant could afford to pay \$267 a month. See Table 3 of Schedule HC 2020. The coverage offered would have cost the appellant \$339 a month. See the testimony of the appellant which I find to be credible. Appellant had no affordable health insurance available to her through employment.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$43,119, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Since the appellant had no access to affordable health insurance in 2020 through the individual market, through a government-sponsored program, or through employment, and since the appellant was a part-year resident of the Commonwealth, Appellant's penalty is waived in its entirety pursuant to Massachusetts General Laws, Chapter 111M, Section 2.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   6   Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201130

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 14, 2022

**Decision Date:** April 5, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellants appeared at the hearing which was held by telephone on January 14, 2022. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on August 9, 2021 with letter with list of expenses attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated December 20, 2021 for January 14, 2022 hearing
- Exhibit 4: Appellants' 2020 Federal tax return transcript
- Exhibit 5: Appellant's paystubs, biweekly, February and August, 2020 with print-out showing payroll deductions
- Exhibit 6: Appellant's bank statements—January, February, March, 2020
- Exhibit 7: Copies of photos showing damage to Appellants' house, undated, and documentation of repairs to house
- Exhibit 8: Letters to Appellants dated August 18, 2020 from MassHealth denying eligibility
- Exhibit 9: Documentation of Appellants' charitable contributions, 2020
- Exhibit 10: Appellants' miscellaneous bills for mortgage, car insurance, water, sewer, telephone, internet, various years, 2018-2021
- Exhibit 11: Document showing health insurance for Appellants for 2021
- Exhibit 12: Final Appeal Decision for Tax Year 2019 dated October 2, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return jointly with no dependents claimed, were both 30 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Middlesex County in 2020 (Exhibit 2, Testimony of Appellant).

3. Appellants' Federal Adjusted Gross Income for 2020 was \$104,895 (Exhibit 2, Testimony of Appellant).
4. Both of the appellants were employed full-time all year. Because of the pandemic, both appellants had their hours cut. One of the appellants had his hours cut 20%. The other had her hours cut even more for part of the year. Later, this appellant went back to working full-time (Testimony of Appellant).
5. One of the appellants was offered health insurance for him and his spouse through his job. The cost would have been over \$1,400 a month for the two appellants. The other appellant was not offered health insurance through her job. The appellants did not opt for the coverage because of the expense (Testimony of Appellant).
6. Neither appellant had health insurance in 2020. They have each been assessed a tax penalty for twelve months (Testimony of Appellant, Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. According to Table 3 of Schedule HC for 2020, the appellants with no dependents claimed with an adjusted gross income of \$104,895 could afford to pay \$699 per month for health insurance. According to Table 4, Appellants, both 30 years old and living in Middlesex County, could have purchased insurance for \$576 per month. Coverage through the individual market was affordable for the appellant in 2020 (Schedule HC for 2020, Exhibit 2).
9. According to Table 2 of Schedule HC for 2020, Appellants, with no dependents, earning more than \$50,730, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2020, 956 CMR 12.00 et. seq.).
10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; or the sudden responsibility for providing full care for an aging parent or other family member (Testimony of Appellant).
11. Appellants did not fall more than thirty days behind in mortgage payments in 2020 (Testimony of Appellant).
12. Appellants did not received any shut-off notices for basic utilities during 2020 (Testimony of Appellant).
13. In 2020, Appellants had a significant, unexpected increase in essential expenses as a direct consequence of floods within their home that caused substantial household damage. Twice during the year, they had flooding in their house which resulted in necessary repairs which cost over \$20,000. The cost was not covered by their home owners insurance (Testimony of Appellant, Exhibit 7).
14. Appellants had the following monthly expenses for basic necessities in 2020: mortgage, including property taxes, and home owners insurance- \$3,225; water and sewer-\$112; electricity, heat-\$232; telephone and internet-\$200; food and household and personal items-\$500; car insurance-\$134; gas-\$300; car payment-\$395; clothing-\$120; car repairs-\$40; dental and vision insurance-\$100. In addition, Appellants' brother-in-law passed away during 2020. Appellants paid \$2,000 to travel to the funeral and to help pay for the funeral. One of the appellants had \$725 in legal fees for her immigration case. The other appellant was starting a new business and had expenses of \$2,000. Before the pandemic, one of the appellants mother came to visit and had to stay longer than expected when the pandemic started. Appellants spent about \$1,000 supporting the mother (Testimony of Appellant).

15. Both appellants obtained health insurance as of January 1, 2021 (Testimony of Appellant, Exhibit 11).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. The appellants have each been assessed a tax penalty for twelve months. Appellants have appealed the penalty. See Exhibits 1 and 2, and Massachusetts General Laws Chapter 111M, Section 2.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. 45 CFR Section 155.305 and 26 CFR Section 1.36B-2 provide eligibility requirements for advance premium tax credits.

To determine if the Appellants’ penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellants through employment, through the individual market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellants because Appellants experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2020, the appellants with no dependents claimed with an adjusted gross income of \$104,895 could afford to pay \$699 per month for health insurance. According to Table 4, Appellants, both 30 years old and living in Middlesex County, could have purchased insurance for \$576 per month for a plan. Coverage through the individual market was affordable for the appellant in 2020. Coverage through the individual market was, therefore, affordable for the appellants in 2020 See Schedule HC for 2020, Tables 3 and 4, and Exhibit 2.

According to Table 2 of Schedule HC for 2020, Appellants, with no dependents, earning more than \$50,730, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income See Exhibit 2, Table 2 of Schedule HC-2020, 956 CMR 12.00 et. seq.

Only one of the appellants was offered health insurance through work. For the couple, the coverage would have cost over \$1,400 a month. Under the Commonwealth’s standards, the coverage was unaffordable for the appellants. See Table 3, Schedule HC 2020 and the testimony of the appellant which I find to be credible.

Since Appellants had access to affordable insurance through the individual market, we need to determine if the appellants experienced a financial hardship such the coverage would have been unaffordable for them. See 956 CMR 6.08 et. seq.

In 2020, the appellants had floods in their home which caused significant damage. Repairs not covered by their home owners insurance cost over \$20,000. The appellants also had a death in their family. They traveled to the funeral and helped pay for the cost of the service. They also gave some financial support to the mother of one of the appellants, and had expenses related to the immigration case filed on behalf of one of the appellants. Finally, one of the appellants whose hours had been cut by 20% because of the pandemic tried to start his own business. He

had business expenses of \$2,000 related to this enterprise. See the testimony of the appellants which I find credible and Exhibit 7.

956 CMR 6.08 (1)(d)(4) provides that an appellant has experienced a financial hardship making the cost of health insurance to be unaffordable if the appellant has had a flood (or other event) which resulted in significant personal and household damage which caused the appellant to have a significant, unexpected increase in essential expenses. 956 CMR 6.08(3) provides for the consideration of financial issues other than those explicitly mentioned in the regulations raised by the appellants when determining whether the appellant had a financial hardship. Applying these regulations to the facts summarized above, I determine that the appellants experienced a financial hardship in 2020, making the cost of health insurance unaffordable for them.

Pursuant to 956 CMR 6.08(1)(d)(4) and 6.08(3), Appellants' penalty is waived .

I also note that Appellants obtained health insurance as of January 1, 2021. See the testimony of the appellants which I find to be credible.

Appellants should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true; they should not assume that the same determination will be made should Appellants be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   24              Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc:     Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201133

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 14, 2022

**Decision Date:** March 28, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on, January 14, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on August 13, 2021

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated December 20, 2021 for January 14, 2021 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with one dependent claimed, was 46 years old in 2020. Appellant's dependent is his minor child (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampden County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$42,113 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed from January through May, 2020. Appellant was then laid off when his employer closed down because of the pandemic. He was unemployed the rest of the year. Before he lost his job, he work full-time and earned \$27.00 an hour. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards through this job. He lost coverage at the end of May, 2020 (Testimony of Appellant, Exhibit 2).
5. After he was laid off, Appellant collected unemployment benefits the rest of the year. His gross benefit was \$600 weekly (Testimony of Appellant).
6. After Appellant lost his health insurance, the appellant looked for coverage. He was obligated to have coverage for his minor child who lived in Connecticut. The Connector would not provide coverage for Appellant's child because the child lived out of state, so the appellant did not get coverage through the Connector (Testimony of the Appellant).

7. The appellant has been assessed a tax penalty for four months, September through December. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

9. According to Table 3 of Schedule HC for 2020, the appellant with one dependent claimed with an adjusted gross income of \$42,113 could afford to pay \$217 per month for health insurance. According to Table 4, Appellant, 46 years old and living in Hampden County, could have purchased insurance for \$324 per month for a plan for an individual and \$791 for a plan for a family. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).

11. Appellant had the following monthly expenses for basic necessities in 2020: rent, heat, and electricity-\$1,000; internet-\$70; telephone-\$200; food, household items, and personal care items-\$845; clothing for Appellant and his child-\$240; car insurance-\$152; gas-\$150; child support-\$1,260 (Testimony of Appellant).

12. In 2020, the appellant received shut-off notices for basic utilities. Appellant also received an eviction notice in January, 2020 because he had fallen three months behind in his rent. Appellant appeared in Housing Court in January. Appellant was not evicted because he worked out a repayment plan with his landlord (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance from January through May, 2020. Appellant is entitled to a three-month grace period without penalty after losing coverage. Appellant’s penalty for June through August is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. Appellant has been assessed a penalty for September through December. The appellant has appealed the assessment. See Exhibits 1, 2.

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2020, the appellant with one dependent claimed with an adjusted gross income of \$42,113 could afford to pay \$217 per month for health insurance. According to Table 4, Appellant, 46 years old and living in Hampden County, could have purchased insurance for \$324 per month for a plan for an individual and \$791 for a plan for a family. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant had health insurance through employment which met the Commonwealth's minimum creditable coverage standards from January through May. The appellant was then laid off because of the pandemic. Appellant was unemployed the rest of the year. He had no access to employer-sponsored insurance once he was laid off. See the testimony of the appellant which I find to be credible and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$42,113, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. Appellant did have a dependent claimed on his Federal tax return, but the dependent was not a resident of the Commonwealth. The dependent would not have been eligible for ConnectorCare coverage, so I am considering Appellant's tax household to be a household of one. See the testimony of the appellant which I find to be credible.

There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Since the appellant had no access to affordable health insurance in 2020 through the individual market, through a government-sponsored program, or through employment, his penalty is waived in its entirety pursuant to Massachusetts General Laws, Chapter 111M, Section 2.

I note that even had insurance been available to the appellant, the penalty would be waived because of financial hardships the appellant had during 2020. Appellant received an eviction notice in January, 2020 and appeared in court as a result. Appellant also received shut-off notices during the year. See 956 CMR 6.08(1)(a) and (b) and the testimony of the appellant which I find to be credible.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   4   Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.



Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201134

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 14, 2022

**Decision Date:** April 14, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 14, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until February 15, 2022 to give the appellant time to submit additional evidence. A document was received from the appellant on February 2, 2022. It has been marked as an exhibit and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on April 5, 2021, received by the Connector on August 24, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 2a: Appellant's request to vacate dismissal of appeal, dated August 21, 2021
- Exhibit 3: Notice of Hearing sent to Appellant dated December 20, 2021 for January 14, 2022 hearing
- Exhibit 4: Letter from Appellant dated April 15, 2021 with list of expenses and 2020 W-2 form
- Exhibit 5: Final Appeal Decision for Tax Year 2019 dated September 30, 2021
- Exhibit 6: Employer information sheet regarding offered health insurance with benefit election form attached, received February 2, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 61 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Bristol County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$37,824 in 2020 (Testimony of Appellant, Exhibit 2).

4. Appellant had a full-time job all of 2020 as a driver. Appellant was offered health insurance which met the Commonwealth's minimum creditable coverage standards through his job; however, the appellant was not eligible to enroll in a plan until September 1, 2020. Coverage would have cost the appellant \$38.14 a week, or \$165 a month (Testimony of Appellant, Exhibit 6).
5. Appellant had no health insurance in 2020. Appellant has been assessed a tax penalty for all of 2020. The appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$37,824 could afford to pay \$234 per month for health insurance. According to Table 4, Appellant, 61 years old and living in Bristol County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
8. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, the income level for an individual, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
9. Appellant was not a veteran; he was also not eligible for Medicare (Testimony of Appellant).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities : rent-\$1,000; electricity and heat- included in rent; telephone and internet-\$360; food, household items, and personal care items-\$450; clothing-\$85; car insurance-\$120; gas-\$175. Appellant also paid over \$3,000 for car maintenance and repairs, about \$2,000 for dental care, and over \$9,000 in old credit card debt (Testimony of Appellant, Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make

the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant was assessed a tax penalty for all of 2020 because he had no health insurance coverage, Appellant has appealed the assessment. See Exhibits 1 and 2, Massachusetts General Laws, Chapter 111M, Section 2.

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$37,824 could afford to pay \$234 per month for health insurance. According to Table 4, Appellant, 61 years old and living in Bristol County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was not eligible for affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$37,824, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. Appellant was not a veteran and he was not eligible for Medicare. See the testimony of the appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored program.

Through his job, Appellant was offered affordable health insurance which met the Commonwealth minimum creditable coverage standards, but he was not eligible to enroll until September 1, 2020. From September 1, 2020 on, Appellant had access to affordable insurance. See Exhibit 6 and the testimony of the appellant which I find to be credible.

Appellant had no access to affordable health insurance through the individual market, through a government-sponsored program or through employment from January through August. Appellant's penalty for these months is waived. See Massachusetts General Laws, Chapter 111M, Section 2.

Since the appellant could have obtained affordable health insurance which met Commonwealth standards from September through December through employment, we need to determine if Appellant had a financial hardship during the remainder of the year such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellant had the following monthly expenses for basic necessities : rent-\$1,000; electricity and heat- included in rent; telephone and internet-\$360; food, household items, and personal care items-\$450; clothing-\$85; car insurance-\$120; gas-\$175. Appellant also paid over \$3,000 for car maintenance and repairs, about \$2,000 for dental care, and over \$9,000 in old credit card debt. See the testimony of the appellant which I find credible and Exhibit 4. Taking into account all of these expenses for basic necessities, Appellant's monthly expenses came to approximately \$3,400 a month. Appellant's monthly income before taxes amounted to \$3,150.

Based upon the facts summarized above, I determine that the appellant experienced a financial hardship in 2020. Each month he ran a deficit. The cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). I find that the cost of purchasing health insurance was unaffordable for the appellant.

As noted above, the penalty for January through August is waived because the appellant had no access to affordable insurance. The penalty for the rest of the year is waived because of financial hardship.

Appellant's penalty is waived in its entirety. Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201140

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 28, 2022

**Hearing Decision:** April 23, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on, January 28, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on June 4, 2021 with summary of health care plan benefits attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2022 for January 28, 2022 hearing
- Exhibit 4: Final Appeal Decision, Tax Year 2018 dated February 2, 2000
- Exhibit 5: Final Appeal Decision, Tax Year 2019 dated January 15, 2021
- Exhibit 6: Excerpt from divorce agreement, undated, no identifying information
- Exhibit 7: Appellant's lease, 2019
- Exhibit 8: Appellant's paystub, 11/13/2020
- Exhibit 9: Appellant's 2020 Federal Tax Return, first page

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as Head of Household with one dependent claimed, was 57 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$105,628 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed in January and February. The employer offered health insurance which met the Commonwealth's minimum creditable coverage standards. Appellant was enrolled in the offered plan (Testimony of Appellant, Exhibit 2).
5. Appellant changed jobs at the end of February. At his new job, Appellant was offered health insurance which cost the appellant \$292 a month. The coverage did not meet the Commonwealth's minimum creditable coverage standards. Appellant enrolled in the plan. (Testimony of Appellant, Exhibits 1 attachment, and 2).

6. The appellant has been assessed a tax penalty for seven months, June through December. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

8. According to Table 3 of Schedule HC for 2020, the appellant with one dependent claimed with an adjusted gross income of \$105,628 could afford to pay \$704 per month for health insurance. According to Table 4, Appellant, 57 years old and living in Middlesex County who filed as Head of Household could have purchased insurance for \$1,024 per month for a plan for a family. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$50,730 (the income limit for a tax household of two) per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage which meets the Commonwealth’s minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance from January and February, 2020 which met the Commonwealth’s minimum creditable coverage standards. Appellant is entitled to a three-month grace period without penalty after losing this coverage. Appellant’s penalty for March through May is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. Appellant has been assessed a penalty for June through December. The appellant has appealed the assessment. See Exhibits 1, 2. See Massachusetts General Laws, Chapter 111M, Section 2.

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2020, the appellant with one dependent claimed with an adjusted gross income of \$105,628 could afford to pay \$704 per month for health insurance. According to Table 4, Appellant, 57 years old and living in Middlesex County who filed as Head of Household could have purchased insurance for \$1,024 per month for a plan for a family. Insurance on the individual market was unaffordable for the appellant Schedule HC for 2020 Tables 3 and 4, Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$50,730, more than the income limit for a tax household of two. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had health insurance through employment from March through December. The coverage was affordable (\$292 a month), but it did not meet the Massachusetts minimum creditable coverage standards. None of the plans offered by Appellant's employer met the standards. See the testimony of the appellant which I find to be credible. and Exhibit 1 attachment, Exhibit 2.

Since the appellant had no access to affordable health insurance which met the Commonwealth's standards in 2020 through the individual market, through a government-sponsored program, or through employment, Appellant's penalty is waived in its entirety pursuant to Massachusetts General Laws, Chapter 111M, Section 2.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   7   Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer



FINAL APPEAL DECISION: PA 11-1177

**Appeal Decision:** The penalty is overturned in part  
**Hearing Issue:** Appeal of the 2011 Tax Year Penalty  
**Hearing Date:** March 29, 2022  
**Decision Date:** April 25, 2022

**AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on March 29, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal Signed by Appellant on 2/12/2021.	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/28/2022	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2011 Massachusetts tax return filed single with a family size of 1, was age 48 in 2011, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's was laid off as a union carpenter, only worked approximately six (6) weeks in 2011, and had to use his annuity for income to pay rent.
3. Appellant was unable to afford maintaining employer sponsored health insurance ("ESI") through the Union dues/payments. (Appellant's Testimony).
4. Appellant's Federal Adjusted Gross Income for 2011 was \$ 99,361.00. (Exhibit 1).
5. Appellant did not know about Connectorcare but did not have any cash flow and could not afford it. (Appellant's Testimony).

6. Appellant was being evicted from his home and had to move into the basement of a friend. (Appellant's Testimony).
7. Appellant testified he does not have any records from over 11 years ago. (Appellant's Testimony).
8. Appellant credibly testified he has undergone health issues, is on MassHealth, and is trying to rebuild his financial picture and other debts. (Appellant's Testimony).
9. Appellant testified he is now indigent and would be homeless if not being allowed to live in the basement of friend. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded health insurance in 2011. According to Table 4 Appellant could have purchased insurance for \$328.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2011 because the Appellant's income was more than 300% of the poverty level, which was \$32,676.00. (See Table 2 of Schedule HC 2011, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2011 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2011>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2011 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2011 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2011. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and adduced testimony that the expense of purchasing health insurance would have caused him to experience being homeless and he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

The evidence provided by the Appellant established that his income for 2011, \$ 99,361.00 was more than 300% of the federal poverty level, which for 2011 was \$32,676.00 for a family size of one (1). According to Table 3 of Schedule HC for 2011, the Appellant could have afforded insurance. According to Table 4, Appellant, age 48 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$ 328 per month. Individual coverage was affordable through the individual market for the Appellant in 2011 (Schedule HC for 2011).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2011. The Appellant testified he was laid off as a union carpenter, only worked for approximately 6 weeks in 2011, and was unable to afford maintaining employer sponsored health insurance ("ESI") through the Union dues/payments. (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI but did have access to affordable private insurance, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2011. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2011 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship pursuant to 956 CMR 6.08(1)(a), as defined by law so as to waive his penalty for the months in question. I find the Appellant has not met his burden that he would undergo a hardship if penalized. The Appellant did not meet his burden that he did not have adequate income to afford the cost of purchasing private insurance. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities.

However, in order to mitigate the harshness of a full penalty, the penalty is reduced to three (3) months. The Appellant adduced testimony that he was laid off at the time, had to use his annuity savings as income, and would have been homeless if not for a friend allowing him to live in the basement, which has continued. Moreover, the Appellant credible testified he is trying to rebuild his financial picture and has suffered health issues which would be further exacerbated by a substantial penalty. (Appellant Testimony).

Appellant should note that any waiver granted here is for 2011 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed: 12      Number of Months Assessed: 3

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2011 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc:    Connector Appeals Unit

Hearing Officer

**ADDENDUM**

If the Appellant still does not have health insurance, and if his income and employment have not changed, she is advised to investigate his eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA 14-952

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2014 Tax Year Penalty  
**Hearing Date:** March 29, 2022  
**Decision Date:** April 15, 2022

**AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on March 29, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal Signed by Appellant on 1/21/2022.	(2 P).
Exhibit 2(a):	Appellant's Foreclosure Auction Agreement (2014)	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 2/28/2022	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2014 Massachusetts tax return filed married filing separate with a family size of 3, was age 37 in 2014, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's was starting his own business as a sole proprietor and could not afford a private health insurance plan. (Appellant's Testimony).
3. Appellant testified he had no access to Employer Sponsored Insurance through his spouse("ESI"). (Appellant's Testimony).
4. Appellant's Federal Adjusted Gross Income for 2014 was \$53,268. (Exhibit 1).

5. Appellant investigated obtaining insurance through the Connector but did not have any cash flow and could not afford it. (Appellant's Testimony).
6. Appellant suffered a foreclosure and left the state in 2014. (Appellant's Testimony, Ex. 2(a)).
7. Appellant credibly testified he was approximately \$100,000 in arrears on his mortgage, was in foreclosure in 2014, was receiving food stamps, and was several thousands of dollars in arrears in credit card, student loans, utility, and other debts. (Appellant's Testimony, Ex. 2(a)).
8. Appellant testified his vehicle was repossessed. (Appellant's Testimony, Ex. 2(a)).
9. According to Table 3 Appellant could have afforded \$355.12 per month for health insurance in 2014. According to Table 4 Appellant could have purchased insurance for \$201.00 per month.
10. The Appellant would have been eligible for ConnectorCare coverage in 2014 because the Appellant's income was less than 300% of the poverty level, which was \$58,950.00. (See Table 2 of Schedule HC 2014, Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2014 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2014>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2014 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2014 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2014. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and adduced testimony that the expense of purchasing health insurance would have caused him to experience or overdue in rent or mortgage payments, receiving a shut-off notice for utilities. See 956 CMR 6.08(1)(a).

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant

through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

The evidence provided by the Appellant established that his income for 2014, \$53,268.00 was less than 300% of the federal poverty level, which for 2014 was \$58,950.00 for a family size of three (3). According to Table 3 of Schedule HC for 2014, the Appellant could have afforded \$201 per month. According to Table 4, Appellant, age 37 and living in Plymouth County during the time he was being penalized for not having insurance, could have purchased insurance for \$201 per month. Individual coverage was affordable through the individual market for the Appellant in 2014 (Schedule HC for 2014).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2014. The Appellant testified he was starting a business, self-employed did not have access to ESI. The Appellant testified he did not have access to ESI to affordable Employer Sponsored Insurance (“ESI”) through his spouse. (Appellant’s Testimony).

Where the Appellant did not have access affordable coverage through ESI but did have access to Connectorcare we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2014. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2014 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship pursuant to 956 CMR 6.08(1)(a), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$355.12 to afford the cost of purchasing private insurance given his credible testimony which was substantiated with documents that his mortgage was in foreclosure, and further that he was thousands of dollars in arrears in other debts. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted him is for 2014 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed: 12      Number of Months Assessed: 0

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2014 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

If the Appellant still does not have health insurance, and if his income and employment have not changed, she is advised to investigate his eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765.



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-822

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** March 22, 2022  
**Decision Date:** April 14, 2022

**AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on March 22, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2020 Signed by Appellant on 5/18/2021.	(2 PP).
Exhibit 2(a):	Appellant's Request to Vacate Dismissal	11/23/21
	(1P)	
Exhibit 3:	Health Connector's Notice of Hearing dated 3/22/2022	(2 PP).

The record was left open until April 8, 2022, for the Appellant to submit evidence of credit card and other debts. The Appellant submitted the following documents.

Exhibit 4: An email as well 3 credit cards statements dated January, December, and December, 2019 reflecting balances.

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 40 in 2020, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$35,892. (Exhibit 1).

3. Appellant was able to procure employment in November and obtain Employer Sponsored Insurance(“ESI”). (Appellant’s Testimony).
4. Appellant did not investigate insurance through the Connectorcare because he assumed he would not qualify.
5. Appellant that he did not have access to ESI from any employment prior to the time he became employed, had missed an open enrollment period, and obtained ESI with a new employer in November. (Appellant’s Testimony, Exhibit 4).
6. Appellant received unemployment and the Covid stimulus during 2020. (Appellant’s Testimony).
7. Appellant has been assessed a tax penalty for seven (7) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2020: Car: \$100, Cell Phone: \$100, Cable/Internet: \$150, Gas and Transportation \$100, Food \$200, Credit Cards (with balance of approximately \$15-\$17,000): \$1,200, totaling: \$1,850. (Appellant’s Testimony).
9. Appellant submitted documentation corroborating that he had over \$15,000 debt at the end of 2019. (Appellant’s Testimony, Exhibit 4).
10. According to Table 3 Appellant could have afforded \$149.55 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
11. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant’s income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant’s Testimony).
- 12.. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for seven (7) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2020 there were other circumstances (such as applying the affordability tables in Schedule HC is inequitable that he was unable to obtain government-subsidized insurance even though his income qualified. During the hearing, the Appellant also testified that the individual mandate did not apply to him during 2020 because of a natural disaster (Covid) and also that the expense of purchasing health insurance

would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

The evidence provided by the Appellant established that his income for 2020, \$35,892.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$149.55 per month. According to Table 4, Appellant, age 40 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$319 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified he did not have ESI from any employment prior to the time he became employed, had missed an open enrollment period, and obtained ESI with a new employer in November. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

Where the Appellant did not have access to affordable coverage through ESI but did have access to affordable coverage through Connectorcare, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Car: \$100, Cell Phone: \$100, Cable/Internet: \$150, Gas and Transportation \$100, Food \$200, Credit Cards(with balance of approximately \$15-\$17,000): \$1,200, totaling: \$1,850. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship and other hardships pursuant to 956 CMR 6.08(1)(d)3, (e), (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$149.55 and did not have adequate income to afford the cost of purchasing private insurance given his employment status in 2020 and monthly expenses of \$1,850. The Appellant credibly testified and submitted documentation corroborating that he had over \$15,000 debt at the end of 2019. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. The mandate has not been lost on the Appellant as he obtained health insurance in November. (Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellants request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

## **PENALTY ASSESSED**

Number of Months Appealed:   7   Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

## **NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

## **ADDENDUM**

If the Appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

## Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1201 (RC + TFC)

**Appeal Decision:** Appeal Approved -- 2020 tax penalty overturned.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** April 25, 2022

**Decision Date:** April 27, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant (Husband) appeared for the hearing on behalf of himself and his Wife, the Co-Appellant. I conducted the hearing by a telephone conference call. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Husband's testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants' Statement of Grounds for Appeal – 2020 (with handwritten comment: "Covid Shutdown: See Attached Letter") (4 pages);
3. Appellants' Letter in Support of Appeal (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

## FINDINGS OF FACT

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellants appealed from the Department of Revenue's assessment of a 12 month penalty against the Wife for 2020. No penalty was assessed against the Husband. The basis for the penalty was that the Wife was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Husband's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellants filed a Massachusetts personal income tax return for 2020 as a married couple filing jointly with no dependents. The Appellants' federal adjusted gross income (AGI) for 2020 was \$27,532. Exhibit 1.
3. The Husband was 75 years old in 2020 and the Wife was 33 years old, and they resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Wife was not employed in 2020. All of the federal adjusted gross income reported for 2020 (\$27,532) was earned by the Husband from a combination of Social Security, Veterans pension, and part-time self-employed income. Testimony.
5. The Husband was insured in 2020 under Medicare and the Veterans Administration. The Husband gets most of his healthcare from the VA. Testimony.
6. The Appellants' 2020 AGI (\$27,532) was less than 300% of the federal poverty level for either a one-person household (\$37,470) or for a two-person household (\$50,730). DOR Table 2. On this basis I infer that it is likely that the Appellants would satisfy the financial eligibility requirements for government-subsidized health insurance.
7. Based on DOR Table 3 (Married Filing Jointly with no dependents) the Appellants could afford to pay 4.30 % of their income -- or \$98.65 per month -- for health insurance coverage in 2020. (The calculation is 4.30 % multiplied by \$27,532 AGI = \$1,183.87 per year divided by 12 months = \$98.65 per month.) (I note that this

calculation is unfavorable to the Appellants because it does not factor in premium payments or co-payments for the Husband.)

8. Based on DOR Table 4 (Region 2) the Wife could obtain individual health insurance coverage at her age and location for \$288 per month in 2020 for individual coverage. (I note that this calculation does not take the Husband's coverage into account. The Table 4 premium for a married couple with no premiums is \$576 per month at the Wife's younger age. Information about the Husband's cost is not available.)
9. In 2020 the Wife was not employed, and she did not have health insurance. In 2021 the Wife was employed, and she was enrolled in Blue Cross Blue Shield through her employer's health plan. Testimony and Exhibit 3 (final sentence).
10. In the letter that the Appellants filed in support of the appeal (Exhibit 3) and in the appeal hearing testimony the Appellants credibly described that they made efforts to insure the Wife in 2020 and that they were unable to obtain a final eligibility decision during the corona virus pandemic (COVID-19). See, e.g., Exhibit 3 ("We looked and tried to find health care everywhere. Tufts quoted over the phone \$350 . . . We tried MassHealth in Chelsea but the door was locked. On the phone the only person there kept putting us on hold and asking the same questions over and over.").
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty

level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Wife was not insured for any month in 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.



The issue presented by this appeal concerns the 12 month penalty that the DOR assessed against the Wife because, as she concedes, she was not employed and was not insured in 2020. The DOR did not assess a penalty against the Husband because he was insured under the federal Medicare program and the Veterans Administration. See Exhibit 1 and Findings of Fact, No. 4, above

The evidence shows that the Appellants' income was less than 300% of the federal poverty level in 2020 and likely qualified for government-subsidized health insurance for the Wife. See Findings of Fact, No. 6, above and DOR Table 2. The affordability provisions set forth in DOR Tables 3 and 4 show that the Appellants could not afford health insurance for the Wife: On their \$27,532 AGI, the Appellants could afford to pay only \$98.65 per month for health insurance, but individual coverage for the Wife would cost \$288 per month. See Findings of Fact, Nos. 7 and 8, above.

In addition to the affordability issue, the evidence presented by the Appellants shows that they made efforts to obtain health insurance for the Wife in 2020. Because of the disrupted conditions that existed in 2020 due to the coronavirus pandemic the Appellants were not able to obtain an eligibility decision. They did obtain one telephone quote from a private insurer but \$350 per month was substantially more than they could afford to pay. See Findings of Fact, Nos. 10, above

After considering all the circumstances, I waive the entire penalty that the DOR assessed for 2020. The Appellants were not able to afford health insurance for the Wife based on their 2020 income. See Mass. Gen. Laws, c. 111M, sec. 2 (a), above. While the evidence indicates that the Wife should have qualified for government-subsidized health insurance the conditions that existed in 2020 under the corona virus pandemic (COVID-19) frustrated the Appellants efforts to obtain an eligibility decision. See also Code Mass. Regs. 6.08.

**PENALTY ASSESSED**

Number of Months Appealed (Wife): 12\_\_ Number of Months Assessed: \_\_-0-\_\_\_\_\_

Number of Months Appealed (Husband): -0- Number of Months Assessed: -0-

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1193

**Appeal Decision:** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** March 10, 2022

**Decision Date:** April 21, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD<sup>1</sup>**

The Appellant appeared at the hearing, which was held by telephone on March 10, 2022.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence. In response to an Open Record Request made after the hearing, the Appellant submitted the documents listed as Exhibits 6 and 7 below:

Exhibit 1: Hearing Notice dated Feb. 22, 2022 (2 pages)

Exhibit 2: Appeal Case Info. from Sch. HC 2020 (1 page)

Exhibit 3: Statement of Grounds for Appeal (3 pages)

Exhibit 4: Appellant's Letter in Support (1 page)

Exhibit 5: IRS Form 1095-C (1 page)

Exhibit 6: Appellant's Email dated 3/13/22 (1 page)

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<sup>1</sup> The pronouns "they," "their" and "them" are used throughout this Decision in order to be gender neutral, regardless of the singular or plural.

Exhibit 7. Form MA 1099 HC for 2021 (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 40 years old in November 2020. The Appellant filed their Federal Income Tax Return as a single person, with no (0) dependents claimed. (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2020. (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$252,710.00. (Exhibit 2).
4. The Appellant did not have Minimum Creditable Coverage (MCC)-compliant health insurance during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant was assessed a twelve (12)-month tax penalty for 2020 and has filed an appeal of that assessment. (Exhibit 2 & 3)
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person, filing with no dependents claimed, with an annual adjusted gross income of \$252,710.00, could afford to pay \$1,684.73 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 40 years, living in Suffolk County, could have purchased private market health insurance for \$316.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2020.
8. The Appellant was enrolled in health insurance offered by their employer in 2020. (Appellant's Testimony and Exhibits 3 & 4).
9. The Appellant did not qualify for ConnectorCare coverage because their Federal Adjusted Gross Income of \$252,710.00 was more than the Federal poverty level of \$37,470 for a single individual.
10. The Appellant was employed during 2020 by a national company with headquarters located in Florida. They had worked for the same company for eight years and always had selected to be insured through the company's basic health plan, which consistently had met the MCC requirements. (Appellant's Testimony and Exhibit 4).

11. In 2020, their employer changed health plans. Appellant once again selected the basic option. (Appellant's Testimony and Exhibit 4). In 2021, the Appellant selected the same health insurance option. Thereafter, they received a call from their Human Resource Office stating that the option did not satisfy the MCC requirements as to the deductible requirement. This was the first notice Appellant had that their health insurance plan for 2020 was not MCC-compliant in one respect. (Exhibit 6). Appellant immediately selected a different health insurance option for 2021, which is MCC-compliant. (Appellant's Testimony and Exhibits 4 & 7).
12. Appellant's current health insurance coverage is MCC-compliant. (Appellant's Testimony, which I find credible)

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant appeals their tax penalty of twelve (12) months. They did not have a completed Statement of Grounds for Appeal form but rather explained in a letter and testified about "Other" circumstances during 2020. (Exhibit 3). They stated that they were completely unaware that their employer's new health insurance plan was not MCC-compliant in one respect, that the employer had not informed them of the non-compliance and as soon as they learned, they switched to a different health plan that is MCC-complaint. (Exhibits 4, 6 & 7 and Appellant's Testimony).

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person, filing with no dependents claimed, with an annual adjusted gross income of \$252,710.00, could afford to pay \$1,684.73 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 40 years, living in Suffolk County, could have purchased private market health insurance for \$316.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2020.

The Appellant was enrolled in health insurance offered by their employer in 2020. (Appellant's Testimony and Exhibits 3 & 4).

The Appellant did not qualify for ConnectorCare coverage because their Federal Adjusted Gross Income of \$252,710.00 was more than the Federal poverty level of \$37,470 for a single individual.

The Appellant was employed during 2020 by a national company with headquarters located in Florida. They had worked for the same company for eight years and always had selected to be insured through the company's basic health plan, which consistently had met the MCC requirements. (Appellant's Testimony and Exhibit 4).

In 2020, their employer changed health plans. Appellant once again selected the basic option. (Appellant's Testimony and Exhibit 4). In 2021, the Appellant selected the same health insurance option. Thereafter, they received a call from their Human Resource Office stating that the option did not satisfy the MCC requirements as to the deductible requirement. This was the first notice Appellant had that their health insurance plan for 2020 was not MCC-compliant in one respect. (Exhibit 6). Appellant immediately selected a different health insurance option for 2021, which is MCC-compliant. (Appellant's Testimony and Exhibits 4 & 7).

Appellant's current health insurance coverage is MCC-compliant. (Appellant's Testimony, which I find credible)

I conclude based on the totality of the circumstances presented and the administrative record as a whole, that Appellant had been enrolled for eight years through their employer in a health insurance plan that was MCC-compliant, they intended to select insurance that was MCC-compliant for 2020, their employer had not informed them that the new plan the company had switched to did not satisfy the requirements of MCC and, as soon as the employer did so inform Appellant, they switched to an MCC-compliant program which they continue to have currently. Based on all these circumstances, I conclude that Appellant's twelve (12)-month penalty should be waived. See 956 CMR 6.08 (3).

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have MCC-compliant health insurance, as the individual mandate requires.

**PENALTY ASSESSED**

Appellant Taxpayer:

No. of Months Appealed:   12   No. of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2011.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1194

**Appeal Decision:** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** March 10, 2022

**Decision Date:** April 26, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD<sup>1</sup>**

The Appellant appeared at the hearing, which was held by telephone on March 10, 2022.

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

Exhibit 1: Hearing Notice dated Feb. 22, 2022 (2 pages)

Exhibit 2: Appeal Case Info. from Sch. HC 2020 (1 page)

Exhibit 3: Statement of Grounds for Appeal (5 pages)

Exhibit 4: Appellant's Letter in Support (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 36 years old in December 2020. The Appellant filed their Federal Income Tax Return as a single person, with no (0) dependents claimed. (Exhibit 2).

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<sup>1</sup> The pronouns "they," "their" and "them" are used throughout this Decision in order to be gender neutral, regardless of the singular or plural.

2. The Appellant lived in Berkshire County, MA in 2020. (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$37,938.00 (Exhibit 2).
4. The Appellant did not have Minimum Creditable Coverage (MCC)-compliant health insurance during eleven (11) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant was assessed an eight (8)-month tax penalty for 2020 and has filed an appeal of that assessment. (Exhibit 2 & 3)
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$37,938.00, could afford to pay \$235.53 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 36 years, living in Berkshire County, could have purchased private market health insurance for \$265.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2020.
8. The Appellant was not enrolled in health insurance offered by their employer in 2020 given that they were laid off from their job that year. (Appellant's' Testimony and Exhibit 4).
9. The Appellant did not qualify for ConnectorCare coverage because their Federal Adjusted Gross Income of \$37,938.00 was more than the Federal poverty level of \$37,470 for a single individual.
10. The Appellant was laid off from their job as a sales associate early in 2020 because of the Covid-19 pandemic. They experienced a great deal of stress given the uncertainty about the pandemic and whether they could find another job. (Appellant's Testimony and Exhibits 3 & 4). They collected partial unemployment. (Appellant's Testimony).
11. They returned to work part-time in mid-June 2020 and were not offered health insurance benefits by their employer. (Appellant's Testimony).
12. Appellant learned toward the end of 2020 that they were pregnant. At that time they learned they could qualify for MassHealth insurance. They have had MassHealth insurance since then. Their daughter was born in August 2021 and is covered by insurance as well.

13. The Appellant continues to feel substantial financial pressure to support their child and does not believe they can afford to pay a penalty assessment without sacrificing the basic necessities such as food and clothing for their baby and themselves. (Appellant's Testimony).
14. Appellant's monthly living expenses of \$1,575.00 included: Rents - \$425.00, Heat/utilities - \$75.00, Car insurance - \$80.00, Gas - \$80.00, Telephone - \$40.00, Food - \$250.00, Phone - \$100.00, Cable/internet - \$75.00, Student loans - \$220.00, Credit card debt - \$300.00. (Appellant's Testimony).
15. The Appellant and their young child have had health insurance coverage through MassHealth since 2021. (Appellant's Testimony, which I find credible).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant appeals their tax penalty of eight (8) months. They did not have a completed Statement of Grounds for Appeal form but rather explained in a letter and testified about "Other" circumstances during 2020. (Exhibits 3 & 4 and Appellant's Testimony). They stated that they were laid off from their job in February 2020 because of the pandemic, re-employed on a part-time basis in June 2020, learned they were pregnant at the end of 202 and delivered a baby in August 2021. (Exhibit 4 and Appellant's Testimony).

To determine if the eight (8)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$37,938.00, could afford to pay \$235.53 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 36 years, living in Berkshire County, could have purchased private market health insurance for \$265.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2020.

The Appellant was not enrolled in health insurance offered by their employer in 2020 given that they were laid off from their job that year. (Appellant's Testimony and Exhibit 4).

The Appellant did not qualify for ConnectorCare coverage because their Federal Adjusted Gross Income of \$37,938.00 was more than the Federal poverty level of \$37,470 for a single individual.

The Appellant and their young child have had health insurance coverage through MassHealth since 2021. (Appellant's Testimony, which I find credible).

I conclude based on the totality of the circumstances presented and the administrative record as a whole, that Appellant experienced circumstances, uncertainty and hardship within the meaning of 956 CMR 6.08(3) that caused them not to have health insurance coverage during 2020. The Appellant and their young child currently have health insurance coverage through MassHealth. For all these reasons, payment for the eight (8)-month penalty assessment for the Appellant is waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have MCC-compliant health insurance, as the individual mandate requires.

**PENALTY ASSESSED**

Appellant Taxpayer:

No. of Months Appealed:   8        No. of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2011.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1200 (SS + AS)

**Appeal Decision:** Appeal Approved -- 2020 tax penalty overturned.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** April 25, 2022

**Decision Date:** April 26, 2022

**AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

**HEARING RECORD**

The Appellants (Husband and Wife) appeared for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellants' testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants' Statement of Grounds for Appeal – 2020 (4 pages) (including handwritten notes on page 2);
3. Appellant's Letter in Support of Appeal (1 page);
4. Husband's Old (Expired) Passport Record (1-94) (1 page);
5. Husband's New (Renewed) Passport Record (1 page);
6. Husband's Renewed Passport (dated Aug. 25, 2020) (1 page);
7. Wife's Passport Extract (dated Oct. 22, 2010) (1 page); and
8. Health Connector's Notice of Hearing (2 pages).

## **FINDINGS OF FACT**

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellants (Husband and Wife) appealed from the Department of Revenue's assessment of a 24 month penalty for 2020: 12 months against the Husband and 12 months against the Wife. The basis for the penalty was that the Appellants were not insured at any time in 2020. Exhibits 1 and 2
2. Based on the credible evidence in the hearing record I find that the Husband was not present in Massachusetts for any month in 2020. Testimony and Exhibit 2, page 2, and Exhibit 3. See also Exhibits 4, 5 and 6.
3. Based on the credible evidence in the hearing record I find that the Wife resided and was employed in Massachusetts for all of 2020, but that she did not have health insurance for any month in 2020. I further find, based on the Wife's testimony that I found credible, that the Wife has already paid the 12 month penalty assessed by the DOR for 2020. See Exhibit 1.
4. The Appellants filed a Massachusetts state income tax return for 2020 as a married couple filing jointly with no dependents. The tax return reported a residence in Norfolk County and \$77,205 federal adjusted gross income (AGI). Exhibit 1.
5. I find that the Husband was located in India for all of 2020, when international travel to the United States was curtailed by the emergence of the coronavirus pandemic (COVID-19). Testimony and Exhibit 3 ("My husband, due to COVID situation got stuck in India and couldn't come to USA for the entire 2000 tax period.").
6. I find that only the Wife resided in Massachusetts in 2020 and that the Wife earned the full amount of the \$77,205 AGI reported on the tax

return through her work for a Massachusetts employer. Testimony and Exhibit 2, page 2 (handwritten comment: "My husband, A\*\*S\*\*, was not in USA entire 2020, hence dint [sic] take medical insurance."). See also Exhibit 4 ("Since he wasn't present [in Massachusetts], we dint [sic] not require Health Insurance and hence are appealing.").

7. The passport documents lend further support to the Appellants' assertion that the Husband was not present in Massachusetts in 2020. See Exhibits 4 and 5 (no record of travel to the United States on passport issued by government of India). See also Exhibit 6 (new passport issued to Husband effective for period beginning August 25, 2020, and ending August 24, 2030). See also Exhibit 7 (Wife's passport effective starting October 22, 2020).
8. Based on the Wife's testimony I find that the Wife came to the United States in 2015 and returned to India in 2018. While she was in the United States the Wife resided in Massachusetts and worked for a Massachusetts employer. The employer provided health insurance coverage to the Wife as a job benefit.
9. The Wife returned to Massachusetts in 2020 and worked for the same employer. The Wife mistakenly assumed that she was again enrolled in the employer's health plan, and consequently she had no health insurance in 2020. Testimony. See also Exhibit 1 (DOR assessed 12 month penalty against the Wife).
10. The Wife learned of her error and enrolled in her Massachusetts' employer's health plan starting in January 2021. Working with her tax preparer at H&R Block the Wife also paid the penalty that the DOR assessed for 2020. I find this testimony credible because during the hearing the Wife looked up her records and recited the amount of the penalty assessment that she had paid. In addition, I found that other evidence presented by the Wife was consistent and credible.



## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty -- 12 months for Wife and 12 months for Husband -- because neither the Wife nor Husband were enrolled in health insurance coverage in Massachusetts during 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part, for either the Wife or the Husband.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The decision of this appeal requires separate consideration of the issues presented on appeal by the Husband and for the Wife.

The Husband admittedly was not enrolled in health insurance coverage in Massachusetts for any month in 2020, as set forth in Exhibit 1. That does not resolve the appeal, however, because the individual mandate imposed by Massachusetts law applies only to Massachusetts residents. In this case the factual evidence presented by the Appellants in support of their appeal establishes that the Husband was not a Massachusetts resident at any time in 2020. Accordingly, I must vacate the entire 12 month penalty that the DOR assessed against the Husband for 2020, as required by Mass. Gen. Law c. 111M, sec. 2 (a) (1) (“residents of the commonwealth”). See also Findings of Fact, Nos. 4, 5 and 7, above.

The Wife, by contrast, resided in Massachusetts for all of 2020. She was also employed in Massachusetts and earned all of the federal adjusted gross income that was reported on the Massachusetts state income tax return that the Appellants filed jointly as a married couple. See Exhibit 1. For 2020 the Wife admitted that she had not enrolled in the health plan offered by her employer as a job benefit on the mistaken belief that, based on her past history with the employer, she did not have to take any further steps to enroll when she returned to Massachusetts in 2020. The Wife corrected her error by enrolling in her employer’s health plan starting in January 2021. She also paid the penalty assessed for 2020 to the state Department of Revenue before the hearing in this appeal. Accordingly, I must vacate the entire 12 month penalty so that the Wife is not subject to a double penalty payment obligation for 2020. See Findings of Fact, Nos. 3, 6, 8, 9 and 10, above.

In sum, the entire penalty amounts that the state Department of Revenue assessed against the Husband and Wife for 2020 are vacated.

**PENALTY ASSESSED**

Number of Months Appealed (Husband): 12\_\_\_ Number of Months Assessed: --0--  
Number of Months Appealed (Wife): \_\_\_12\_\_\_ Number of Months Assessed: --0--

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1202 (RP)

**Appeal Decision:** Appeal Approved -- 2020 tax penalty overturned.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** April 25, 2022

**Decision Date:** April 27, 2022

**AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

**HEARING RECORD**

The Appellant appeared for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellant’s testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2020 (with handwritten comments) (6 pages);
3. Appellant’s Letter in Support of Appeal (1 page); and
4. Health Connector’s Notice of Hearing (2 pages).

**FINDINGS OF FACT**

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2020. The basis for the penalty is that the Appellant was not insured for the months of April through December in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is factually accurate. (The calculation is 12 months minus 3 months insured = 9 months uninsured minus 3-month administrative grace period = 6 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a married couple filing separately with no dependents. The Appellant's 2020 federal adjusted gross income (AGI) reported on Exhibit 1 was \$36,249. The Appellant was 52 years old at the beginning of 2022. Exhibit 1.
3. The Appellant's Wife resides in an apartment in [name of city or town omitted] in Suffolk County with the Appellant's youngest child who is four years old and who has health insurance through the child's mother. The Appellant's other children are now adults. Testimony and Exhibit 1. See also Exhibit 3 (same mailing address as on Exhibit 1).
4. The Appellant lives at the same address as his Wife in Suffolk County when he is in Massachusetts. Testimony.
5. The Appellant resided in Massachusetts at the beginning of 2020 (January, February and March), and he earned income in Massachusetts. Testimony and Exhibit 1 (\$36,249 AGI).
6. The onset of the coronavirus pandemic in March 2020 disrupted the Appellant's continued ability to earn income in Massachusetts, and he relocated to Florida for the remainder of 2020 (April – December). The Appellant refers to himself as a "snowbird," and he testified that he was insured in Florida for the remainder of 2020 under what he identified as "Obamacare." Testimony.
7. The Appellant's 2020 AGI reported on Exhibit 1 (\$36,249) was less than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant might satisfy the financial eligibility requirements for government-subsidized health insurance if all the

information for 2020 were available on the hearing record. The Appellant's understanding is that he was enrolled in health insurance through the Massachusetts Health Connector in January, February, and March 2020. Testimony and Exhibit 2, page 1.

8. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.
  
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 6 month tax penalty because the Appellant was insured in Massachusetts for the months of January – February (3 months) but not for the remainder of 2020 (9 months). See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of

2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant’s oral testimony at the appeal hearing established that he resided and that he earned income in Massachusetts for the months of January – March 2020 (3 months) but that he relocated to Florida for the months of April – December 2020 (9 months). As summarized earlier, the individual mandate and the associated tax penalty apply only to Massachusetts residents. Since the Appellant was not a Massachusetts resident during the months for which the DOR assessed a penalty, I must vacate the entire penalty. See Mass. Gen. Laws, c. 111M, sec. 2 (a). Since the residency issue disposes of the appeal favorably to the Appellant there is no need for me to address the other points that the Appellant referred to in his hand written comments on the pre-printed appeal form (Exhibit 2).

I add two further comments in case a similar Massachusetts residency issue should arise for 2021 or later years. First, the Appellant did not alert the DOR to the residency issue when he filed his state income tax return for 2020 by checking that he was a “part-year resident” and by providing start date and end date of his residency in



Massachusetts. See Exhibit 1. Second, in future years the Appellant should provide more substantial proof of his out-of-state residency to support his testimony.

In conclusion, I vacate the 6 month penalty that the DOR assessed against the Appellant for 2020.

**PENALTY ASSESSED**

Number of Months Appealed: 6                      Number of Months Assessed: -0-

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



## Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1203 (PC + BM)

**Appeal Decision:** Appeal Approved -- 2020 tax penalty overturned.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** April 25, 2022

**Decision Date:** April 28, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant (Husband) appeared for the hearing on behalf of himself and his Wife, the Co-Appellant, who was not present. I conducted the hearing by telephone conference call. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Husband's testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2020 (8 pages);
3. Appellants' Letter Supporting Appeal (signed by both Husband and Wife) (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

## **FINDINGS OF FACT**

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellants appealed from the Department of Revenue's assessment of a 24 month penalty for 2020 – 12 months for the Husband and 12 months for the Wife. The basis for the penalty is that neither of the Appellants were insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellants filed a Massachusetts personal income tax return for 2020 as a married couple filing jointly with no dependents. The Appellants' federal adjusted gross income (AGI) for 2020 was \$39,131. Exhibit 1.
3. The Husband was 30 years old at the beginning of 2020 (the Wife is younger), and they resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellants' AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellants were not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellants' 2020 AGI (\$39,131) was less than 300% of the federal poverty level (\$50,730 for a two person household). DOR Table 2. On this basis I infer that it is likely that the Appellants would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 (Married Filing Jointly with no dependents) the Appellants could afford to pay 6.20% of their income -- or \$202 per month -- for health insurance coverage in 2020. (The calculation is 6.20% multiplied by \$39,131 AGI = \$2,426.12 per year divided by 12 months = \$202.17 per month.)
7. Based on DOR Table 4 (Region 2) the Appellants could obtain health insurance coverage as a married couple with no dependents at their age and location for \$538 per month in 2020.

8. The Wife works as a nanny. Her work dried up in 2020 due to the advent of the coronavirus pandemic (COVID-19) because her clients no longer wished to have someone present in their houses. The Wife was also quite ill with COVID in 2020. Testimony and Exhibit 3.
9. The Husband was self-employed in 2020 as a specialty type painter. His business declined substantially in 2020 due to COVID-19. Testimony and Exhibit 3.
10. Neither the Husband nor the Wife received unemployment insurance benefits in 2020. Testimony.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty because neither the Husband nor

the Wife had health insurance coverage in 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

This is another appeal where the Appellants sustained unexpected financial reverses in 2020 due to the advent of the coronavirus pandemic (COVID-19). The Wife’s income as a nanny evaporated because her clientele no longer wanted a person working inside their houses. The Husband’s income as a specialty painter declined substantially in response to the coronavirus pandemic as people were not spending on non-essential products. As a result their income declined to \$39,131 AGI, or substantially less than 300% of the federal poverty level (\$50,730 for a 2 person household). See, e.g., Findings of Fact, No. 5, above.

The Appellants did not have health insurance in 2020 (though they arranged coverage in a later year), which they could not afford based on their income. Under DOR Tables 3 and 4 the Appellants could afford to pay \$202 per month for health insurance, but insurance for the two of them would cost \$538 per month. See Findings of Fact, Nos. 5 and 6, above.

After considering the circumstances that existed in 2020 I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for that year. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

**PENALTY ASSESSED**

Number of Months Appealed (Husband): 12\_\_\_\_\_ Number of Months Assessed: \_\_\_-0-\_\_\_  
Number of Months Appealed (Wife): 12 Number of Months Assessed -0-

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit





## Massachusetts Health Connector Appeals Unit

### Tax Penalty Appeal Decision—Docket No. PA20-1204 (MP)

**Appeal Decision:** Appeal Approved -- 2020 tax penalty overturned.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** April 25, 2022

**Decision Date:** April 28, 2022

#### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

#### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

#### **HEARING RECORD**

The Appellant appeared for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellant's testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2020 (5 pages); and
3. Health Connector's Notice of Hearing (2 pages).

#### **FINDINGS OF FACT**

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2020. The basis for the penalty was that the Appellant was not

insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.

2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$81,388. Exhibit 1.
3. The Appellant was 60 years old at the beginning of 2020 and resided in [name of city or town omitted] in Bristol County, Massachusetts. Exhibit 1.
4. The Appellant's 2020 AGI was more than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00% of his income -- or \$543 per month -- for health insurance coverage in 2020. (The calculation is 8.00 % multiplied by \$81,388 AGI = \$6,511.04 per year divided by 12 months = \$542.58 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage in 2020 at his age and location for \$432 per month (\$5,184 per year).
7. The Appellant is a self-employed carpenter who typically works alone on remodeling projects. The work available in 2020 substantially declined due to the advent of the coronavirus pandemic (COVID-19) because people did not want him working inside their homes. The Appellant's income declined still further in 2020 due to the substantial increase in the cost of materials (such as lumber) which had two negative effects. The first is that the Appellant's profit decreased due to his increased costs. The second is that fewer jobs were available because the project costs were higher. Testimony.
8. The Appellant's federal adjusted gross income (AGI), which was lower in 2020 than in prior years, nevertheless overstates his financial condition. The Appellant withdrew approximately \$40,000 in savings, which he had inherited from his

parents, to meet living expenses. The Appellant's income also includes a smaller amount of unemployment insurance benefits (six weeks or less). Testimony.

9. Due to his business the Appellant spent approximately \$10,000 for insurance in 2020 for worker's compensation, liability insurance, and insurance for his work vehicles. He also incurred \$1,400 for a special town assessment and \$7,500 for real estate taxes. He was previously in arrears on tax payments. Testimony.
10. The Appellant paid \$52 per month for a loan on one of his trucks, and had a \$15,000 credit card balance. Testimony.
11. The Appellant obtained health insurance in 2021. Testimony.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant in this case was dealing with a substantial decline in his income from his occupation as a self-employed carpenter due to the impact of the coronavirus pandemic (COVID-19) in 2020.

The impact is readily evident from the fact that the Appellant had to withdraw \$40,000 from the inheritance he received from his parents -- approximately one-half of

his federal adjusted gross income (AGI) -- to meet living expenses in 2020. Even without health insurance the Appellant spent approximately \$10,000 on other insurance costs – workers compensation, liability, and insurance on his work vehicle – that were necessary to sustain his business. He also had other debts, including a \$15,000 credit card balance and local taxes.

After considering all the circumstances that existed in 2020 during the coronavirus pandemic, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   -0-  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1205 (TJ)

**Appeal Decision:** Appeal Approved -- 2020 tax penalty overturned.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** April 25, 2022

**Decision Date:** April 30, 2022

**AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

**HEARING RECORD**

The Appellant appeared for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellant’s testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2020 (5 pages);
3. Appellant’s Letter in Support of Appeal (1 page); and
4. Health Connector’s Notice of Hearing (2 pages).

**FINDINGS OF FACT**

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2020. The basis for the penalty was that the Appellant was insured for the months of January, February, and March (3 months) but was not insured for the months of April – December (9 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 3 months insured = 9 months uninsured minus 3-month administrative grace period = 6 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$71,569. Exhibit 1.
3. The Appellant was 51 years old at the beginning of 2020 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
4. The Appellant's 2020 AGI (\$71,569) was more than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$477 per month -- for health insurance coverage in 2020. (The calculation is 8.00 % multiplied by \$71,569 AGI = \$5,725.42 per year divided by 12 months = \$477.12 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$420 per month in 2020.
7. The Appellant was furloughed from her job – and lost her employer-sponsored health insurance benefits – at the end of March 2020 due to the advent of the coronavirus pandemic (COVID-19). In June her employer laid the Appellant off and eliminated her position as it realized the coronavirus was not a short-term issue. Testimony and Exhibit 3 (“During 2020, I experienced a job loss due to COVID.”).
8. The Appellant sustained a substantial reduction in earnings due to her COVID-related job loss. Her 2020 AGI includes income that she obtained through unemployment insurance benefits, which she found insufficient to meet her living



expenses. The Appellant did not receive the government stimulus payment due to her 2019 earnings. Testimony and Exhibit 3.

9. The Appellant withdrew \$30,000 from her tax-sheltered retirement plan (401(k)) to meet her living expenses in 2020.
10. The Appellant obtained a new job at a reduced salary starting in October 2020 that provided health insurance as a job benefit after a 90 day waiting period. The Appellant was insured again starting in January 2021. Testimony and Exhibit 3.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 6 month tax penalty because the Appellant did not have health insurance coverage for the months of April – December 2020. See Exhibits 1

and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

This appeal illustrates the financial disruption that the Appellant experienced in 2020 due to the advent of the coronavirus pandemic (COVID-19). Before COVID, the Appellant had a salaried job with health insurance as a job benefit. She initially sustained a short-term loss of her job and health insurance as a “furlough” that became permanent when her employer realized COVID was not a short-term problem. Consequently, the Appellant did not have health insurance for the remainder of 2020 (April – December) and was penalized by the DOR.

The Appellant found that her unemployment insurance benefits were insufficient to meet her financial obligations given such an abrupt and unexpected decrease in her

salaried income. She withdrew \$30,000 from her retirement fund (401(k) plan) – or nearly one-half of her 2020 AGI (\$71,569) – to cover the gap in her living expenses.

The Appellant found a new job more quickly than most people in 2020. She started to work again in October, with a 90 day waiting period before her health insurance job benefit took effect in January 2021.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. My decision is particularly influenced by the fact that the Appellant resorted to her retirement plan to cover her current living expenses. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

**PENALTY ASSESSED**

Number of Months Appealed:   6        Number of Months Assessed:   -0-  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201141

**Appeal Decision:** The penalty is overturned in full.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 28, 2022

**Decision Date:** April 27, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 28, 2022. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Connector Appeals Unit letter to Appellant dismissing appeal dated August 24, 2021

Exhibit 1a: Letter to the Connector's Appeal Unit from Appellant requesting vacating of dismissal received September 14, 2021

Exhibit 2: Appeal Case Information from Schedule HC 2020 showing vacation of dismissal

Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2022 for January 28, 2022 hearing

Exhibit 4: Appellant's 2019 health insurance card

Exhibit 5: Appellant's 2021 health insurance card

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$49,909 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed from January through April, 2020. After the lockdown started because of the pandemic, Appellant's hours were cut and then the appellant was laid off. Appellant finally found a new job in September, 2020. Between jobs, the appellant collected unemployment compensation benefits (Testimony of Appellant).

5. Appellant had health insurance under her mother's plan until Appellant turned 26 in September, 2019. Appellant assumed she would get insurance through her job. Appellant was offered health insurance through the job she started in January, but she could enroll only after she had been on the job for 90 days. By that time, Appellant's hours had been cut because of the pandemic and she was soon laid off (Testimony of Appellant).
6. Shortly after she was laid off from her job, Appellant had to care for her father who was very ill with covid. Appellant did not find a job until after she stopped providing care for her parent (Testimony of the Appellant).
7. Appellant was offered health insurance through her new job, but again, could not get coverage until she had been on the job for awhile. As of November 1, 2020 Appellant had health insurance which met the Commonwealth's minimum coverage standards (Testimony of Appellant, Exhibit 2).
8. Appellant has been assessed a penalty for seven months, January through July, 2020. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
9. From January through March, Appellant earned \$1,200 a week before taxes. In April, Appellant's income was first cut in half, then cut further. In May, after losing her job, she collected gross \$800 a week in unemployment benefits. As of September 1, 2020, Appellant began earning approximately \$1,300 a week before taxes (Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
11. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$49,909 could afford to pay \$316 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Suffolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
12. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
15. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
16. Appellant had the following monthly expenses for basic necessities in 2020: rent-\$650 until a move in October, then \$1,075; electricity, heat,-between \$230 and \$120; telephone and internet-\$45; food, household items, and personal care items-\$970; clothing-\$160; car payment-\$180, then dropped to \$86 in the fall; car insurance-\$220; gas-\$260 (Testimony of Appellant).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage that meets minimum creditable standards set by the Commonwealth “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance in November and December, 2020. Appellant is entitled to a three-month grace period without penalty before obtaining coverage. Appellant’s penalty for August through October is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. Appellant has been assessed a penalty for seven months, January through July. The appellant has appealed the assessment. See Exhibits 1, 2.

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$49,909 could afford to pay \$316 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Suffolk County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$49,909, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had health insurance through employment which met the Commonwealth’s minimum creditable coverage standards in November and December only. Earlier in the year, Appellant had expected to obtain coverage through her job, but the appellant was then laid off because of the pandemic. Appellant was unemployed until September when she obtained new job with benefits including health insurance. She was not eligible to enroll until the beginning of November when she finally obtained coverage. She had no access to employer-sponsored insurance the rest of the year. See the testimony of the appellant which I find to be credible and Exhibit 2.

Since the appellant could have obtained affordable health insurance through the individual market, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and/or (e), and 6.08(3).

Appellant had the following expenses for basic necessities in 2020: rent-\$650 until a move in October, then \$1,075; electricity, heat,-between \$230 and \$120; telephone and internet-\$45; food, household items, and personal care items-\$970; clothing-\$160; car payment-\$180, then dropped to \$86 in the fall; car insurance-\$220; gas-\$260. See the testimony of Appellant which I find to be credible. These expenses came to over \$2,700 a month.

Appellant's Federal Adjusted Gross Income in 2020 was \$49,909. However, Appellant's income varied from month to month and sometimes from week to week. Once the pandemic lockdown began, Appellant's income dropped by half, and then remained lower until September when she obtained a new job. For several months, the appellant's only income was unemployment compensation benefits. This was an insecure source of income during the pandemic. Appellant also had a period of several months when she had to provide care to her father who was very ill with covid. It was only after that period that the appellant found employment.

Based on the facts noted above, I find that during the pandemic, health insurance was unaffordable for the appellant. Pursuant to 956 CMR 6.08 (3) which allows for the consideration of financial issues raised by the appellant, I determine that affordable health insurance was not available to the appellant. Appellant's penalty is, therefore, waived in its entirety.

Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   7   Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, 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 your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer