

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: October 11, 2017

Decision Date: December 11, 2017

---

### 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 Wife appeared at the hearing, which was held by telephone on October 11, 2017. Testimony was recorded electronically. The hearing record consists of the Appellant Wife's testimony and the following documents, which were admitted into evidence:

- Exhibit 1: Computer Printout from the Department of Revenue (DOR) with appeal case information from Appellants' schedule HC
- Exhibit 2: Letter from the Department of Revenue to the Appellants entitled statement of Grounds for Appeal of the Health Insurance Mandate
- Exhibit 3: Appellant's Health Care Appeal Form dated 3/22/2017
- Exhibit 4: Letter from the Appellant to the Department of Revenue dated 3/22/2017
- Exhibit 5: Letter from the Connector Appeals Unit to the Appellants dated 7/31/2017, dismissing their appeal for failure to appear
- Exhibit 6: Letter from the Appellant to the Connector, dated 8/10/2017, requesting that the dismissal of their appeal be vacated.
- Exhibit 7: Letter from the Office of Patient Protection to the Appellant Wife, dated 5/20/2016, approving Appellants' waiver.
- Exhibit 8: Notice of Hearing dated 7/5/2017
- Exhibit 9: Notice of Hearing dated 9/12/2017

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. In 2016 the Appellant Husband was forty-three (43) years old and the Appellant Wife was forty-four (44) years old. (Exhibit 1)
2. The Appellant Husband was residing in Brazil from February 2014 until he moved to Massachusetts in late November 2015. (Appellant Wife testimony)
3. The Appellant Wife moved to Massachusetts from Brazil in late January 2016. (Appellant Wife testimony)
4. In 2016, the Appellants' Massachusetts tax filing status was married filing joint with a family size of two (2) and no dependents. (Exhibit 1)
5. The Appellants had a Federal Adjusted Gross Income of \$75,250 in 2016. (Exhibit 1)
6. The Appellant Husband began working the end of December 2015 or beginning of January 2016. He was informed that he had to work for three (3) months to be eligible for health insurance through his employer. He left the job at the end of January 2016. (Appellant Wife testimony and Exhibit 4)
7. The Appellant Husband started a new job in February 2016. His employer did initially inform him that he had to work for three (3) months in order to be eligible for health insurance. After three (3) months he was not offered health insurance by his employer. (Appellant Wife testimony and Exhibit 4)
8. The Appellant Wife began working at the end of February 2016. She would have been eligible for health insurance after working three (3) months. She left the job before she had worked there for three (3) months. (Appellant Wife testimony an Exhibit 6)
9. The Appellant Wife began a new job in April, and had to wait three (3) months to be eligible for her employer's health insurance. (Appellant Wife testimony and Exhibit 4)
10. The Appellants applied to the Health Connector for health insurance in May 2016. Since they did not apply during an open enrollment period, they applied for a waiver through the Office of Patient Protection. They were granted a waiver on May 20, 2016. (Appellant Wife testimony and Exhibits 4 and 7)
11. The Appellants had health insurance through the Health Connector from July through December 2016. (Appellant Wife testimony and Exhibit 4)
12. The Appellants had no health insurance from January through June 2016. They were each assessed a three (3) month penalty. (Exhibit 1)
13. The Appellants filed a Statement of Grounds for Appeal Form dated March 22, 2017, appealing the assessment of the penalty for failure to have health for three (3) months in 2016. On that form they indicated that the basis of their appeal was "other". (Exhibit 3)

# CONNECTOR APPEALS UNIT

## ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2 also called the “individual mandate”, requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage, “(s)o long as it is deemed affordable.” Residents who do not obtain creditable coverage are subject to a tax penalty. The Appellant Husband moved to Massachusetts at the end of December 2015 and the Appellant Wife moved to Massachusetts at the end of January 2016. Once the Appellants moved to Massachusetts they had a three (3) month period in which they were not subject to a penalty for failure to have health insurance. Therefore, the Appellants were not be fined for failure to have health insurance that met Massachusetts Minimum Creditable Coverage (MCC) Standards from January through March 2016. In addition, the Appellant Wife should not be fined for failure to have health insurance in April 2016, since she did not become a resident until the end of January 2016. . (M.G.L. c. 111M, s. 2, and Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and c. 176Q, as implemented by 956 CMR 6.00.

In order to avoid a penalty for failure to have health insurance for three (3) months in 2016, the Appellants need to show that there was no affordable health insurance available to them; or that they suffered a hardship pursuant to 956 CMR 6.08 (1) (a) - (e); or that there were other grounds that made obtaining health insurance unaffordable during that three (3) month period in 2016, pursuant to 956 CMR 6.08 (3).

In February 2016, both Appellants had jobs in which they were informed that they would be eligible for their employer’s insurance after three (3) months, in May 2016. When neither of the Appellants was eligible, and they applied to the Health Connector. In order to enroll, at that time they had to apply for a waiver of the open enrollment period. Their waiver was granted on May 20, 2016, and they were enrolled in July 2016.

Pursuant to 956 CMR 6.08 (3), the Appellants have provided evidence that there were other grounds that made them unable to obtain health insurance from April through June 2016. Therefore the Appellants should not be fined for failure to have MCC compliant health insurance for three (3) months in 2016.

## PENALTY ASSESSED

Appellant Husband:

Number of MonthsAppealed: 3      Number of Months Assessed: 0

Appellant Wife:

Number of MonthsAppealed: 3      Number of Months Assessed: 0

## **CONNECTOR APPEALS UNIT**

If the number of months assessed is zero (0), your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2016.

### **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

# CONNECTOR APPEALS UNIT

Appeal PA16-204

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: October 23, 2007                          Decision Date: December 4, 2007

---

### 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 requested that appellant's spouse represent the appellant. The appellant's spouse appeared at the hearing, which was held by telephone on October 23, 2017. Appellant's representative provided testimony under oath and all testimony was recorded electronically. Appellant testified that appellant's spouse was undocumented when they married in April 2016. The appellant lived in Connecticut. Appellant's representative testified that the appellant did not reside in Massachusetts until September 2016 when the appellant picked up the appellant's green card permitting appellant's presence in Massachusetts.

The hearing record consists of the appellant's representative's testimony and the following documents which were admitted into evidence without objection from the appellant's representative.

Exhibit 1: Notice of Hearing dated September 27, 2017.

Exhibit 2: Appellant's Schedule HC information dated September 27, 2017.

Exhibit 3: Appellant's Statement of Grounds for Appeal dated April 24, 2017.

# CONNECTOR APPEALS UNIT

Exhibit 4: Appellant's spouse's letter of September 5, 2017 providing additional information about the grounds for appeal.

Exhibit 5: Appellant's spouse's letter to Department of Revenue dated March 20, 2017.

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was a 51 year old married individual residing in Hamden County in 2016.
2. According to appellant's Schedule HC information, appellant was uninsured for 12 months of 2016. Appellant is appealing a 12 month penalty.
3. I find appellant's spouse's testimony credible that appellant was absent from Massachusetts until September 2016. (Appellant's spouse's Testimony)

## 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.

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.

2016 Massachusetts Schedule HC Health Care instructions states that if an individual moved into Massachusetts during 2016, the mandate to obtain and maintain health insurance applies beginning on the first day of the third month following the month the individual became a resident of Massachusetts. I find that since appellant did not arrive in Massachusetts until September 2016, appellant was not required to have health insurance in 2016.

I find that the appellant is not subject to a tax penalty in 2016.

## PENALTY ASSESSED

Number of MonthsAppealed: 12

Number of Months Assessed: 0

## **CONNECTOR APPEALS UNIT**

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 2016.

### **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

# CONNECTOR APPEALS UNIT

Appeal PA16-244

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: October 23, 2017      Decision Date: December 4, 2017

---

### 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

Both appellants appeared at the hearing which was held by telephone on October 23, 2017. Appellants provided testimony under oath and all testimony was recorded electronically. Appellants testified that the appellants were both employed part time seasonally with no employer sponsored health insurance

The hearing record consists of the appellants' testimony and the following documents which were admitted into evidence without objection from the appellants'.

Exhibit 1: Notice of Hearing dated 09/27/2017.

Exhibit 2: Appellants' Schedule HC information dated 09/27/ 2017.

Exhibit 3: Appellant's Statement of Grounds for Appeal dated 04/18/2017. Appellants claim deprivation and "other" as grounds for appeal.

Exhibit 4: 2016 Schedule HC, pages, six through 11.

# CONNECTOR APPEALS UNIT

Exhibit 5: Prior to appeal decisions for 2014, 2013, 2012.

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were a 61-year-old married male and a 56-year-old married female residing in Barnstable County in 2016.
2. Appellants are appealing a 12-month penalty each.
3. Appellants adjusted Gross income for 2016 was \$66,394.00.
4. Appellants are both employed as part time seasonal workers. (Appellants' testimony)

## 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.

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.

Appellant's raises affordability as grounds for appeal.

956 CMR 6.05 instructs the Connector Board to adopt an affordability schedule annually. 956 CMR 6.05, s. 2 permits the Connector Board to adopt a Premium schedule that establishes the lowest level of Premium that is deemed by the Board to be available for minimum creditable coverage. The 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets establish the affordability schedule and the lowest level of Premium coverage for 2016. Table 3, Affordability, shows that a married couple with a Federal Adjusted Gross Income of \$63,721.00 or above can afford a premium that is 8.13% as a percentage of income. Appellants' Adjusted Gross Income of \$66,394.00 multiplied by 8.13% and divided by 12 months equals \$449.85 as the figure that the appellants can afford to pay for a monthly health insurance premium.

Table 4, Premiums, states that the lowest premium level for a married couple without dependents with the oldest spouse aged 61 residing in Barnstable County to be \$768.00 monthly for a plan which appellants could not afford.

I find that appellants presented evidence of a hardship pursuant to 956 CMR 6.08 (1. e). Specifically, appellants' purchase of health insurance would have caused a serious deprivation of food, clothing, and other necessities. Since the appellants have presented evidence of a

# CONNECTOR APPEALS UNIT

hardship in 2016, appellants should not be fined for failure to have health insurance for the 12 months in question.

I find that the appellants are not subject to a tax penalty in 2016.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016.

## 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

Appeal Decision: Approved

Hearing Issue: 2016 Tax-Year Penalty

Hearing Date: September 20, 2017

Decision Date: December 22, 2017

### 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 a hardship appeal, pursuant to the provisions of Massachusetts 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 September 20, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information from Schedule HC
- Exhibit 2: 5/8/17 Appeal (8 pages)
- Exhibit 3: 8/29/17 Notice of Hearing (3 pages)

### FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a twelve-month penalty against her on her 2016 state income tax return. (Exhibit 1)

2. The Appellant's filing status in 2016 was Single with no dependents. The Appellant's federal AGI in 2016 was \$30,177. The Appellant resided in Hampshire County in 2016. The Appellant turned thirty-nine years old in 2016. (Exhibit 1)
3. The Appellant last had health insurance coverage in January or February 2015., when she had subsidized coverage. Her coverage was terminated because she was making too much money to qualify. The Appellant had been paying a monthly premium of \$70 for her coverage. (Appellant's testimony)
4. The Appellant looked into getting health insurance for 2016 through the Health Connector in November 2015, during open enrollment. Her projected income at that time did not qualify her for subsidized insurance. The lowest cost coverage that she found cost a monthly premium of \$300. (Appellant's testimony)
5. During the last few months of 2015, the Appellant was working two jobs, one full time and the other part time. The part-time job was seasonal, from September to early May each year. In May 2016, the Appellant was laid off from her full-time job. (Appellant's testimony; Exhibit 2)
6. The Appellant lived with her mother in 2016. While she paid no rent to her mother, she tried to help as much as she could with bills. The Appellant's basic monthly expenses in 2016 included: food, \$150; cable, \$125; cell phone, \$100; car payment, \$195; gas, \$550; insurance, \$120; and, credit card payment, \$400, for a total of \$1,640 monthly, and \$19,680 annually. (Appellant's testimony)
7. The Appellant began receiving unemployment benefits following her lay off. In 2016, the Appellant received a total of \$10,566 in unemployment benefits. (Exhibit 2)
8. According to Table 2 of the Schedule HC 2016, the Appellant was eligible for government-subsidized insurance in 2016, since her AGI for 2016 was less than \$35,310 for a family of one.
9. According to Table 3, Affordability, of the Schedule HC 2016, based on her AGI and Single tax filing status, the Appellant could have afforded to pay up to 5.00% of her income in 2016 for health insurance coverage. This calculates to the Appellant having been able to pay a monthly premium of up to \$125 for health insurance coverage in 2016.
10. According to Table 4, Premiums, of the Schedule HC 2016, the Appellant could have purchased health insurance coverage for herself in the private market in 2016 for a monthly premium of \$234, based on her county of residence and age in 2016.
11. The Appellant was not aware that she could have purchased insurance coverage in 2016 for monthly premium of \$125. If she had known this, it would have been a struggle for her to pay that much, but she would have found a way. (Appellant's testimony)

# Massachusetts Health Connector Appeals Unit

## ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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. However, 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. MGL Chapter 111M, § 2(b). The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2016 should be waived, either in whole or in part.

In this case, the Appellant contends that the expense of purchasing health insurance in 2016 would have caused a serious deprivation of food, shelter, clothing or other necessities. The evidence in the record supports this contention. The Appellant made an effort to obtain coverage in 2016 during open enrollment but found the \$300 monthly premium too expensive. While the Appellant could have purchased coverage in 2016 on the private market for \$234, the Appellant was not aware of this and the cost was still substantially higher than what she could have afforded to pay in 2016. When the Appellant lost her regular full-time job in May 2016, at the same time that her seasonal part-time job ended, the Appellant’s income for the rest of the year was reduced to \$10,566 from unemployment benefits plus incidental income when her seasonal part-time job started up again in the fall. Even if she had discovered that subsidized insurance coverage was available to her at a monthly cost of \$125, the Appellant still would have struggled to pay for coverage.

Therefore, I conclude that affordable health insurance was not available to the Appellant in 2016, under MGL Chapter 11M, Section 2.

Accordingly, the Appellant’s twelve-month penalty shall be waived in full for 2016.

## ORDER

Penalty Overturned in Full  
 Penalty Overturned in Part

Penalty Upheld  
 Other

## 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 2016 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 2016.

#### **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

Appeal Decision: xx Penalty Overturned in Full            Penalty Upheld  
      Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: October 23, 2017                          Decision Date: December 8, 2017

### 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 October 23, 2017. The procedures to be followed during the hearing were reviewed with the appellant who was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2016
- Exhibit 2: Statement of Grounds for Appeal 2016 signed by the appellant on May 16, 2017 with letter in support attached
- Exhibit 3: Notice of Hearing sent to Appellant dated September 6, 2017 for a hearing on September 26, 2017
- Exhibit 4: Notice of Hearing sent to Appellant dated September 27, 2017 for a hearing on October 23, 2017

# Massachusetts Health Connector Appeals Unit

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 42 years old in 2016. He filed his 2016 Massachusetts tax return as a single person with no dependents claimed (Exhibits 1, and 2l).
2. Appellant lived in Middlesex County, MA in 2016 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2016 was \$99,751 (Exhibit 1).
4. The appellant has had the same job at a hospital for thirteen years. He had health insurance through this job for the twelve years, including all of 2015. The hospital paid the full cost of the coverage. The appellant also had dental coverage for his minor children who live with their mother (Testimony of Appellant).
5. At some point during the November 2015 open enrollment period, since the appellant no longer needed dental coverage for his children, he went on-line to drop the dental coverage. Some time later, in March or April, 2016, he discovered that when he dropped the dental coverage, because of some technical error, he also lost his health insurance plan. When he called the Benefits Department, he was told that he should not have lost his health insurance, but that there was nothing that could be done about the loss until the next open enrollment period in November, 2016 with a start date of January 1, 2017 (Testimony of Appellant).
6. Because his employer paid 100% of the cost of the premium, the appellant did not realize he had lost coverage. There was nothing on his pay stub to indicate the loss of coverage (Testimony of Appellant).
7. Appellant signed up for coverage during the November, 2016 open enrollment period; he now has coverage again through his employment (effective January 1, 2017) (Testimony of Appellant).
8. The appellant filed for an appeal of the penalty in May, 2017 (Exhibit 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for

## Massachusetts Health Connector Appeals Unit

2016.

10. According to Table 3 of Schedule HC for 2016, the appellant, filing as a single individual with no dependents claimed with a Federal adjusted gross income of \$99,751, could afford to pay \$675 per month for health insurance. According to Table 4, Appellant, 42 years old and living in Middlesex County, could have purchased insurance for \$237 per month (Schedule HC for 2016).
11. According to Table 2 of Schedule HC for 2016, Appellant, earning more than \$35,310 the income limit for an individual, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2016, Exhibit 1).
12. 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 fire, flood, or other natural or man-made disaster in 2016 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in mortgage payments in 2016 (Testimony of Appellant).
14. Appellant did not receive shut-off notices for a basic utility in 2016 (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 2016 should be waived in whole, in part, or not at all.

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

## Massachusetts Health Connector Appeals Unit

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 155.410 and 420, Affordable Care Act regulations, provide for open enrollment periods during which individuals may enroll in health care plans through a health exchange (in Massachusetts, the Connector), and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event. Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period.

The appellant has been assessed a penalty for all of 2016. The appellant has appealed the assessment. See Exhibits 1 and 2. The appellant had insurance all of 2015; he is entitled to a three-month grace period after losing his coverage in 2016. Since the appellant is entitled to a three-month grace period, the penalty for January through March is waived. See the testimony of the appellant which I find to be credible.

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

Appellant had no health insurance available to him through his employer. Though he had had coverage for twelve years, because of a technical error, he lost his health insurance when he went on-line during the open enrollment period in November, 2015 to drop dental coverage. Since his employer paid 100% of the cost of the coverage, Appellant had no way of knowing he had lost his coverage by checking his pay stub. When the appellant discovered he had no coverage, he went to his employer to try to reenroll. He was told that he had to wait for the next open enrollment period. Appellant enrolled as soon as he could, and obtained coverage as of January 1, 2017. See the testimony of the appellant which I find to be credible.

According to Table 3 of Schedule HC for 2016, the appellant, filing as a single individual with no dependents claimed with a Federal adjusted gross income of \$99,751, could afford to pay \$675 per month for health insurance. According to Table 4, Appellant, 42 years old and living in Middlesex County, could have purchased insurance for \$237 per month (Schedule HC for 2016). Though the coverage would have been affordable, it was not available to the appellant in 2016. The appellant lost his coverage

## Massachusetts Health Connector Appeals Unit

through employment as of January 1, 2016, but he did not realize he had lost his coverage until March or April, more than 60 days after becoming uninsured. As noted above, once 60 days have passed after a qualifying life event (in this case, losing health insurance coverage), an individual must wait for the next open enrollment period to obtain health insurance coverage through the Connector. Just as the appellant had to wait for the next open enrollment period at work, he also had to wait until the next open enrollment period (November, 2016) to purchase insurance through the Connector.

Finally, the appellant would not have been eligible for coverage through any government-sponsored program. He earned too much to obtain coverage through the ConnectorCare program (See Schedule HC 2016). There is no evidence in the record that he was eligible for any other government program.

Appellant had no affordable health insurance available to him in 2016. Through an error, not of the appellant's making, he lost the insurance he had had through work for the twelve previous years. For the reasons summarized above, he had no access to insurance through a government program or through the individual market

Appellant's penalty is, therefore, waived in its entirety. See Massachusetts General Laws, Chapter 111M, Section 2.

Appellant should note that the waiver of the penalty is based upon the facts determined to be true in 2016. They should not assume that a similar determination will be made in the future should they be assessed a penalty for failure to have health insurance.

### PENALTY ASSESSED

Number of MonthsAppealed: 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 2016.

## Massachusetts Health Connector Appeals Unit

### 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision: xx Penalty Overturned in Full       Penalty Upheld  
       Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 3, 2017                          Decision Date: December 27, 2017

### 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

One of the appellants appeared at the hearing which was held by telephone on November 3, 2017. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was 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: Appeal Case Information from Schedule HC 2016
- Exhibit 2: Appellants' Statement of Grounds for Appeal 2016
- Exhibit 3: Notice of Hearing sent to Appellant dated October 6, 2017 for hearing on November 3, 2017

### FINDINGS OF FACT

# CONNECTOR APPEALS UNIT

The record shows, and I so find:

1. Appellants were 63 and 45 years old in 2016. They filed a 2016 tax return jointly, and claimed two dependents, their minor child (Exhibit 1, Testimony of Appellant).
2. Appellants lived in Middlesex County, MA in 2016 (Exhibit 1).
3. Appellants had a Federal Adjusted Gross Income of \$42,753 in 2016 (Exhibit 1, Testimony of Appellant)
4. One of the appellants had two jobs during 2016. He worked at one from January through April and at the other from May through December. At both jobs, the number of hours the appellant worked each week varied greatly. The spouse was unemployed all of 2016 (Testimony of Appellant).
5. Appellant who worked had ConnectorCare coverage from January through September. His dependents had MassHealth coverage. Another child, not a minor, also had ConnectorCare coverage (Testimony of Appellant).
6. The other appellant had no insurance all year. This appellant had a permanent resident card which had expired. She applied for a new card, but the new card was sent to an old address. She applied for a replacement, but had not received one in 2016. This appellant applied for insurance through the Connector, but was found to be ineligible because she did not have proof that she was lawfully present in the United States (Testimony of Appellant).
6. The appellant who was uninsured has been assessed a penalty for twelve months. The other appellant who had ConnectorCare coverage has been assessed a penalty for three months. Appellants have appealed these assessments (Exhibits 1, 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
8. According to Table 3 of Schedule HC for 2016, Appellants who filed taxes jointly with two dependents claimed and who had an adjusted gross income of \$42,753 could afford to pay \$174 per month for insurance. According to Table 4, Appellants, age 63 and 45 and living in Middlesex County, could have purchased private insurance for

# CONNECTOR APPEALS UNIT

\$650 per month. Insurance through the individual market was unaffordable for the appellants.

9. In 2016, Appellants had the following monthly expenses for basic necessities: rent-\$2050; electricity-\$50; heat-\$100; food-\$200; telephone- \$220; clothing-\$50 on average; car insurance-\$10; car payments-\$306 from January through September (Testimony of Appellant).

10. The appellants filed for bankruptcy in 2016. During the year, they obtained some of their food and money to pay for their car insurance from charities (Testimony of Appellant).

11. 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; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2016 (Testimony of Appellant).

12. Appellants did not fall more than thirty days behind in rent payments in 2016 (Testimony of Appellant).

13. Appellants received one shut-off notice for electricity during 2016. They also received a shut off notice for gas in April (Testimony of Appellant).

## ANALYSIS AND CONCLUSIONS OF LAW

One of the appellant had health insurance from January through September, 2016. He was uninsured the rest of the year. The appellant has been assessed a tax penalty for three months, October through December. Since he is entitled to a three-month grace period after losing his coverage, his penalty is waived.

The other appellant had no coverage in 2016. She has been assessed a twelve-month penalty. She has appealed the assessment. See Exhibit 1 and 2. The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2016 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 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

## CONNECTOR APPEALS UNIT

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.

Under the Patient Protection and Affordable Care Act and the federal regulations promulgated pursuant to the act, to be eligible to obtain a qualified health plan through the Connector, an individual, among other things, must be lawfully present in the United States. See Section 1312 of the Affordable Care Act and Federal Regulation 45 CFR 155.305(a)(1).

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 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 the appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2016, Appellants who filed taxes jointly with two dependents claimed and who had an adjusted gross income of \$42,753 could afford to pay \$174 per month for insurance. According to Table 4, Appellants, age 63 and 45 and living in Middlesex County, could have purchased private insurance for \$650 per month. Insurance through the individual market was unaffordable for the appellants.

The appellant who was uninsured all year was unemployed in 2016. Though her spouse was employed, he did not have coverage through employment. Instead, he had ConnectorCare coverage. See the testimony of the appellant which I find to be credible. No employer-sponsored insurance was available to the appellant.

No insurance was available to the appellant through a government-sponsored plan. Appellant applied for insurance through the Connector, but she could not produce documentation showing that she was lawfully present in the United States. Pursuant to the Affordable Care Act, without proof of lawful presence, Appellant was ineligible to obtain ConnectorCare coverage. See cites above. There is no evidence in the record that Appellant was eligible for any other program. See the testimony of the appellant which I find to be credible.

# CONNECTOR APPEALS UNIT

No affordable insurance was available for the appellant in 2016. Insurance through the individual market was too expensive. Appellant had no access to insurance through employment and no access to affordable insurance through the Connector or through any government-sponsored program. Her penalty is waived. As determined earlier, her spouse's penalty is also waived.

I also note that the appellants experienced financial hardship during 2016. They received shut-off notices for gas and electricity, and they had expenses for basic necessities that essentially equaled their income. In addition, they filed for bankruptcy and received financial aid from charities. See 956 CMR 6.08(1)(b) and 6.08(3).

Appellants should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2016 appeal. Appellants should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance.

## PENALTY ASSESSED

Number of MonthsAppealed: 15 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 2016.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 1, 2017

Decision Date: December 26, 2017

---

### 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 November 1, 2017.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence, without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-6-17) (3 pages).
- Exhibit 2: Information from Schedule HC (2 pages).
- Exhibit 3: Statement of Grounds for Appeal (5-22-17) (with letter and documents) (10 pages).

### FINDINGS OF FACT

The record shows, and I so find:

# CONNECTOR APPEALS UNIT

1. Appellant, age 33 during 2016, from Norfolk County, filed single on the tax return with a family size of one.
2. The federal AGI was \$28,117.00.
3. Appellant did have health insurance for the months of August through December of 2016 through the Health Connector.
4. Appellant's employer did offer health insurance, and Appellant had health insurance through his employer in 2015. Appellant did not realize it was going to expire in January 2016, and by the time he became aware of it, the deadline to sign up had passed. Appellant did sign up for health insurance through the Connector for the months of August through December, and the cost to him was \$236.49 per month.
5. Appellant could afford \$98 per month based on the tables in Schedule HC, and the cost would be \$216 for individual coverage based upon those tables. Thus, Appellant could not afford health insurance based on the tables in Schedule HC.
6. Appellant's expenses for food, shelter, clothing, and transportation used most of the income during 2016.

## 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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to him. Appellant did have health insurance for the months of August through December of 2016. Based on the tables in Schedule HC, health insurance was not affordable for him.

Appellant's expenses for food, shelter, clothing and transportation used most of the income for 2016. Paying for health insurance would have caused a serious deprivation of food, shelter, clothing and transportation.

## PENALTY ASSESSED

Number of MonthsAppealed: 4      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 2016 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.

## **CONNECTOR APPEALS UNIT**

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 2016.

### **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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision: X Penalty Overturned in Full      \_\_\_\_\_Penalty Upheld  
                  \_\_\_\_\_ Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 1, 2017

Decision Date: December 26, 2017

---

### 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 November 1, 2017.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence, without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-6-17) (3 pages).
- Exhibit 2: Information from Schedule HC (2 pages).
- Exhibit 3: Statement of Grounds for Appeal (5-18-17) (with letter) (5 pages).

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 47 during 2016, from Barnstable County, filed single on the tax return with a family size of one.
2. The federal AGI was \$64,128.00.

# CONNECTOR APPEALS UNIT

3. Appellant did not have health insurance for 2016. Appellant had previously been covered under his ex-spouse's health insurance and believed that would continue. However, the insurance was not continued. Appellant continued to pay for his children's coverage under the insurance, but did not believe he could afford the COBRA or health insurance through the Health Connector.
4. Appellant found another job that did offer health insurance and is currently covered under his employer's health insurance.
5. Appellant could afford \$434 per month based on the tables in Schedule HC, and the cost would be \$321 for individual coverage based upon those tables. Thus, Appellant could afford health insurance based on the tables in Schedule HC.
6. Appellant's expenses for food, shelter, clothing, and transportation used most of the income during 2016.

## 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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to him. Appellant did not have health insurance for 2016. Based on the tables in Schedule HC, health insurance was affordable for him. Appellant did change jobs in order to have health insurance coverage, and had extra expenses for college and health insurance for his children.

Appellant's expenses for food, shelter, clothing and transportation used most of the income for 2016. Paying for health insurance would have caused a serious deprivation of food, shelter, clothing and transportation.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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 2016.

# CONNECTOR APPEALS UNIT

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full  Penalty Upheld  
 Penalty Overturned in Part

## Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 3, 2017      Decision Date: December 5, 2017

## 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 on November 3, 2017. 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 Appellant's testimony and the following documents which were admitted in evidence:

- Exhibit 1: Notice of Hearing sent to Appellant dated October 6, 2017  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2016  
Exhibit 3: Statement of Grounds for Appeal 2016 signed by Appellant on April 27, 2017  
Exhibit 4: Statement in Support of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 35 years old in 2016 and filed a 2016 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
  2. Appellant lived in Plymouth County, MA in 2016 (Exhibit 2).
  3. Appellant's Adjusted Gross Income for 2016 was \$33,368 (Exhibit 2).

# CONNECTOR APPEALS UNIT

4. During 2016, Appellant worked, but employer sponsored health insurance was not available (Testimony of Appellant).
5. During 2016, Appellant looked at the Health Connector website but didn't apply (Testimony of Appellant).
6. Appellant did not have health insurance for all of 2016 (Exhibit 2).
7. Appellant began coverage under employer sponsored health insurance in 2017 and was covered at the time of hearing (Testimony of Appellant).
8. Appellant was assessed a penalty of twelve months (Exhibit 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
10. According to Table 3 of Schedule HC for 2016 a single person with no dependents with an adjusted gross income of \$33,368 could afford to pay \$139 per month for private insurance. According to Table 4, Appellant, aged 35 and living in Plymouth County could have purchased private insurance for \$263 per month.
11. Private insurance was not considered to be affordable for Appellant in 2016 (Schedule HC for 2016).
12. According to Table 2 of Schedule HC for 2016, Appellant, earning less than \$35,010, would have met the income eligibility guidelines for government subsidized insurance.
13. Appellant was not homeless during 2016. Appellant did not fall behind in rent payments nor receive any shut-off notices (Testimony of Appellant).
14. Appellant did not incur a significant and unexpected increase 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 fire, flood, natural disaster, or other unexpected natural or human-caused event (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities during 2016: rent \$433; telephone \$70; food \$100; clothing \$25; car insurance \$200; car payment \$250 and gasoline \$86. The basic expenses totaled \$1,164 (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 2016 should be waived, either in whole or in part.

# CONNECTOR APPEALS UNIT

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 2016, 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 such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

During 2016, Appellant worked but employer sponsored health insurance was not available. Appellant was income eligible for government subsidized health insurance, but did not apply for coverage. Appellant began coverage by employer sponsored health insurance in 2017. See Schedule HC for 2016 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was not homeless during 2016. Appellant did not fall behind in rent payments nor receive any shut-off notices. Appellant did not incur a significant and unexpected increase 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 fire, flood, natural disaster, or other unexpected natural or human-caused event. Appellant had monthly expenses of \$1,164. Appellant’s monthly income was \$2,781. I find that the cost of government subsidized health insurance would not have caused a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08.

For this year, I find that a partial penalty of six months should be assessed.

## PENALTY ASSESSED

Number of MonthsAppealed: 12

Number of Months Assessed: 6

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2016 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 2016.

# CONNECTOR APPEALS UNIT

## 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.

## ADDENDUM

Appellant should note that this decision is based upon the facts as I have found them for 2016. Appellant should note that a similar decision may not be reached if Appellant fails to obtain health insurance in the future.

If Appellant should lose health insurance in the future, Appellant should contact Massachusetts Health Connector (1-877 623-6765) to apply for affordable insurance.

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 3, 2017      Decision Date: December 5, 2017

### 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 on November 3, 2017. 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 Appellant's testimony and the following documents which were admitted in evidence:

- Exhibit 1: Notice of Hearing sent to Appellant dated October 6, 2017
- Exhibit 2: Appeal Case Information Sheet from Schedule HC 2016
- Exhibit 3: Statement of Grounds for Appeal 2016 signed by Appellant on May 20, 2017
- Exhibit 4: Appeal decision for 2015

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 44 years old in 2016 and filed a 2016 Massachusetts tax return as head of household with one dependent claimed (Exhibit 2).
2. Appellant lived in Essex County, MA in 2016 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2016 was \$40,527(Exhibit 2).

# CONNECTOR APPEALS UNIT

4. During 2016, Appellant worked, but employer sponsored health insurance was not available (Testimony of Appellant).
5. During 2016, Appellant looked into subsidized health insurance from the Health Connector but didn't apply due to the cost (Testimony of Appellant).
6. Appellant did not have health insurance for all of 2016 (Exhibit 2).
7. Appellant was assessed a penalty of twelve months (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
9. According to Table 3 of Schedule HC for 2016 a person filing as head of household with one dependent with an adjusted gross income of \$40,527 could afford to pay \$249 per month for private insurance. According to Table 4, Appellant, aged 44 and living in Essex County could have purchased private insurance for \$237 per month.
10. Private insurance was considered to be affordable for Appellant in 2016 (Schedule HC for 2016).
11. According to Table 2 of Schedule HC for 2016, Appellant, earning less than \$47,790, would have met the income eligibility guidelines for government subsidized insurance.
12. Appellant was not homeless during 2016. Appellant did not fall behind in rent payments nor receive any shut-off notices (Testimony of Appellant).
13. Appellant did not incur a significant and unexpected increase 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 fire, flood, natural disaster, or other unexpected natural or human-caused event (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities during 2016: rent \$1,150; electricity \$60; telephone \$140; food \$433; supplies \$100; clothing \$50; car insurance \$67; gasoline \$217; car maintenance \$150; medical \$8; child support \$1,300; children's supplies \$50; and consolidated debt payment \$470. The basic expenses totaled \$4,195 (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 2016 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

# CONNECTOR APPEALS UNIT

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 2016, 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 such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

During 2016, Appellant worked but employer sponsored health insurance was not available. Private health insurance was considered to have been affordable for Appellant. Appellant was also income eligible for government subsidized health insurance. See Schedule HC for 2016 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant had monthly expenses of \$4.195. Appellant’s monthly income was \$3,379. I find that the cost of health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08.

I find that the penalty for 2016 should be waived in full.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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 2016.

## 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.

# CONNECTOR APPEALS UNIT

## ADDENDUM

Appellant should note that this decision is based upon the facts as I have found them for 2016. Appellant should note that a similar decision may not be reached if Appellant fails to obtain health insurance in the future.

Appellant should contact Massachusetts Health Connector (1-877 623-6765) to find out about health insurance options.

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 8, 2017

Decision Date: December 3, 2017

---

### 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 November 8, 2017, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2016
- Ex. 1A—Letter from the appellant, undated
- Ex. 1B—Employer Group Health Benefit Plan effective January 1, 2016
- Ex. 1C—Health Connector Final Appeal Decision in PA14-378 dated October 9, 2015
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

---

<sup>1</sup> Ex. 3 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2016 Massachusetts income tax return. It also contains information about prior appeals, if any.

# CONNECTOR APPEALS UNIT

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

Ex. 4—Letter from appellant's employer dated October 5, 2017

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 36-years-old, is single and has no children. In 2016, she had health insurance provided through her employer for the entire year. (Testimony)
2. The appellant has been employed by the same company since 2013. In 2013, she had employer health insurance that complied with state minimum creditable coverage (MCC) standards. Thereafter, the company was acquired by an out-of-state owner and the health insurance plan offered by the employer changed. (Ex. 1C)
3. During the open enrollment period for 2014, the appellant received a letter from her employer notifying her that its health plan did not comply with MCC standards because it only covered maternity care for dependent children in the event of pregnancy complications. The appellant briefly investigated other insurance alternatives, but due to time constraints, decided to enroll in the employer's plan even though it did not comply with state standards. (Testimony, Ex. 1C)
4. The appellant was assessed a penalty of 12 months for purchasing health insurance that did not meet MCC standards. She appealed the penalty to the Health Connector, and following a hearing, the penalty was waived. The hearing officer <sup>2</sup> concluded that although there were differences between her coverage and what was required by MCC standards, the appellant was pressured into enrolling in non-compliant insurance due to a lack of alternatives. (Testimony, Ex. 1C)
5. Due to the MCC issue with her employer's health insurance, the appellant enrolled in a plan through the Health Connector for 2015 for which she paid \$240.00/month. She did not find the coverage as good as what was offered by her employer and the cost was significantly higher. (Testimony)

---

<sup>2</sup> It is noted for the record that I was the hearing officer in the decision referenced in Finding No. 4 (PA14-378).

# CONNECTOR APPEALS UNIT

6. The appellant decided to re-enroll in her employer's insurance for 2016. During the open enrollment period, she received the same letter from her employer that was previously sent notifying her that its health plan did not comply with MCC standards because it only covered maternity benefits for dependent children in the event of pregnancy complications. The letter further stated that an employee would incur a tax penalty if s/he elected to enroll in the non-compliant plan.<sup>3</sup> The appellant compared the plan with MCC requirements and concluded that the coverage was better and was far more affordable at approximately \$50.00/month. She also determined that the major deviation of the plan from MCC standards did not concern her because she did not have any dependents.(Testimony, Ex. 4)
7. Since the premium for 2016 employer insurance was so low, the appellant contributed \$50.00/month to a health savings account (HSA) to ensure that she had extra funds for medical expenses if an emergency arose. (Testimony)
8. The appellant's health insurance plan offered the following benefits effective January 1, 2016: physician and specialty care services; preventive care; diagnostic mammograms, PSAs and pap smears; inpatient hospital services; laboratory and radiology services; advanced radiological imaging; outpatient short-term rehabilitative therapy and chiropractic services; home health care; maternity care services for employee and dependent spouse only; and mental health and substance abuse services. The plan has an overall deductible of \$2750.00/person for in-network providers and \$5000.00/person for out-of-network providers. There is an out-of-pocket maximum per individual of \$5750.00 for in-network providers, and \$10,000.00 for out-of-network providers. (The out-of-pocket maximum is a combined medical/prescription benefit. (Ex. 1B)
9. 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.

---

<sup>3</sup> The appellant did not keep a copy of the letter she received regarding the 2016 plan. Instead, she submitted a letter from the employer dated October 5, 2017 regarding 2018 insurance which she testified was identical to 2016 letter.

# CONNECTOR APPEALS UNIT

<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>

10. The appellant reported an adjusted gross income of \$67,078.00 on her 2016 federal tax return, and reported that she was single with no dependents. (Ex. 2)

In addition to the foregoing, I take administrative notice of the 2016 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2016>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2016 individual mandate tax penalty determinations.

## 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” under the schedule set by the Board of Directors for the Commonwealth Health Insurance Connector Authority. Any health insurance policy must also satisfy the state minimum creditable coverage standards (MCC). Residents who do not obtain compliant 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 her in 2016 because she purchased health insurance that did not meet minimum creditable coverage standards since that is what her employer offered, and she felt that her circumstances prevented her from buying other insurance that met its requirements. She also submitted a letter (Ex. 1A) with her statement in which she stated that the only reason her employer’s plan did not meet state standards was because it did not offer maternity benefits for dependents. She further stated that it was the only plan offered by her employer, and insurance offered through the Health Connector was unaffordable. Although the appellant did have health insurance throughout 2016, she did not have full-year MCC coverage. 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 2016, 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. Since the appellant is considered to have been uninsured for the entire year, she is appealing a penalty of twelve months.

## CONNECTOR APPEALS UNIT

The appellant testified credibly that she was enrolled in non-compliant employer health insurance in 2014 and appealed the 12-month penalty which was waived. She testified that in 2015, she enrolled in a plan through the Health Connector which was much more expensive than her employer's insurance and did not have coverage that was as good. She testified that she decided to enroll in her employer's plan for 2016 because the coverage was better than what she had in 2015 and it was much less expensive. She testified that she was not concerned by the lack of maternity benefits for dependents since she does not have any dependents. She testified that in addition to her low monthly premium of \$50.00, she contributed \$50.00/month to a health savings account. Finally, she testified that her 2016 plan did not comply with MCC standards for the same reason her 2014 plan did not comply.

A review of the appellant's plan indicates that in addition to the lack of maternity benefits for dependents, the overall deductible is \$750.00 higher than what is required under MCC standards. Otherwise, the plan offered comprehensive coverage and covered a "broad range of medical benefits" as specified in the Massachusetts regulations. See 956 CMR 5.03(1)(a). The appellant paid a monthly premium of \$50 for the plan. Her only alternative would have been to reject her employer's plan and buy private insurance which would have cost approximately \$221.00/month (applying the affordability standards of Table 3 and premium costs of Table 4 for a 35-year-old individual in Worcester County; See final paragraph of Findings), significantly more than her employer premium.

Based on the totality of the evidence, it is concluded that the appellant established that her 2016 health insurance coverage substantially satisfied Massachusetts MCC standards. Accordingly, her request for a waiver of the penalty is granted for the months in question. The determination that she is eligible for a waiver is with respect to 2016, only and is based upon the extent of information submitted by the appellant in this appeal.

### PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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.

## **CONNECTOR APPEALS UNIT**

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 2016.

### **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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 8, 2017                          Decision Date: November 27, 2017

---

### 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 November 8, 2017, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2016
- Ex. 1A—Letter from the appellant, undated
- Ex. 1B—Letter from National Grid regarding payment plan dated December 11, 2015
- Ex. 1C—National Grid Statement for the period June 10, 2016-July 12, 2016
- Ex. 1D—National Grid Statement for the period June 12, 2015-July 14, 2015
- Ex. 1E—Office of Deputy Collector of Taxes Notice of Paid Invoices dated March 12, 2015
- Ex. 1F—Allstate invoice dated July 27, 2016

# CONNECTOR APPEALS UNIT

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

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

Ex. 4—National Grid Payment Agreement Default Notice dated March 9, 2016

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 27-years-old, is single and does not have children. In 2016, she had minimum creditable coverage (MCC) health insurance for the months of January through March. (Testimony, Ex. 2)
2. In 2016, the appellant had health insurance under her father's plan until she turned 26-years-old on March 23, 2016. (Testimony, Ex. 2)
3. The appellant was employed in 2016, but was not eligible for employer health insurance because she did not work a sufficient number of hours. (Testimony)
4. The appellant fell behind with her regular monthly payments to National Grid in 2015. On December 11, 2015, she entered into a payment plan with the company which required her to make a down payment of \$159.16 by December 29, 2015, and thereafter to make six installment payments of \$54.77. She was advised that failure to keep the agreement would result in cancellation of the plan and further collection activity. (Testimony, Ex. 1B)
5. The appellant was unable to comply with the terms of the payment plan in 2016. By letter dated March 9, 2016, National Grid advised her that she was in default of the December 11, 2015 agreement, and owed a balance of \$420.93. She was further advised that her service would be terminated unless she made an immediate payment of \$256.57. (Testimony, Ex. 4)
6. The appellant was able to avoid termination of her service by arranging for a new payment plan effective March 16, 2016 under the terms of which she

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2016 Massachusetts income tax return. It also contains information about prior appeals, if any.

# CONNECTOR APPEALS UNIT

was required to pay \$66.09 per month along with her current charges. (Testimony, Ex. 1C)

7. The appellant received several other termination notices during 2016. She was able to make minimum payments and avoid a shut off of her service. (Testimony)
8. The appellant investigated her eligibility for health insurance with MassHealth in 2016, but she was denied coverage because her income was too high. She did not investigate any other options because she did not think that she could cover a monthly premium with her limited resources. (Testimony)
9. The appellant was not eligible for employer health insurance in 2017 and did not investigate any other options. At the time of the instant hearing, she had applied for MassHealth insurance and was waiting for a response. Her work hours have increased recently and she is planning to enroll in employer insurance during the next open enrollment period in June, 2018. (Testimony)
10. The appellant reported an adjusted gross income of \$32,066.00 on her 2016 federal tax return, and reported that she was single with no dependents. (Ex. 2)

## 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 her in 2016, because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. She also submitted a letter with her statement (Ex. 1A) in which she stated in part that she could not afford health insurance after March, 2016, and cannot afford to pay a penalty. She further stated that her income is unpredictable because she depends on tips.

The appellant did not have insurance from April through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage

## CONNECTOR APPEALS UNIT

without facing a tax penalty; for Tax Year 2016, 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 was uninsured for nine months, she is appealing a penalty of six months (i.e. the months of uninsurance less the gap period of three months.)

The appellant testified credibly that she had health insurance under her father's plan until she turned 26-years-old in March, 2016. She testified that she investigated insurance through MassHealth, but was denied eligibility because her income was too high. She testified that she did not look into any other options because she was in difficult financial circumstances and did not feel she could afford any additional expenses. She testified that she was employed during the year, but was not eligible for employer health insurance because she did not work a sufficient number of hours. She testified that she fell behind with her payments to National Grid in 2015 and entered into a payment plan with the company in December, 2015, under the terms of which she was required to make six monthly payments in addition to her current charges. She testified that she could not comply with the agreement and in March, 2016, was notified by the company that she was in default of the agreement, and that her service would be terminated if she did not make a minimum payment. She testified that she was able to avoid a shut off of her service by entering into a new payment plan. She testified that she received several other termination notices during 2016. She testified that she has not had health insurance in 2017, but will be eligible to enroll in employer insurance in June, 2018 because she now works enough hours to qualify.

Although the appellant did not claim in her Statement of Grounds for Appeal that she had received a shut off notice for her utilities in 2016, she submitted documentation which corroborated that her service was threatened with termination in March, 2016, and that she entered into a payment plan with the service provider at that time to avoid a shut off. Accordingly, it is concluded that the appellant has established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b) as a result of which she should not be subject to a penalty. (In light of this conclusion, it is not necessary to consider the other ground for the appellant's appeal—i.e.—serious deprivation of food, shelter, clothing and other necessities.)

Based upon the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty for the months in question is granted. The determination that the appellant is eligible for a hardship waiver is with respect to 2016, only and is based upon the extent of information submitted in this appeal.

# CONNECTOR APPEALS UNIT

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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 2016.

## 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

## ADDENDUM

Even though the appellant indicated that she plans to enroll in employer health insurance in June, 2018, she is advised to investigate her eligibility for subsidized health insurance prior to then through the Health Connector at [mahealthconnector.org](http://mahealthconnector.org) or by calling customer service at 1-877-623-6765. Open enrollment runs through January 23, 2018, and she may be eligible for subsidies for the portion of the year during which she is waiting to enroll in her employer's insurance.

# CONNECTOR APPEALS UNIT

Appeal PA16-483

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 6, 2017                          Decision Date: December 5, 2017

---

### 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 November 6, 2017. Appellant provided testimony under oath and all testimony was recorded electronically. Appellant testified that appellant worked for an employer that did not offer employer-sponsored health insurance in 2016. Appellant testified that that job ended in 2016 but that appellant could not enroll with the Connector because the open enrollment period had ended. Subsequently appellant tried to apply for private health insurance but the quotes of more than \$400.00 monthly were too expensive for the appellant. Appellant testified that appellant found new employment in April 2017 that included employer sponsored health insurance.

The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence without objection from the appellant.

Exhibit 1: Notice of Hearing dated 10/10/2017.

Exhibit 2: Appellant's Schedule HC information dated 10/10/ 2017.

Exhibit 3: A Statement of Grounds for Appeal. The document is dated May 21, 2017.

# CONNECTOR APPEALS UNIT

Exhibit 4: Appellant's letter describing grounds for appeal dated 05/21/2017.

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was a 46 year old single individual. Appellant resided in Suffolk County in 2016. (Exhibit 2)
2. Appellant's 2016 Federal Adjusted Gross Income was \$57,200.00. (Exhibit 2)
3. Appellant was without health insurance for 12 months in 2016 and is appealing a 12 month penalty. (Exhibit 2)
4. I find appellant's testimony that his employer did not offer health insurance and that appellant missed the Connector's open enrollment period to be credible. (Appellant's testimony)

## ANALYSIS AND CONCLUSIONS OF LAW

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.

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.

Appellant raises affordability as an issue.

956 CMR 6.05 instructs the Connector Board to adopt an affordability schedule annually. 956 CMR 6.05, s. 2 permits the Connector Board to adopt a Premium schedule that establishes the lowest level of Premium that is deemed by the Board to be available for minimum creditable coverage. The 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets establishes the affordability schedule and the lowest level of Premium coverage for 2016. Table 3, Affordability, shows that an individual with a Federal Adjusted Gross Income above \$47,801.00 can afford a premium that is .0813% as a percentage of income. Appellant's Adjusted Gross Income of \$57,200.00 multiplied by .0813% and divided by 12 months equals \$388.00 as the figure that the appellant can afford to pay for a monthly health insurance premium.

Table 4, Premiums, states that the lowest premium level for an individual aged 44 with no dependents residing in Suffolk County to be \$237.00 monthly for an individual plan which appellant could afford.

# CONNECTOR APPEALS UNIT

I find that the appellant missed the Connector open enrollment period. I find that appellant's testimony that the cheapest private insurance of \$400.00 monthly to be credible. Appellant presented evidence of a hardship pursuant to 956 CMR 6.08 (1. e). Specifically, appellant's purchase of health insurance would have caused a serious deprivation of food, clothing, and other necessities. Since the appellant has presented evidence of a hardship in 2016, appellant should not be fined for failure to have health insurance for the 12 months in question.

I find that the Appellant is not subject to a tax penalty in 2016.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016.

## 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

# CONNECTOR APPEALS UNIT

Appeal PA16-484

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 6, 2017                          Decision Date: December 6, 2017

---

### 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 November 6, 2017. Appellant provided testimony under oath and all testimony was recorded electronically. Appellant testified that he lost his job and health insurance in Massachusetts. Appellant testified that he moved to New Hampshire in July 2016 to live with his parents. Appellant testified that during the time he was in Massachusetts appellant was more than 30 days in arrears in his rent and that appellant's gas was shut off. Appellant testified that appellant continues to live in New Hampshire and is looking for employment that includes employer-sponsored health insurance. The hearing record consists of the appellant testimony and the following documents which were admitted into evidence without objection from the appellant.

Exhibit 1: Notice of Hearing dated October 10, 2017.

Exhibit 2: Appellant's Schedule HC information dated October 6, 2017.

Exhibit 3: Appellant's Statement of Grounds for Appeal dated May 22, 2017.

Exhibit 4: Appellant's letter providing additional information about the grounds for appeal.

# CONNECTOR APPEALS UNIT

Exhibit 5: DOR Notice of Assessment for \$661.98 dated December 5, 2016.

Exhibit 6: Arrearage on car loan dated May 12, 2016.

Exhibit 7: A returned check notice from car loan lender dated November 5, 2016.

Exhibit 8: Bank of America statement of unpaid payment dated July 11, 2016.

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was a 30-year-old single individual residing in Middlesex County in 2016. (Exhibit 2)
2. According to appellant's Schedule HC information, appellant was uninsured for 6 months of 2016. Appellant is appealing a 3-month penalty. (Exhibit 2)
3. Appellant's adjusted gross income for 2016 was \$19,212.00 (Exhibit 2)
4. I find appellant's testimony that while residing in Massachusetts appellant was more than 30 days in rental arrears and that appellant's gas was shut off to be credible. (Appellants' testimony)
5. I find appellant's testimony that appellant moved to New Hampshire in July 2016 to be credible. (Appellant's testimony)

## 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.

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.

2016 Massachusetts Schedule HC Health Care instructions states that if an individual moved from Massachusetts during 2016, the mandate to obtain and maintain health insurance applies until the last day of the last full month the individual was a resident. Appellant's requirement ended on June 30, 2016. Appellant was insured in Massachusetts January through June in 2016. Appellant was not required to have health insurance for the remainder of 2016. Appellant

# CONNECTOR APPEALS UNIT

would have also qualified for a hardship because of his rental arrears and gas shut off in 2016. (956 CMR 6.08 (1) a & b.)

I find that the appellant is not subject to a tax penalty in 2016.

## PENALTY ASSESSED

Number of MonthsAppealed: 3 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 2016.

## 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

# CONNECTOR APPEALS UNIT

Appeal PA16-485

## FINAL APPEAL DECISION

Appeal Decision: X Penalty Overturned in Full      \_\_\_\_\_Penalty Upheld

Penalty Overturned in Part

## Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 6, 2017

Decision Date: December 5, 2017

# 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 November 6, 2017. Appellant provided testimony under oath and all testimony was recorded electronically. Appellant testified that appellant has multiple part time positions that do not offer employer-sponsored health insurance. Appellant testified that appellant had four such positions in 2016 as and three positions in 2017. Appellant testified that appellant does not have an opportunity work during four months in the summer of each year. Appellant testified that his living expenses including a \$350.00 monthly student loan amounts to about \$35,312.00 annually. Appellant testified that due to the nature of appellant's part-time work, appellant's financial status is fluid and that appellant is unable to estimate appellant's income until the part-time positions become available each year.

The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without objection from the appellant.

**Exhibit 1: Notice of Hearing dated October 10, 2017.**

**Exhibit 2: Appellant's Schedule HC information dated October 10, 2017.**

# CONNECTOR APPEALS UNIT

Exhibit 3: A Statement of Grounds for Appeal. The document was dated May 22, 2017.

Exhibit 4: Appellant's statement and narrative of appeal issues.

Exhibit 5: A 2014 Appeal Decision overturning appellant's tax penalty in full.

Exhibit 6: A 2015 tax penalty Appeal Decision overturning appellant's tax penalty.

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was a 35 year old individual. Appellant resided in Middlesex County in 2016. (Exhibit 2).
2. According to appellant's Schedule HC information appellant was uninsured for 12 months of 2016. Appellant is appealing a 12 month penalty. (Exhibit 2).
3. Appellant's 2016 Federal Adjusted Gross Income was \$47,149.00. (Exhibit 2)
4. I find that appellant's testimony that appellant was employed in 2016 at several part-time positions that did not offer employer sponsored health insurance to be credible. (Testimony of appellant)
5. I find that appellant's testimony that appellant's annual expenses amount to about two \$36,512.00 to be credible. This amount includes a \$350.00 monthly student loan. (Testimony of appellant)

## 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.

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.

Appellant raises affordability as an issue.

# CONNECTOR APPEALS UNIT

956 CMR 6.05 instructs the Connector Board to adopt an affordability schedule annually. 956 CMR 6.05, s. 2 permits the Connector Board to adopt a Premium schedule that establishes the lowest level of Premium that is deemed by the Board to be available for minimum creditable coverage. The 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets establish the affordability schedule and the lowest level of Premium coverage for 2016. Table 3, Affordability, shows that an individual with a Federal Adjusted Gross Income at or above \$47,081.00 can afford a premium that is .0813% as a percentage of income. Appellant's Adjusted Gross Income of \$47,149.00 multiplied by .0813% and divided by 12 months equals \$319.43 as the figure that the appellant can afford to pay for a monthly health insurance premium.

Table 4, Premiums, states that the lowest premium level for an individual aged 35 residing in Middlesex County to be \$221.00 monthly which appellant could afford.

However, I find that Appellant's testimony that appellant has a \$350.00 student loan payment monthly to be credible. I find appellant's testimony that appellant has about \$31,112.00 in yearly living expenses to be credible. I find that appellant has presented evidence of a hardship pursuant to 956 CMR 6.08 (1. e). Specifically, appellant's purchase of health insurance would have caused a serious deprivation of food, clothing, and other necessities. Since the appellant has presented evidence of a hardship in 2016, appellant should not be fined for failure to have health insurance for the 12 months in question.

I find that the Appellant is not subject to a tax penalty in 2016.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016.

## 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

# **CONNECTOR APPEALS UNIT**

Appeal PA16-486

FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 6, 2017

Decision Date: November 8, 2017

---

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 November 6, 2017. Appellant provided testimony under oath and all testimony was recorded electronically. Appellant testified that appellant was laid off from employment that included health insurance on May 31, 2016. Appellant applied for unemployment and received benefits. Appellant applied for MassHealth and received a denial letter. Appellant did not pursue health insurance because appellant was confident that appellant would secure another job in a short period of time. Appellant did obtain new employment with employer-sponsored health insurance on December 27, 2016. Appellant testified that the appellant was unaware that a gap in insurance of over three months may result in a tax penalty.

The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without objection from the appellant.

Exhibit 1: Notice of Hearing dated October 10, 2017.

Exhibit 2: Appellant's Schedule HC information dated October 10, 2017.

Exhibit 3: A Statement of Grounds for Appeal. The document was dated May 4, 2017.

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was a 44-year-old individual with one dependent. Appellant resided in Essex County. (Exhibit 2).
2. According to appellant's Schedule HC information appellant was uninsured for 7 months of 2016. Appellant is appealing a 4-month penalty. (Exhibit 2).
3. Appellant's 2016 Federal Adjusted Gross Income was \$42,212.00 (Exhibit 2).
4. I find that appellant's testimony that appellant lost employment on May 31, 2016 and was unemployed until December 27, 2016 to be credible. (Testimony of appellant)
5. I find appellant's testimony that the appellant received unemployment benefits from July December be credible. (Appellant's testimony)
6. I find appellant's testimony that appellant received a denial notice from MassHealth to be credible. (Appellant's testimony)
7. I find appellant's testimony that appellant found employment with employer-sponsored health insurance on December 27, 2016 to be credible. (Appellant's testimony)

## 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.

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.

Appellant raises affordability and hardship as issue.

956 CMR 6.05 instructs the Connector Board to adopt an affordability schedule annually. 956 CMR 6.05, s. 2 permits the Connector Board to adopt a Premium schedule that establishes the lowest level of Premium that is deemed by the Board to be available for minimum creditable

coverage. The 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets establish the affordability schedule and the lowest level of Premium coverage for 2016. Table 3, Affordability, shows that a Head of Household with one dependent and with a Federal Adjusted Gross Income of \$42,212.00 can afford a premium that is 7.40% as a percentage of income. Appellant's Adjusted Gross Income of \$42,212.00 multiplied by 7.40% and divided by 12 month equals \$260.37 as the figure that the appellant can afford to pay for a monthly health insurance premium.

Table 4, Premiums, states that the lowest premium level for a Head of Household with one dependent, aged 44, residing in Bristol County to be \$593.00 monthly for a family plan which appellant could not afford.

I find that appellant's 7 months of unemployment presented evidence of a hardship pursuant to 956 CMR 6.08 (1. e). Specifically, appellant's purchase of health insurance would have caused a serious deprivation of food, clothing, and other necessities. Since the appellant has presented evidence of a hardship in 2016, appellant should not be fined for failure to have health insurance for the 7 months in question.

I find that the Appellant is not subject to a tax penalty in 2016.

#### PENALTY ASSESSED

Number of MonthsAppealed: 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 2016.

#### 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 16, 2017

Decision Date: December 26, 2017

---

### 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 November 16, 2017.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence, without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-24-17) (3 pages).
- Exhibit 2: Information from Schedule HC (2 pages).
- Exhibit 3: Statement of Grounds for Appeal (5-25-17) (with letter and documents) (19 pages).

### FINDINGS OF FACT

The record shows, and I so find:

# CONNECTOR APPEALS UNIT

1. Appellant, age 42 during 2016, from Bristol County, filed head of household on the tax return with a family size of one.
2. The federal AGI was \$47,773.00.
3. Appellant did not have health insurance for 2016. Appellant lost his job in September 2015 and has been unable to find comparable employment. Appellant's unemployment ended during 2016, and Appellant had to withdraw money from his 401(k) to meet expenses. Appellant's home was in forbearance and Appellant has had to turn his home over to the bank to be sold.
4. Appellant now has health insurance through Mass Health as of May 2017.
5. Appellant could afford \$323 per month based on the tables in Schedule HC, and the cost would be \$237 for individual coverage based upon those tables. Thus, Appellant could afford health insurance based on the tables in Schedule HC. However, if the 401(k) income is deducted, Appellant could not afford health insurance based upon the tables in Schedule HC.
6. Appellant's expenses for food, shelter, clothing, transportation, and child support used most of the income during 2016.

## 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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to him. Appellant did not have health insurance for 2016. Based on the tables in Schedule HC, health insurance was affordable for him. However, if the 401(k) income Appellant took out to pay for his debts and expenses is deducted, Appellant could not afford health insurance based upon the tables in Schedule HC. Appellant did obtain health insurance through Mass Health in May 2017.

Appellant's expenses for food, shelter, clothing, transportation and child support used most of the income for 2016. Paying for health insurance would have caused a serious deprivation of food, shelter, clothing and transportation.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 for the amount equal to one half

## **CONNECTOR APPEALS UNIT**

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 2016.

### **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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision: X Penalty Overturned in Full      \_\_\_\_\_Penalty Upheld  
                  \_\_\_\_\_ Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 16, 2017

Decision Date: December 26, 2017

---

### 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

One of the Appellants appeared at the hearing, which was held by telephone on November 16, 2017.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence, without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-24-17) (3 pages).
- Exhibit 2: Information from Schedule HC (2 pages).
- Exhibit 3: Statement of Grounds for Appeal (5-22-17) (with letter and documents) (27 pages).

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, age 48 and 50 during 2016, from Plymouth County, filed married filing jointly on the tax return with a family size of four.

# CONNECTOR APPEALS UNIT

2. The federal AGI was \$158,054.00. The majority of the income was earned during the months January through August when Appellants had health insurance.
3. Appellants did have health insurance for January through August of 2016. One of Appellants lost his job in April 2016, with a severance period that ended in July 2016. During that period, Appellants were covered by the health insurance through the Appellant's employer. Most of the income for the year was earned during the period that the Appellants had health insurance. The COBRA payments were \$1,500.00 per month
4. Appellants now have health insurance through Appellant's new employer as of March 2017.
5. Appellants could afford \$1,070 per month based on the tables in Schedule HC, and the cost would be \$836 for family coverage based upon those tables. Thus, Appellants could afford health insurance based on the tables in Schedule HC. However, if the income for the period when the Appellants did not have health insurance is used, Appellants could not afford health insurance based upon the tables in Schedule HC. (Annualized income would be \$45,000, and the Appellants could afford \$183 per month based upon that income).
6. Appellant's expenses for food, shelter, clothing, and transportation used all of the income during the months Appellants did not have health insurance in 2016.

## 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.

Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to them. Appellants did have health insurance for January through August of 2016. Based on the tables in Schedule HC, health insurance was affordable for them. However, if the income for the period when the Appellants did not have health insurance is used, Appellants could not afford health insurance based upon the tables in Schedule HC. Appellants did obtain health insurance through Appellant's new employer as of March 2017.

Appellant's expenses for food, shelter, clothing, and transportation used all of the income for the months when the Appellants did not have health insurance during 2016. Paying for health insurance during those months would have caused a serious deprivation of food, shelter, clothing and transportation.

## PENALTY ASSESSED

# CONNECTOR APPEALS UNIT

Number of MonthsAppealed: 1/1      Number of MonthsAssessed: 0/0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2016 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 2016.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision: X Penalty Overturned in Full      \_\_\_\_\_Penalty Upheld  
                  \_\_\_\_\_ Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 16, 2017

Decision Date: December 27, 2017

---

### 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

One of the Appellants appeared at the hearing, which was held by telephone on November 16, 2017.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence, without objection by Appellant:

- Exhibit 1: Notice of Hearing (10-24-17) (3 pages).
- Exhibit 2: Information from Schedule HC (2 pages).
- Exhibit 3: Statement of Grounds for Appeal (5-23-17) (4 pages).

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, age 41 and 61 during 2016, from Essex County, filed married filing jointly on the tax return with a family size of three.

# CONNECTOR APPEALS UNIT

2. The federal AGI was \$51,072.00. One of Appellants is on disability and has health insurance through Medicaid.
3. The other Appellant did not have health insurance for 2016. The health insurance through the employer was not affordable for Appellant.
4. Appellants could afford \$251 per month based on the tables in Schedule HC, and the cost would be \$766 for family coverage based upon those tables. Thus, Appellants could not afford health insurance based on the tables in Schedule HC.
5. Appellants' expenses for food, shelter, clothing, and transportation used most of the income.

## 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.

Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to them. One of the Appellants did have health insurance 2016 through Medicaid. The other Appellant did not have health insurance, and could not afford the health insurance through the employer. Based on the tables in Schedule HC, health insurance was not affordable for them.

Appellants' expenses for food, shelter, clothing, and transportation used most of the income. Paying for health insurance during those months would have caused a serious deprivation of food, shelter, clothing and transportation.

## PENALTY ASSESSED

Number of MonthsAppealed: 12/0 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 2016 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 2016.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

## **CONNECTOR APPEALS UNIT**

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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 17, 2017      Decision Date: December 15, 2017

### 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 on November 17, 2017. 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 Appellant's testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellant dated October 23, 2017  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2016  
Exhibit 3: Statement of Grounds for Appeal 2016 signed by Appellant on May 12, 2017  
Exhibit 4: Statement in Support of Appeal

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 55 years old in 2016 and filed a 2016 Massachusetts tax return as Head of Household with no dependents claimed (Exhibit 2).
2. Appellant's five children lived with Appellant in 2016 (Testimony of Appellant).
3. Appellant lived in Barnstable County, MA in 2016 (Exhibit 2).

# CONNECTOR APPEALS UNIT

4. Appellants' Adjusted Gross Income for 2016 was \$34,237 (Exhibit 2).
5. Appellant was divorced in 2015 and lost health insurance coverage (Testimony of Appellant).
6. Appellant was employed in 2016 and employer sponsored health insurance was not available (Testimony of Appellant)
7. Appellant applied for government subsidized health insurance in 2016. Appellant did not sign up for the insurance due to the cost (Testimony of Appellant).
8. Appellant was assessed a penalty of twelve months (Exhibit 2).
9. Appellant filed an appeal on May 12, 2017, claiming that Appellant was more than thirty days in arrears in mortgage payments (Exhibit 3).
10. Appellant struggled financially in 2016 and was unable to pay many bills (Testimony of Appellant).
11. Appellant was unable to pay the mortgage payment for eight months. Appellant sold the house in a short sale and incurred a loss (Testimony of Appellant, Exhibit 4).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
13. According to Table 3 of Schedule HC for 2016 a single person, filing as Head of Household with no dependents with an adjusted gross income of \$34,237 could afford to pay \$176 per month for private insurance. According to Table 4, Appellant, age 55 and living in Barnstable County could have purchased private insurance for \$384 per month.
14. Private insurance was not considered to be affordable for Appellant in 2016 (Schedule HC for 2016).
15. According to Table 2 of Schedule HC for 2016, Appellant, earning less than \$35,510, would have met the income eligibility guidelines for government subsidized insurance.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2016 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

# CONNECTOR APPEALS UNIT

policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, 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 such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant was employed in 2016 but employer sponsored health insurance was not available to Appellant. According to Tables 3 and 4 of Schedule HC for 2016, private insurance was not considered affordable for Appellant. Appellant, earning less than \$35,310 would have met the income eligibility requirements for government sponsored insurance. Appellant applied for government sponsored insurance but did not sign up due to the cost. See Schedule HC for 2016 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant struggled financially in 2016 and was unable to pay many bills. During 2016, Appellant fell eight months behind in the mortgage payments. Appellant sold the house in a short sale and incurred a loss. See Testimony of Appellant, which I find to be credible, Exhibit 4 and 956 CMR 6.08 (1)(a) .

I find that the penalty assessed against Appellant for 2016 should be waived in its entirety.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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 2016.

## 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.

**ADDENDUM** Appellant may want to call the Health Connector at 1 877 623-6765 to look into options for health insurance.

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 17, 2017      Decision Date: December 28, 2017

### 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 November 17, 2017. 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. At the end of the hearing, the record was left open for Appellant to send in information about insurance coverage. On November 30, 2017, Appellant sent in a document, which was marked as Exhibit 4.

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

- Exhibit 1: Notice of Hearing sent to Appellant dated October 23, 2017
- Exhibit 2: Appeal Case Information from Schedule HC 2016
- Exhibit 3: Statement of Appellant in Support of Appeal, dated May 31, 2017
- Exhibit 4: Statement of insurance coverage

### FINDINGS OF FACT

The record shows, and I so find:

1. In 2016, Appellant turned 27 years old and filed a Massachusetts tax return as single, with no dependents claimed (Exhibit 2, Testimony of Appellant).
2. Appellant was assessed a penalty of five months for 2016 (Exhibit 2).
3. Appellant filed for an appeal of the penalty on May 31, 2017. Appellant claimed that Appellant was covered under the plan of Appellant's parents until Appellant turned 27 in August 2016. Appellant then

# CONNECTOR APPEALS UNIT

applied for health insurance through the Health Connector, and was covered under such insurance beginning in September 2016 (Exhibit 3 and 4 and Testimony of Appellant).

4. Appellant was covered by a comprehensive health insurance plan through Appellant's parents during January through August 2016 (Testimony of Appellant, Exhibit 4).
5. Appellant was covered by health insurance through the Health Connector from September through December 2016 (Testimony of Appellant 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 2016 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 2016, 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 was covered by a comprehensive health insurance plan through Appellant's parents until August 2016, when Appellant turned 27 years old. Appellant was covered by health insurance through the Health Connector from September through December 2016. See Exhibits 2, 4 and Testimony of Appellant, which I find to be credible.

I find that the penalty assessed should be waived in full.

## PENALTY ASSESSED

Number of MonthsAppealed: 5      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 2016 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 2016.

## 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

## **CONNECTOR APPEALS UNIT**

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

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 22, 2017                          Decision Date: December 5, 2017

---

### AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 Code of Massachusetts Regulations 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 Massachusetts General Laws chapter 111M, section 4 and 956 Code of Massachusetts Regulations 6.07.

### HEARING RECORD

The Husband (Appellant) appeared for the hearing, which I conducted by telephone. His Wife (the Co-Appellant) was not present. 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 for himself and his Wife and the following documents that were admitted into evidence as exhibits:

## Massachusetts Health Connector Appeals Unit

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants' Statement of Grounds for Appeal – 2016 (Signed by Wife) (2 pages, dated 4/20/17);
- 2A. Mailing Envelope for Appeal (1 page);
3. Appellants' Letter in Support of Appeal (Handwritten Comments on DOR's Notice of Hearing Grounds) (1 page, undated) ;
4. Health Connector's Notice to Wife of Eligibility Approval (1 page, dated 12/28/16); and
5. Health Connector's Notice of Hearing (3 pages; dated 10/25/17).

### FINDINGS OF FACT

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

1. 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 Appellants on Schedule HC as part of the Appellants' 2016 Massachusetts income tax return. The information in Exhibit 1 is consistent with the testimony and other documentary evidence at the hearing.
2. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets. 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 2016. See 956 Code Mass. Regs. 6.05. 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 2016.<sup>1</sup>

---

<sup>1</sup> The DOR Instructions are published online at <http://www.mass.gov/dor/>2016ScheduleHCInstructions and are also available in the

## Massachusetts Health Connector Appeals Unit

3. DOR did not assess a tax penalty against the Husband for 2016. Exhibit 1. For all of 2016 the Husband had employer-sponsored health insurance coverage through Harvard Pilgrim. Testimony.
  4. DOR assessed a 12 month penalty against the Wife on the Appellants' 2016 Massachusetts personal income tax return. Exhibit 1. The basis for the penalty assessment is that the Wife did not have health insurance coverage at any time in 2016. Exhibit 1 and Testimony. See also Exhibits 3 and 4.
  5. The Wife was not covered by the Husband's employer-sponsored health plan for 2016 due to the nature of his job. The Husband works seasonally as a restaurant cook on Cape Cod from April – through October (7 months), and his employer continues to provide health insurance coverage for the five months when the Husband is not working. One consequence of this arrangement is that coverage is not available for the Wife. The Husband pays a portion of the monthly premium for his health insurance coverage (he is unsure of the amount paid by the Employer and the amount paid by Husband). Testimony.
  6. The Wife moved to Massachusetts from South America at the end of 2015. She was not employed in 2016. Testimony and Exhibit 3.
  7. In 2016 the Wife applied to the Health Connector for health insurance coverage. By letter dated December 28, 2016, the Wife was approved for ConnectorCare Plan Type 2B with a \$105 per month advance premium tax credit, with coverage to begin in 2017. Exhibit 4. The Wife thereafter enrolled in a Tufts health plan. Testimony.
  8. I credit the Wife's statement in Exhibit 3 that she "had been trying for six months" to obtain coverage through the Health Connector. This statement is consistent with the Husband's appeal hearing testimony. The other statements in Exhibit 3 are also consistent with the Health Connector's eligibility approval letter (Exhibit 4) and other evidence.
- 
- state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2016.

## Massachusetts Health Connector Appeals Unit

9. At the beginning of 2016 the Husband was 46 years old (the Wife was younger). They resided in [name of city or town omitted] in Barnstable County, Massachusetts. Exhibit 1.

10. The Appellants' 2016 state income tax return was filed as a married couple filing jointly with no dependents and reports \$41,568 in federal adjusted gross income (AGI). Exhibit 1.

11. The Appellants' 2016 AGI (\$41,568) is less than 300% of the federal poverty level for a two-person household (\$47,790). DOR Table 2. On this basis I infer that the Appellants satisfied the financial eligibility requirements for government-subsidized health insurance in 2016.

12. Under DOR Table 3, the Appellants could afford to pay 7.40% of their income, or \$256 per month, for health insurance in 2016. (The calculation is 7.40 % multiplied by \$ 41,568 AGI = \$3,076.03 per year divided by 12 months = \$256.33 per month.)

13. Under DOR Table 4 (Region 1), health insurance coverage would have cost the Appellants \$270 per month for individual coverage or \$540 for coverage for a married couple with no children.

## ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the Department of Revenue's (DOR) assessment of a tax penalty against the Wife because the Wife did not have health insurance coverage in 2016. The issue to be decided is whether the penalty should be waived, either in whole or in part. See Exhibits 1 and 2.

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 board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector). Mass. Gen. Laws

## Massachusetts Health Connector Appeals Unit

c. 111M, sec. 2 (a).<sup>2</sup> Any health insurance policy must also satisfy the Massachusetts minimum credible coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2 (b). See also 956 Code Mass. Regs. 5.01 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. General Laws c. 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 the transition between health insurance policies. Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws c. 111M, sec. 2 (b). See also DOR Instructions, at page HC-3. The 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 – 2016 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal shows that the Husband was covered by employer-sponsored health insurance for all of 2016 so that no tax penalty was assessed against the Husband. The evidence of the Husband’s seasonal employment also supports his testimony that his Wife could not obtain health insurance coverage through the Husband’s employer.

The question, then, is whether the 12 month penalty assessed against the Wife should be upheld. At the outset, it is undisputed that the Wife did not have health insurance coverage at any time in 2016, so there is a factual basis for the penalty assessed by the DOR. However, the evidence shows that the Wife was living outside the United States in 2015, that she was not employed in 2016 when she resided in Massachusetts, that she applied to the Health Connector for government-subsidized health insurance earlier in 2016, and that the Health Connector notified the Wife by letter dated December 28, 2016, that she was eligible for Health Connector coverage with a \$105 per month premium subsidy.

In addition to the Wife’s effort to obtain health insurance in 2016 as a new Massachusetts resident, I will consider the Appellants’ financial situation. Under the objection standards set forth in DOR Tables 3 and 4 the Appellants could not afford unsubsidized health insurance. On their joint income the Appellants could afford to pay

---

<sup>2</sup> The schedule is reprinted in DOR Tables 3 and 4 referred to in this Decision.

## Massachusetts Health Connector Appeals Unit

\$256 per month, but health insurance would cost either \$270 per month for individual coverage or \$540 per month for married couple coverage. See, e.g., Findings of Fact, Nos. 11 – 13, above. Moreover, the Husband was already paying a monthly premium (of an unsubstantiated amount) for his employer-sponsored coverage.

Under these circumstances, I conclude that it is appropriate to waive the entire tax penalty assessed for 2016 under the Health Connector's financial hardship regulation. See 956 Code Mass. Regs. 6.08 (1) (e) ("[Appellants] experienced financial circumstances such that the expense of purchasing health insurance . . . would have caused [them] to experience a serious deprivation of food, shelter, clothing or other necessities."). See my RECOMMENDATION below.

### PENALTY ASSESSED

Number of MonthsAppealed: 12 Number of Months Assessed: 0

### 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.

### NOTIFICATION OF ASSESSMENT

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2016 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 2016.

## Massachusetts Health Connector Appeals Unit

RECOMMENDATION. I was concerned about the premium amounts for your health insurance coverage that you referred to in the appeal hearing, though you were uncertain about the amounts of the premiums and I did not consider them reliable. I suggest that you double check your insurance coverage and what you are paying with Health Care For All, a private, non-profit organization. You can reach the free consumer help line at 1-800-272-4232.

You need to act promptly after you receive this Decision so that changes, if any, can be take effect in January 2018. Be sure to have some written verification of what you are paying each month when you call Health Care For All.

Cc: Connector Appeals Unit

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 28, 2017

Decision Date: December 5, 2017

---

### 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 November 28, 2017. 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 Notice of Hearing dated November 1, 2017.
- Exhibit 2: Appeal Case Information from Schedule HC 2016.
- Exhibit 3: Statement of Grounds for Appeal dated June 14, 2017.
- Exhibit 4: A letter written by the Appellant in support of this appeal.
- Exhibit 5: Health Connector's eligibility notice dated July 18, 2016.

### FINDINGS OF FACT

# CONNECTOR APPEALS UNIT

The record shows, and I so find:

1. The Appellant turned 55 years old in January 2016. The Appellant filed their Federal Income Tax return as an individual with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2016 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2016 was \$29,634 (Exhibit 2, Appellant Testimony).
4. The Appellant had health insurance from January through March 2016 but was uninsured for the nine-month period of April through December 2016 (Exhibit 2).
5. The Appellant has been assessed a six-month tax penalty for 2016. The Appellant filed an appeal of the assessment in June 2017 (Exhibits 2,3,4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
7. In accordance with Table 3 of Schedule HC for 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$29,634 could afford to pay \$123 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Bristol County, could have purchased private insurance for \$323 per month for a plan (Schedule HC for 2016). Private insurance was not affordable for the Appellant in 2016.
8. The Appellant would have been eligible for ConnectorCare coverage during the period of April through December of 2016 had the Appellant applied for ConnectorCare within sixty days of the termination of the Appellant's healthcare in March 2016. The Appellant's income was less than \$35,310 and the Appellant had no access to employer sponsored insurance (See Table 2 of Schedule HC-2016 and 956 CMR 12.04).
9. The Appellant testified that for the first three months of tax year 2016 they had health insurance through an ex-spouse's employer sponsored insurance plan. The Appellant said that the insurance was terminated but they did not receive notification from their ex-spouse or the insurer. The Appellant

# CONNECTOR APPEALS UNIT

learned of the termination in July when they went to see their doctor. The Appellant applied for insurance through the Health Connector on July 18, 2016. I found the Appellant's testimony credible (Exhibits 4, 5; Appellant Testimony).

10. On July 18, 2016 the Health Connector determined that the Appellant was eligible for Health Connector Plans effective August 1, 2016 but could not enroll in a plan because the Appellant had missed the open enrollment period and did not experience a qualifying life event (Exhibit 5).
11. The Appellant did not have access to affordable insurance for the period of August 1, 2016 through December 31, 2016 (Exhibits 4, 5; Appellant Testimony).
12. The Appellant's monthly living expenses for tax year 2016 included: mortgage and property taxes- \$1,100; heat and electricity- \$400-\$500; groceries-\$433 and telephone/cable-\$100. The Appellant incurred \$3,000-\$5,000 in medical bills during the last half of 2016 because the Appellant had no access to affordable insurance (Exhibits 4, 5; 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 had health insurance for the first three months of tax year 2016 but did not have insurance for the nine- month period of April through December 2016. The Appellant has been assessed a six-month penalty. The Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply in this case because of financial hardship. 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

## CONNECTOR APPEALS UNIT

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 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$29,634 could afford to pay \$123 per month for health insurance. According to Table 4, the Appellant, age 55, living in Bristol County, could have purchased a private insurance plan for \$323 per month. See Schedule HC for 2016. Private insurance was not affordable for the Appellant in 2016.

Had the appellant applied for health insurance when their insurance ended in March, the Appellant would have been eligible for ConnectorCare coverage based upon Appellant's income which was less than \$35,310. See Table 2 of Schedule HC 2016 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2016, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Under 45 CFR § 155 and 956 CMR 12.10(5), enrollees may enroll in a Health Plan in that Enrollee's Service Area during any open enrollment periods established by state or federal law. Enrollees may not transfer from a Health Plan or enroll in a Health Plan outside of open enrollment unless the Enrollee experiences a qualifying life event as listed in the Health Connector's Policy NG 1E. Qualifying life events include marriage, birth or adoption of a child, loss of coverage for reasons other than non-payment of a premium, moving to Massachusetts, or other exceptional circumstances. The Appellant experienced a qualifying life event at the end of March 2016 when their health insurance was cancelled. The Appellant was eligible for a special enrollment period (SPE) at that time. The SPE is a sixty-day open enrollment period. The Appellant did not contact the Health Connector until July 2017. By the time the Appellant attempted to enroll in a health insurance plan, the sixty-day SPE had expired. The Appellant was unable to enroll in a health insurance plan and consequently had no access to affordable health insurance during the period of August through December 2016.

The Appellant testified credibly that their health insurance was terminated in March 2016 without notice from the insurance provider and their former spouse. The Appellant did not discover their lack of insurance until July when they sought medical treatment. As noted above, the Appellant attempted to secure coverage, but was unable to enroll. The Appellant had substantial monthly living expenses and also incurred several thousand dollars in medical bills during the last six months of tax year 2016. The cost of purchasing health insurance for the period of April through December 2016 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's six-month penalty is therefore waived.

# CONNECTOR APPEALS UNIT

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2016. 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 MonthsAppealed: 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 2016.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 28, 2017

Decision Date: December 5, 2017

---

### 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 November 28, 2017. 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 Notice of Hearing dated November 1, 2017.
- Exhibit 2: Appeal Case Information from Schedule HC 2016.
- Exhibit 3: The Appellant's letter requesting an appeal with attachments dated July 12, 2017.

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 22 years old in April 2016. The Appellant filed their Federal Income Tax return as an individual with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2016 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2016 was \$21,108 (Exhibit 2, Appellant Testimony).
4. The Appellant had health insurance from January through March 2016 but was uninsured for the nine-month period of April through December 2016 (Exhibit 2).
5. The Appellant has been assessed a six-month tax penalty for 2016. The Appellant filed an appeal of the assessment in July 2017 (Exhibits 2,3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
7. In accordance with Table 3 of Schedule HC for 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$21,108 could afford to pay \$51 per month for health insurance. In accordance with Table 4, the Appellant, age 22, living in Suffolk County, could have purchased private insurance for \$143 per month for a plan (Schedule HC for 2016). Private insurance was not affordable for the Appellant in 2016.
8. The Appellant would have been eligible for ConnectorCare coverage during the period of April through December 2016 because Appellant's income was less than \$35,310 (See Table 2 of Schedule HC-2016 and 956 CMR 12.04).
9. The Appellant testified that they were receiving MassHealth for the first three months of 2016, but their eligibility ended when the Appellant began working at Home Depot. The Appellant testified that they were not eligible

# CONNECTOR APPEALS UNIT

for employer sponsored health insurance and could not afford to purchase private insurance. The Appellant was paid an hourly wage of \$12.30 until their employment was terminated on October 27, 2017. The Appellant said that they did some seasonal work in November and December but was paid less than \$200 per week (Exhibit 3; Appellant Testimony).

10. The Appellant lived with a family member in tax year 2016. The Appellant's monthly living expenses included: rent- \$200; cell phone-\$110; food-\$433; bus transportation-\$80 and a storage unit fee of \$250. I found the Appellant's testimony credible.

## 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 had MassHealth insurance coverage for the first three months of tax year 2016. The Appellant was uninsured for the period of April through December 2016. The Appellant has been assessed a six-month penalty. The Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply in this case because of financial hardship. 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 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$21,108 could afford to pay \$51 per month for health insurance. According to Table 4, the Appellant, age 22, living in Suffolk County, could have purchased a

# CONNECTOR APPEALS UNIT

private insurance plan for \$143 per month. See Schedule HC for 2016. Private insurance was not affordable for the Appellant in 2016.

The Appellant would have been eligible for ConnectorCare coverage based upon Appellant's income which was less than \$35,310 and the fact that the Appellant did not have access to employer sponsored insurance. See Table 2 of Schedule HC 2016 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2016, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1)

The Appellant was insured through MassHealth for the first three months of tax year 2016. The Appellant testified that they were employed at Home Depot from January through October 27, 2016. For the months of November and December 2016 the Appellant was employed part time earning less than \$200 per week. The Appellant testified credibly regarding their monthly living expenses which included a fee for a storage unit in addition to rent, food, transportation and utilities. The cost of purchasing health insurance for the period of April through December 2016 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's six-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2016. 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 MonthsAppealed: 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 2016.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 28, 2017

Decision Date: December 4, 2016

---

### 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 November 28, 2017. 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 Notice of Hearing dated November 1, 2017.
- Exhibit 2: Appeal Case Information from Schedule HC 2016.
- Exhibit 3: Statement of Grounds for Appeal dated March 22, 2017.
- Exhibit 4: The Appellant's letter in support of the appeal with attachments.

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 47 years old in May 2016. The Appellant filed their Federal Income Tax return as a married person with four dependents claimed. The Appellant's family size was seven (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2016 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2016 was \$108,402 (Exhibit 2, Appellant Testimony).
4. The Appellant had health insurance under their spouse's employer sponsored plan from July through December 2016. The Appellant did not have health insurance for the period of January through June 2016 (Exhibit 2, Appellant Testimony).
5. The Appellant has been assessed a three-month tax penalty for 2016. The Appellant filed an appeal of the assessment in March 2017 (Exhibits 2,3,4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
7. In accordance with Table 3 of Schedule HC for 2016, the Appellant filing the Federal tax return as a married person with four dependents claimed, a family size of seven, and an adjusted gross income of \$108,402 could afford to pay \$734.54 per month for health insurance. In accordance with Table 4, the Appellant, age 47, living in Worcester County, could have purchased private insurance for \$270 per month for a plan (Schedule HC for 2016). Private insurance appeared affordable for the Appellant in 2016.
8. The Appellant would have been eligible for ConnectorCare coverage for the first six months of 2016 because Appellant's income was less than \$110,190. The Appellant had no access to affordable insurance through employment (See Table 2 of Schedule HC-2016 and 956 CMR 12.04).

# CONNECTOR APPEALS UNIT

9. The Appellant testified that the annual income of \$108,402 does not accurately reflect their financial circumstances for all of 2016. The Appellant was unemployed during the period of January through July 2016. The Appellant had exhausted their unemployment compensation in 2015. The Appellant was a single parent living with their partner and their respective children. The couple married on July 2, 2016 and the Appellant was then eligible for coverage under their spouse's employer sponsored health insurance. The Appellant was able to secure employment in August 2016. The Appellant testified that for the first six months of 2016 they had no income but remained responsible for living expenses and child support. The Appellant said that they sold their car and worked some odd jobs in order to help their partner meet the household living expenses. Purchasing health insurance would have caused significant financial hardship. The Appellant's credible testimony was supported by documentation from the Department of Revenue Child Support Enforcement Unit (Exhibit 4).
10. In 2016, the Appellant's monthly living expenses included: mortgage - \$1,800; utilities-\$300; child support-\$758 and other expenses including food, telephone/internet, transportation and clothing (Exhibit 4 and Appellant Testimony).
11. The Appellant remains enrolled in their spouse's employer-sponsored health plan (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 had no health insurance for the first six months of 2016. The Appellant has been assessed a three-month penalty. The Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply in

## CONNECTOR APPEALS UNIT

this case because of financial hardship. 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 Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2016, the Appellant filing the Federal tax return as a married person with four dependents claimed, a family size of seven and an adjusted gross income of \$108,420 could afford to pay \$734 per month for health insurance. According to Table 4, the Appellant, age 47, living in Worcester County, could have purchased a private insurance plan for \$270 per month. See Schedule HC for 2016. Based on the Appellant's annual adjusted gross income, private insurance appeared affordable for the Appellant in 2016. This was not the case for the first eight months of 2016 because the Appellant was unemployed during this period of time.

The Appellant had no access to affordable employer-sponsored health insurance for the first six months of 2016. The Appellant would have been eligible for ConnectorCare coverage based upon Appellant's income which was less than \$108,420. See Table 2 of Schedule HC 2016 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the appellant in 2016, it must be determined whether Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that the annual income figure does not accurately reflect their financial circumstances for the entire year. The Appellant was unemployed during the period of January through July of 2016. The Appellant was living with their partner and their respective children and did not marry until July 2, 2017. During the period of January through July 2017 the Appellant continued to make child support payments. The Appellant explained that they sold their car and did odd jobs in order to help their partner meet their substantial living expenses. The cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's penalty for all three months is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2016. 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.

# CONNECTOR APPEALS UNIT

## PENALTY ASSESSED

Number of MonthsAppealed: 3 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 2015.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 29, 2017

Decision Date: December 17, 2017

---

### 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 November 29, 2017, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2016
- Ex. 2—Letter from the appellant dated April 5, 2017, with attachments
- Ex. 2A—Summary of Employer Health Insurance Benefits and Coverage for the period 1/1/2016-12/31/2016
- Ex. 3—Health Connector Final Appeal Decision in PA14-567 dated October 12, 2015
- Ex. 4—Health Connector Final Appeal Decision in PA15-836 dated December 7, 2016
- Ex. 5—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 6—Notice of Hearing

### FINDINGS OF FACT

---

<sup>1</sup> Ex. 5 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2016 Massachusetts income tax return. It also contains information about prior appeals, if any.

# CONNECTOR APPEALS UNIT

The record shows, and I so find:

1. The appellant is 45-years-old, is single and has no children. In 2016, he resided in Middlesex County and had health insurance provided through his employer for the entire year. (Testimony)
2. The appellant has been employed by the same company for approximately five years. In or around 2013, the company was acquired by an out-of-state owner and the health insurance plan offered by the employer changed. Prior to the acquisition, the appellant had employer health insurance that complied with state minimum creditable coverage (MCC) standards. (Testimony)
3. During the open enrollment period for 2014, the appellant received a letter from his employer notifying him that its health plan did not comply with MCC standards because it only covered maternity care for dependent children in the event of pregnancy complications. He investigated private insurance alternatives and determined that the cost would be significantly higher. He decided to enroll in the employer's plan even though it did not comply with state standards because the lack of maternity coverage for dependents had no impact on him. (Testimony, Ex. 2)
4. The appellant was assessed a penalty of 12 months for the 2014 tax year for purchasing health insurance that did not meet MCC standards. He appealed the penalty to the Health Connector, and following a hearing, the penalty was waived. The hearing officer concluded that the insurance offered by the employer substantially met state standards and met all of the appellant's medical needs because he had no dependent children. (Testimony, Ex. 3)
5. The employer offered same insurance for 2015 with the same deviation from MCC requirements. After looking at alternatives, the appellant enrolled in the insurance for the same reasons that informed his decision in 2014. As with the 2014 tax year, he was assessed a penalty of 12 months. He appealed the penalty to the Health Connector, and following a hearing, the penalty was waived. The hearing officer concluded that the insurance offered by the employer substantially met state standards and met all of the appellant's medical needs because he had no dependent children. (Testimony, Ex. 4)
6. The employer offered the same insurance for 2016 with the same deviation from MCC requirements. During the open enrollment period, the appellant received the same letter from his employer that was sent in prior years notifying him that its health plan did not comply with MCC standards

# CONNECTOR APPEALS UNIT

because it only covered maternity benefits for dependent children in the event of pregnancy complications. The letter further stated that an employee would incur a tax penalty if s/he elected to enroll in the non-compliant plan. The appellant compared the plan with MCC requirements and concluded that the coverage was far more affordable at approximately \$16.00/month, or \$201.50/year. His research indicated that private health insurance would have cost several hundred dollars more. He also determined that the major deviation of the plan from MCC standards did not concern him because he did not have any dependents. (Testimony, Ex. 2)

7. The appellant's health insurance plan offered the following benefits effective January 1, 2016: physician and specialty care services; preventive care; inpatient hospital services; diagnostic tests and imaging; outpatient surgery; rehabilitative and skilled nursing services; prenatal and postnatal care; and mental health and substance abuse services. The plan has an overall deductible of \$2750.00/person for in-network providers and \$5000.00/person for out-of-network providers. There is an out-of-pocket maximum per individual of \$5750.00 for in-network providers, and \$10,000.00 for out-of-network providers. The plan covers generic, preferred brand and non-preferred brand drugs with 20% co-insurance. (Ex. 2A)
8. 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>
9. The appellant reported an adjusted gross income of \$77,821.00 on his 2016 federal tax return, and reported that he was single with no dependents. (Ex. 5)

In addition to the foregoing, I take administrative notice of the 2016 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2016>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2016 individual mandate tax penalty determinations.

# CONNECTOR APPEALS UNIT

## 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” under the schedule set by the Board of Directors for the Commonwealth Health Insurance Connector Authority. Any health insurance policy must also satisfy the state minimum creditable coverage standards (MCC). Residents who do not obtain compliant 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 in 2016 because he purchased health insurance that did not meet minimum creditable coverage standards since that is what his employer offered, and he felt that his circumstances prevented him from buying other insurance that met its requirements. He also submitted a letter (Ex. 2) with his statement in which he stated in part that private health insurance is astronomically more expensive than his employer’s plan, and that the lack of maternity benefits for dependent children has no impact on him. Although the appellant did have health insurance throughout 2016, he did not have full-year MCC coverage. 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 2016, 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. Since the appellant is considered to have been uninsured for the entire year, he is appealing a penalty of twelve months.

The appellant testified credibly that he was enrolled in non-compliant employer health insurance in 2014 and 2015, and appealed the 12-month penalty which was waived both times. He testified that he decided to enroll in his employer’s plan for 2016 because the cost was significantly less than anything offered in the private market, and the lack of maternity benefits for dependents did not affect him since he does not have any dependents.

A review of the appellant’s plan indicates that in addition to the lack of maternity benefits for dependents, the overall deductible is \$750.00 higher than what is required under MCC standards. (It is also not possible to glean from the summary of benefits what the prescription drug deductible is, if any.) Otherwise, the plan offered comprehensive coverage and covered a “broad range of medical benefits” as specified in the Massachusetts regulations. See 956 CMR 5.03(1)(a). The appellant paid a monthly premium of approximately \$16.00 for the plan. His only alternative would have been to reject his employer’s plan and buy private insurance which would have

# CONNECTOR APPEALS UNIT

cost approximately \$237.00/month (applying the affordability standards of Table 3 and premium costs of Table 4 for a 44-year-old individual in Middlesex County; See final paragraph of Findings), significantly more than his employer premium.

Based on the totality of the evidence, it is concluded that the appellant established that his 2016 health insurance coverage substantially satisfied Massachusetts MCC standards. Accordingly, his request for a waiver of the penalty is granted for the months in question. The determination that he is eligible for a waiver is with respect to 2016, only and is based upon the extent of information submitted by the appellant in this appeal.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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 2016.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full  Penalty Upheld  
 Penalty Overturned in Part

## Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 30, 2017 Decision Date: December 7, 2017

## 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 November 30, 2017

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

**Exhibit 1: Notice of Hearing dated November 2, 2017**

## Exhibit 2: Appeal Case Information from form Schedule HC

**Exhibit 3: Statement of Grounds for Appeal Dated March 15, 2017**

**Exhibit 3: Written Statement of Appeal dated March 15, 2017 with documents**

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is 24 years old and is single. Appellant lives in Worcester County.
2. Appellant is employed in the automotive field. Appellant's employer did not offer health insurance in 2016.
3. Appellant indicated that he had health insurance in 2015 through the Connector, for which he did not pay a premium. Appellant stated that he was inundated with mail regarding his health insurance in early 2016 and then spoke to someone on the telephone at the Connector. Appellant then received a health card in the mail, (Exhibit 4) and thought he was enrolled. Appellant provided a 1095B for, which indicated he had health insurance in January & February 2016. (Appellant testimony)
4. Appellant does have health insurance in 2017.
5. The Appellant's monthly expenses totaled \$2,280.00, consisting of rent \$650.00, heat and electricity \$150.00, internet and cable \$50.00, cell phone \$80.00, car insurance \$150.00, car gas \$200.00, food \$600.00, credit card \$150.00, clothing \$50.00, entertainment \$150.00, toiletries \$50.00,.
6. The Appellant submitted a written Statement of Appeal dated March 15, 2017, stating that "During 2016, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.
7. 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 2016. 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 2016.
8. 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 Appellants income of 43,659.00 was more than \$35,310.00.

# CONNECTOR APPEALS UNIT

The monthly premium for health insurance available on the private market in Worcester County for a 23 year old single person with zero dependents was \$143.00. The tables reflect that Appellant could afford \$276.50. 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.

The Appellant submitted a written Statement of Appeal dated March 15, 2017, stating that “During 2016, 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 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 2016, 150 percent of the FPL was \$17,655.00 for a single person with zero dependents. *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.*

## CONNECTOR APPEALS UNIT

Since Appellant's 2016 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 her in 2016. 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* 2016 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$43,659.00 in 2016, and Appellant's filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2016 Massachusetts Schedule HC, Appellant could afford to pay \$276.50 monthly for health insurance. *See* 2016 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 \$143.00 monthly for coverage with zero dependents and his employer did not offer health insurance *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 \$276.50 for health insurance coverage because of her income. Private insurance in the market place was \$143.00 per month. On these facts, I find that Appellant has not shown that he was totally precluded from purchasing affordable health insurance during 2016. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not totally exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is Partially DENIED, and the 2016 penalty assessed is Partially UPHELD.

## PENALTY ASSESSED

Number of MonthsAppealed: 12 Number of Months Assessed: 3

## **CONNECTOR APPEALS UNIT**

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2016 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 2016.

### **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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 30, 2017      Decision Date: December 7, 2017

---

### 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 November 30, 2017

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

Exhibit 1: Notice of Hearing dated November 2, 2017

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal with Documents

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is 33 years old and is single. Appellant lives in Plymouth County.
2. Appellant is employed in the social services counseling field. She was employed in England during the first half of 2016. She returned to the United States in July 2016 and accepted a job with a firm in which she would be an independent contractor. It took several months to obtain approval from all insurance panels. During this time Appellant made only approximately \$3,100.00 during the months of September through December 2016. Appellant's income was primarily in the first 8 months of the year. Appellant had to use her credit cards to pay her bills in the latter part of 2016.
3. Appellant does have health insurance in 2017.
4. The Appellant's monthly expenses totaled \$3,564.00, consisting of mortgage \$1,750.00, heat and light \$300.00, water & sewer \$55.00, internet and cable \$90.00, cell phone \$55.00, car payment \$230.00, car insurance \$84.00, car gas \$150.00, food \$300.00, credit card \$100.00, clothing \$50.00, Toiletries \$50.00. Appellant also incurred significant expense when her dog died \$350.00
5. The Appellant submitted a written Statement of Appeal dated March 16, 2017, stating " Other. During 2016 other circumstances, such as: applying the Affordability Tables in Schedule HC is inequitable because you didn't reside in Massachusetts during your period of uninsurance" However Appellant should have also appealed under "During 2016, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. I will hear her appeal under both grounds.
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 2016. 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 2016.

# CONNECTOR APPEALS UNIT

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 Appellants income of \$55,245.00 was more than \$35,310.00. The monthly premium for health insurance available on the private market in Plymouth County for a 32 year old single person with zero dependents was \$256.00. The tables reflect that Appellant could afford \$375.20. 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.

The Appellant submitted a written Statement of Appeal dated March 16, 2017, stating “Other. During 2016 other circumstances, such as: applying the Affordability Tables in Schedule HC is inequitable because you didn’t reside in Massachusetts during your period of uninsurance” However Appellant should have also appealed under “During 2016, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. I will hear her appeal under both grounds.

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 2016, 150 percent of the FPL was \$17,655.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is

## CONNECTOR APPEALS UNIT

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 2016 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 her in 2016. 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* 2016 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$55,245.00 in 2016, and Appellant's filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2016 Massachusetts Schedule HC, Appellant could afford to pay \$375.20 monthly for health insurance. *See* 2016 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$256.00 monthly for coverage with zero dependents and she was an independent contractor in the latter part of 2016. *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 \$375.20 for health insurance coverage because of her income. Private insurance in the market place was \$256.00 per month. Appellant made very little income in the last four months of 2016 and had to use her credit cards to pay her bills. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2016. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

# CONNECTOR APPEALS UNIT

Accordingly, Appellant's appeal is ALLOWED, and the 2016 penalty assessed is OVERTURNED.

## PENALTY ASSESSED

Number of MonthsAppealed: 3 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 2016 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 2016.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full  Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: November 30, 2017 Decision Date: December 7, 2017

---

### 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 November 30, 2017

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

Exhibit 1: Notice of Hearing dated November 2, 2017

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated April 3, 2017

Exhibit 3: Written Statement of Appeal

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is 39 years old and is single. Appellant lives in Suffolk County.
2. Appellant is employed with a private company. Appellant's employer did not offer health insurance in 2016.
3. Appellant does not have health insurance in 2017.
4. The Appellant's monthly expenses totaled \$2,950.00, consisting of rent \$1,200.00, heat & light \$160.00, cable & internet \$65.00, cell phone \$85.00, car payment \$400.00, car insurance \$1605.00, car gas \$80.00, food \$200.00, credit card \$100.00, toiletries \$100.00, child support \$400.00.
5. The Appellant submitted a written Statement of Appeal dated April 3, 2017, stating that "During 2016, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
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 2016. 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 2016.
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 Appellants income of \$53,075.00 was more than \$35,310.00. The monthly premium for health insurance available on the private market in Suffolk County for a 38 year old single person with zero dependents was \$221.00. The tables reflect that Appellant could afford \$359.58. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

# CONNECTOR APPEALS UNIT

## 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 submitted a written Statement of Appeal dated April 3, 2017, stating that “During 2016, 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 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 2016, 150 percent of the FPL was \$17,655.00 for a single person with zero dependents. *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 2016 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 her in 2016. 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

# CONNECTOR APPEALS UNIT

plans, government-subsidized programs or on the private insurance market. See 2016 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$53,075.00 in 2016, and Appellant's filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2016 Massachusetts Schedule HC, Appellant could afford to pay \$359.58 monthly for health insurance. See 2016 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$221.00 monthly for coverage with zero dependents and his employer did not offer health insurance *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 \$359.58 for health insurance coverage because of her income. Private insurance in the market place was \$221.00 per month. On these facts, I find that Appellant has not shown that he was precluded from purchasing affordable health insurance during 2016. 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 2016 penalty assessed is UPHELD.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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.

## **CONNECTOR APPEALS UNIT**

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 2016.

### **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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 30, 2017      Decision Date: December 7, 2017

---

### 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 November 30, 2017

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

Exhibit 1: Notice of Hearing dated November 2, 2017

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 4, 2017

Exhibit 4: Written Statement of Appeal dated March 4, 2017 with Documents

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is 27 years old and is single. Appellant lives in Bristol County.
2. Appellant is employed in the security field. Appellant had Health insurance for two months in 2016, when he was employed full time. Appellant has only had part time work since he was laid off from his full time job. His employers do not offer health insurance for part time employees. Appellant lost the health insurance he had in 2015 under his mother's coverage.
3. Appellant has had health insurance for the last five months in 2017.
4. The Appellant's monthly expenses totaled \$1,256.00, consisting of rent \$400.00, heat and light \$150.00, cell phone \$140.00, car payment & car insurance \$386.00, car gas \$230.00, entertainment \$240.00
5. The Appellant submitted a written Statement of Appeal dated March 4, 2017, stating "During 2016, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.
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 2016. 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 2016.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellants income of \$20,311.00 was less than \$35,310.00. The monthly premium for health insurance available on the private market in Bristol County for a 26 year old single person with zero dependents was \$143.00. The tables reflect that Appellant could afford \$49.08. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

# CONNECTOR APPEALS UNIT

## 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 submitted a written Statement of Appeal dated March 4, 2017, stating “During 2016, 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 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 2016, 150 percent of the FPL was \$17,655.00 for a single person with zero dependents. *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 2016 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 2016. 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

## CONNECTOR APPEALS UNIT

health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2016 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$20,311.00 in 2016, and Appellant's filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2016 Massachusetts Schedule HC, Appellant could afford to pay \$49.08 monthly for health insurance. *See* 2016 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$143.00 monthly for coverage with zero dependents and he was a part time employee and not offered health insurance by his employers *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 \$49.08 for health insurance coverage because of her income. Private insurance in the market place was \$143.00 per month. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2016. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is ALLOWED, and the 2016 penalty assessed is OVERTURNED.

## PENALTY ASSESSED

Number of MonthsAppealed: 4 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 2016 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.

## **CONNECTOR APPEALS UNIT**

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 2016.

### **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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 30, 2017                          Decision Date: December 7, 2017

---

### 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 November 30, 2017

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

Exhibit 1: Notice of Hearing dated November 2, 2017

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated April 9, 2017

Exhibit 4: Written Statement of Appeal with Documents

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is 24 years old and is single. Appellant lives in Washington D.C.
2. Appellant did not live in Massachusetts in 2016 and provided a form 1099-HC showing he was covered in full in 2016 under his father's health insurance. (Appellant testimony), (Exhibit 4)
3. Appellant does have health insurance in 2017.
4. The Appellant submitted a written Statement of Appeal dated May 9, 2017, stating no grounds for appeal. However, Appellant should also have appealed under "Other. During 2016 other circumstances such as applying the Affordability Tables in Schedule HC to you is inequitable, that you did not reside in Massachusetts during your period of uninsurance" I will hear the appeal under this ground and that Appellant had health insurance.
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 2016. 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 2016.

## 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

## CONNECTOR APPEALS UNIT

deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant submitted a written Statement of Appeal dated May 9, 2017, stating no grounds for appeal. However, Appellant should also have appealed under “Other. During 2016 other circumstances such as applying the Affordability Tables in Schedule HC to you is inequitable, that you did not reside in Massachusetts during your period of uninsurance” I will hear the appeal under this ground and that Appellant had health insurance.

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 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 2016, 150 percent of the FPL was \$17,655.00 for a single person with zero dependents. *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 2016 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 2016. 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 2016 Schedule HC Instructions and Worksheets, *supra*.

# CONNECTOR APPEALS UNIT

Appellant testified and provided proof of health insurance during 2016. Appellant was covered under his father's health insurance.

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).

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2016. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is ALLOWED, and the 2016 penalty assessed is OVERTURNED.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016 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 2016.

## 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.

# **CONNECTOR APPEALS UNIT**

Cc: Connector Appeals Unit

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: December 7, 2017

Decision Date: December 14, 2017

---

### 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 7, 2017. 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 Notice of Hearing dated November 13, 2017.
- Exhibit 2: Appeal Case Information from Schedule HC 2016.
- Exhibit 3: Statement of Grounds for Appeal dated March 17, 2017.
- Exhibit 4: Appellant's letter in support of this appeal with attachments.

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 52 years old in October 2016 and their spouse turned 56 in May 2016. The spouses filed a joint Federal Income Tax return for tax year 2016 with one dependent claimed.
2. The Appellant's family lived in Worcester County Massachusetts in tax year 2016 (Exhibit 2 and Appellant Testimony).
3. For all of 2016 the Appellant and their spouse had health insurance coverage under a plan sponsored by the spouse's employer (Exhibit 4 and Appellant Testimony).
4. The Appellant's health insurance plan did meet the requirements of the Affordable Care Act. The insurance failed to comply with the Massachusetts minimum creditable coverage (MCC) requirements because the plan's deductible and out of pocket costs exceeded MCC requirements (Exhibit 4 and Appellant Testimony).
5. The Appellant and their spouse have been assessed a tax penalty for all twelve months of 2016. The Appellant and their spouse appealed that assessment in March 2017 (Exhibits 2, 3, 4 and Appellant Testimony).
6. The Appellant testified that they have been insured under their employer's health plan for more than fifteen years. The Appellant said that the company provided only one option and the Appellants were not aware that the plan did not meet all Massachusetts requirements until the Appellants received the 2016 1099-HC tax form needed to complete their 2016 state and federal income tax returns. The Appellant said that their health plan met their needs for all of tax year 2016. I found the Appellant to be a credible witness and their testimony is supported by documentation provided by the spouse's employer (Exhibit 4 and Appellant Testimony).
7. The Appellants' health plan covered a wide array of services and substantially meets the Massachusetts minimal creditable coverage standards. The Appellant's 2016 premium was \$7,497.12 (Exhibit 4).
8. The Appellant has a new employer in tax year 2017 and the family has health insurance that is fully compliant with MCC requirements (Appellant Testimony).

# CONNECTOR APPEALS UNIT

## ANALYSIS AND CONCLUSIONS OF LAW

The Appellant and their spouse were residents of Massachusetts in tax year 2016. Both have appealed the Department of Revenue's (DOR) assessment of a twelve-month tax penalty because the Appellant and their spouse did not have health insurance coverage in 2016 that met the Massachusetts "minimum creditable coverage" standards.

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 and their spouse had insurance that did not meet the minimum creditable coverage standard for all of 2016. The issue to be decided is whether the Appellant and their spouse should be assessed a penalty for the twelve-month period imposed or whether the penalty should be waived in whole or in part.

The Appellant and their spouse had health insurance under a health plan sponsored by the spouse's employer. The family was covered under this plan for more than fifteen years. This insurance met the standards of the Affordable Care Act but failed to meet the Massachusetts minimum creditable coverage standards because the plan's deductible and out of pocket expenses exceeded MCC requirements. The Appellants were unaware that their plan did not meet all Massachusetts requirements until they received their Form 2016 1099-HC to complete their state income tax return. This was the only plan made available to the family by the employer in 2016.

# CONNECTOR APPEALS UNIT

The Appellants' health plan offers a broad range of medical benefits. 956 CMR 5.03(1)(a). The Appellant testified credibly that the plan met their needs. The Appellants' health insurance substantially met the requirements for minimum creditable coverage in 2016 and the Appellant has obtained MCC compliant insurance through a different employer for 2017. See 956 CMR 6.08(2)(d). The Appellant paid an annual premium of \$7,497.12 for their health insurance coverage in 2016. It would be unjust to impose a tax penalty under these circumstances. The penalty for Appellant and their spouse is waived for all twelve months.

## PENALTY ASSESSED

Number of MonthsAppealed: 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 2016.

## 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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: December 7, 2017

Decision Date: December 14, 2017

---

### 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 7, 2017. 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 Notice of Hearing dated November 13, 2017.
- Exhibit 2: Appeal Case Information from Schedule HC 2016.
- Exhibit 3: Statement of Grounds for Appeal dated April 5, 2017.
- Exhibit 4: Appellant's letter in support of this appeal with attachments.

# CONNECTOR APPEALS UNIT

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 27 years old in May 2016. The Appellant filed their Federal Income Tax return as an individual with no dependents claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2016 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2016 was \$28,182 (Exhibit 2, Appellant Testimony).
4. The Appellant had health insurance from January through September 2016 under a plan sponsored by the Appellant's employer. The plan did not meet the Massachusetts minimum creditable coverage requirements. The Appellant enrolled in MassHealth in September 2016 and remained insured through December 2016 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a six-month tax penalty for 2016. The Appellant filed an appeal of the assessment in April 2016 (Exhibits 2, 3, 4 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
7. In accordance with Table 3 of Schedule HC for 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$28,182 could afford to pay \$99 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Essex County, could have purchased private insurance for \$143 per month for a plan (Schedule HC for 2016). Private insurance was not affordable for the Appellant in 2016.
8. The Appellant would have been eligible for ConnectorCare coverage in 2016 because Appellant's income was less than \$35,310 and the Appellant did not have access to employer sponsored insurance that met Massachusetts

# CONNECTOR APPEALS UNIT

minimum creditable coverage requirements (See Table 2 of Schedule HC-2016 and 956 CMR 12.04).

9. The Appellant testified that they enrolled in a health plan offered by their employer and had coverage from January through September 2016. The Appellant testified that they did not realize the plan did not meet Massachusetts requirements and the Appellant does not know why. The Appellant said that she was hospitalized in September and the hospital staff helped with obtaining coverage through MassHealth.
10. The Appellant's monthly living expenses included: rent-\$400; telephone-\$30; student loans-\$250-\$300; loan to parents-\$350-\$400 and food-\$120. The Appellant testified that they did pay for their employer sponsored health insurance but cannot remember what was deducted from their paycheck. The Appellant also said that co-payments for outpatient care were high and the appellant incurred several thousand dollars in medical bills. I found the Appellant to be a credible witness.

## 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 insurance that did not meet the minimum creditable coverage standard for nine months of tax year 2016. The issue to be decided is whether the

## CONNECTOR APPEALS UNIT

Appellant should be assessed a penalty for the six-month period imposed or whether the penalty should be waived in whole or in part.

It is important to note that the Appellant was not aware that their employer sponsored health insurance did not meet MCC requirements. The Appellant did not discover this until they were hospitalized in September 2016 and then were enrolled in MassHealth. The Appellant was financially responsible for payment of a monthly premium but could not remember what the cost of their employer sponsored insurance was. The Appellant did not offer any evidence or testimony regarding their employer sponsored plan and therefore it cannot be determined whether the plan substantially met MCC requirements. 956 CMR 6.08(2)(d). The Appellant does not dispute that the plan did not meet their needs.

In accordance with Table 3 of Schedule HC for 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$28,182 could afford to pay \$99 per month for health insurance. According to Table 4, the Appellant, age 27, living in Essex County, could have purchased a private insurance plan for \$143 per month. See Schedule HC for 2016. Private insurance was not affordable for the Appellant in 2016.

The Appellant would have been eligible for ConnectorCare coverage based upon Appellant's income which was less than \$35,310 and the fact that the Appellant did not have access to employer sponsored insurance that met MCC requirements See Table 2 of Schedule HC 2016 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2016, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly regarding their monthly living expenses. Due to a serious illness, the Appellant incurred substantial bills for treatment co-payments. Given that the Appellant was deemed able to pay \$99 for health insurance, was paying something for her non-compliant insurance and had substantial living expenses, the cost of purchasing health insurance for the period of January through September 2016 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's six-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2016. 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

## **CONNECTOR APPEALS UNIT**

Number of MonthsAppealed: 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 2016.

### **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

# CONNECTOR APPEALS UNIT

## FINAL APPEAL DECISION

Appeal Decision:  Penalty Overturned in Full       Penalty Upheld  
 Penalty Overturned in Part

## Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: 12/7/2017 Decision Date: 12/13/2017

## 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 and wife appeared at the hearing, which was held by telephone on 12/07/2017. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

## Exhibit 1: HC Appeals Case Information

## Exhibit 2: Notice of Hearing

### Exhibit 3: Connector Documentation of Phone Call from Appellant

#### Exhibit 4: Blue Cross of Alabama Coverage Summary

## Exhibit 5: Blue Cross of Alabama Preventative Services

## Exhibit 6: Hargrove and Associates Benefi

## Exhibit 7: Form 1099-HC and cover letter

## Exhibit 8: Statement of Grounds for Appeal

## FINDINGS OF FACT

# CONNECTOR APPEALS UNIT

The record shows, and I so find:

1. The Appellants are aged 54 and 56 and reside in Worcester County, Massachusetts. (Exhibit 1)
2. The Appellants had comprehensive employer-sponsored health insurance in 2016, but although the wife was covered for maternity benefits, the plan did not provide for such benefits to other dependents. (Testimony, Exhibit 7)
3. The Appellants have sons, but no dependent daughters. (Testimony, Exhibit 7)

## 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 Appellants have appealed the Department of Revenue’s (DOR) assessment of a tax penalty because the Appellants did not have health insurance coverage in 2016 that met the Massachusetts “minimum creditable coverage” standards. 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.

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 Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to their particular circumstances. The issue to be decided is whether the Appellants or whether the penalty should be waived in whole or in part. The Appellant’s coverage did not meet the MCC because the plan did not cover maternity benefits for dependent children. The Appellants’ health plan otherwise offers a broad range of medical benefits. 956 CMR 5.03(1)(a). Because the dependents are male, it would be unjust to impose a tax penalty under these circumstances. Accordingly, the penalty for Appellants is waived for all twelve months.

# CONNECTOR APPEALS UNIT

## PENALTY ASSESSED

Number of MonthsAppealed: 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 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.

Cc: Connector Appeals Unit