

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-610

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** October 18, 2021

**Decision Date:** February 18, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 18, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until November 18, 2021, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on October 29, 2021, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/23/21 Appeal (6 pages)
- Exhibit 3: 9/7/21 Hearing Notice (2 pages)
- Exhibit 4: 10/29/21 Open-Record Response (16 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$49,427. The Appellant turned twenty-seven years old in 2020. (Exhibit 1)
2. The Appellant lived in Worcester County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on his 2020 income tax return checking off, "Other," and citing financial hardship, including \$200,000 of student debt, as the basis for his appeal. (Exhibit 2)
4. The Appellant works seasonally as a first responder. (Appellant's testimony)
5. The Appellant has carried hundreds of thousands of student debt since finishing college. (Appellant's testimony)

6. On March 26, 2020, the Appellant received a final demand from one of his lenders that he would be declared in default of his \$162,791 student loan if he continued to fail to pay his \$2,196 monthly installment. (Appellant’s testimony; Exhibit 4)
7. The Appellant was on the verge of default on other private student loans in 2020, and had enrolled in an interest-only payment plan for \$1,097.55 monthly to avoid default. (Appellant’s testimony; Exhibit 4)
8. The Appellant’s 2020 expenses for rent, utilities, phone, car payments, car insurance, gas, groceries, clothing, household supplies, gym membership, work equipment, and professional memberships/CE, totaled \$45,837. (Exhibit 4)
9. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as his income was more than \$37,470 for a family size of one.
10. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$313/monthly for health insurance coverage in 2020.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$269/monthly, based on his age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

At issue is the Appellant’s failure to have health insurance coverage throughout 2020. The Appellant has presented compelling testimony and evidence in support of his contention that he could not afford health insurance coverage in 2020. The Appellant was overwhelmed by all the debt he had taken on recently as a student and the threat of being declared in default.

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

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

**PENALTY ASSESSED**

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

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: ACA21-15472

**Appeal Decision:** Appeal denied

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

**Hearing Date:** January 10, 2022

**Decision Date:** February 12, 2022

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### AUTHORITY

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

### JURISDICTION

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

### ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR

By notice dated November 19, 2021, the appellant was advised that she was eligible for ConnectorCare Plan Type 3B with an Advanced Premium Tax Credit (APTC) of \$332.00/month beginning on December 1, 2021. (Exs. 1,3) The appellant filed an appeal dated December 1, 2021, based on income and reduction/waiver of premium. (Ex. 9) The matter was referred to a hearing after receipt of the appeal. (Exs. 13, 14)

### ISSUE

Was the Connector's decision regarding the appellant's eligibility for a ConnectorCare Plan with APTC on November 19, 2021 correct pursuant to 45 C.F.R. 155.305 and 956 CMR 12.05?

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 10, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Health Connector's Eligibility Determination Results showing a program determination for November 19, 2021 (3 pages)
- Ex. 2-- Health Connector's Review of Application (4 pages)
- Ex. 3—Health Connector's Notice of Eligibility Approval dated November 19, 2021 (8 pages)
- Ex. 4—Medicaid Household Determination Document (6 pages)

- Ex. 5—Health Connector’s Eligibility Determination Results showing a program determination date of July 17, 2021 (3 pages)
- Ex. 6—Health Connector’s Review of Application (5 pages)
- Ex. 7-- Health Connector’s Eligibility Determination Results showing a program determination date of November 24, 2021 (3 pages)
- Ex. 8--Health Connector’s Review of Application (4 pages)<sup>1</sup>
- Ex. 9—Hearing Request Form dated December 1, 2021 (30 pages)
- Ex. 10—Acknowledgment of Appeal dated December 13, 2021 (English) (1 page)
- Ex. 11—Acknowledgment of Appeal dated December 13, 2021 (Spanish) (1 page)
- Ex. 12-- Appeals Unit case notes (1 page)
- Ex.13—Notice of Hearing (English) (3 pages)
- Ex. 14—Notice of Hearing (Spanish) (3 pages)
- Ex. 15—Affidavit of Connector representative (1 page)

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. 16—Employer Sponsored Health Insurance Form

#### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 53 years-old and has a tax household size of two. (Testimony, Exs. 2,6,8)
2. By notice dated July 17, 2021, the appellant was determined eligible for ConnectorCare Plan Type 2B with an APTC of \$440.00/month based on having an income and household size equivalent to 185.61% of the Federal Poverty Level (FPL), effective August 1, 2021. On the application on which the determination was based, the appellant attested to a projected yearly income of \$32,000.00. (Testimony, Exs. 5,6)
5. By notice dated November 19, 2021, the appellant was determined eligible for ConnectorCare Plan Type 3B with an APTC of \$332.00/month based on having an income and household size equivalent to 253.40% of the FPL, effective December 1, 2021. On the application on which the November 19<sup>th</sup> determination was based, the appellant attested to a projected yearly income of \$43,686.72. (Testimony, Exs. 1,2,3)
6. By notice dated November 24, 2021, the appellant was determined eligible for ConnectorCare Plan Type 3B with an APTC of \$332.00/month based on having an income and household size equivalent to 253.40% of the FPL, effective January 1, 2022. On the application on which the November 19<sup>th</sup> determination was based, the appellant attested to a projected yearly income of \$43,686.72. (Testimony, Exs. 7,8)
6. The appellant appealed the Connector’s November 19, 2021, determination on December 1, 2021, based on income and a waiver/reduction of her premium. (Testimony, Ex. 9)
7. The appellant is employed on a full-time basis. The employer offers health insurance for which she qualifies and which costs \$82.00/month. She has not enrolled in the employer’s insurance because she believes that the coverage is too expensive. (Testimony, Ex. 16)

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<sup>1</sup> Ex. 8 was inadvertently not listed on the Hearing Record Sheet and was added to the list of exhibits after the hearing.

8. The appellant attested on her application that she did not have the option to enroll in employer health coverage. (Exs. 2,6,8)

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

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), certain taxpayers are eligible for an APTC if their household Modified Adjusted Gross Income (MAGI) is at or below 400% of the FPL. The law also permits these premium tax credits to be paid in advance on the applicant's behalf, based on a projected yearly MAGI. As a result of the federal American Rescue Plan, for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. Taxpayers who qualify for an APTC and who have projected yearly MAGI less than or equal to 300% of the FPL qualify for additional state subsidies through the Health Connector's ConnectorCare program, pursuant to 956 CMR section 12.04.

For December, 2021, and for 2022, the appellant was determined eligible for ConnectorCare Plan Type 3B with APTC based on having an income and family size equivalent to 253.40% of the FPL. The appellant does not dispute that she attested to a projected yearly income of \$43,686.72.00 on her application, but testified that her prior plan was less expensive. The ConnectorCare plan in which she was previously enrolled was based on a projected income of \$32,000.00. It appears that the \$11,686.00 increase in income accounts for the appellant's move into a more expensive plan.

Accordingly, based on the evidence in the record, it is concluded that the Connector's determination on November 19, 2021 regarding the appellant's eligibility for ConnectorCare Plan Type 3B with APTC was correct, and is therefore affirmed.

### **ORDER**

The appeal is **denied**.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

Based on the information submitted by the employer indicating eligibility to enroll in health insurance, the appellant is advised to update her application online at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-207

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** February 3, 2022

**Decision Date:** February 9, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants are a married couple who will be referred to in this decision as Husband and Wife. Wife appeared at the hearing, which was held by telephone, on February 3, 2022. The hearing record consists of the testimony of Wife, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (8 pages)
- Exhibit 4: Request to vacate dismissal (2 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Wife and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. During 2020, Appellants lived in Essex County. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with no dependents. Exhibit 2.
3. Husband was 78 at the end of 2020. Wife was 64 at the end of 2020. Exhibit 2.
4. Appellants reported on their Massachusetts tax return and Wife confirmed at the hearing that they had adjusted gross income in 2020 of \$44,439. See Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of their 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.



5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that Husband had health insurance meeting minimum creditable (MCC) standards throughout 2020, but that Wife did not have such insurance at any point in 2020.
6. Husband was covered by Medicare throughout 2020.
7. Husband retired from his employment in late 2019. Up until that point, Appellants had been covered under insurance obtained through Husband's employment.
8. When Husband retired, he went on Medicare, but Wife was not yet eligible for Medicare. Instead, she applied for and received Connector Care insurance through the Health Connector. That insurance, which was government subsidized, cost her \$130 a month. Wife testified that she obtained coverage in early 2020 and was insured for the month of February.
9. Wife had part-time seasonal employment. However, that employment ended in early 2020 because of the quarantine resulting from the Covid pandemic.
10. Because she was not earning any income, Wife decided to apply for Social Security and she started receiving monthly payments.
11. Wife reported this increased income to the Health Connector. As a result, her eligibility was re-determined and she was found no longer to be eligible for Connector Care. As a result, her monthly premium was increased to approximately \$500 a month, which Wife considered unaffordable.
12. As a result, Wife went without insurance for the remainder of 2020 and into early 2021 when she became eligible for Medicare. She was covered under Medicare as of the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" 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.

In order to determine whether Wife should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, neither Appellant worked at a job that offered health insurance. As a result, Wife did not have access to employment-based insurance.

Further, Wife could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M.

Under those standards, persons like Appellants who were making \$44,439 for a household of two persons were deemed able to afford 7.4 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$3,288 annually or \$274 a month. During 2020, a person like Appellant who lived in Essex County and was 64 years of age would have had to pay \$432 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for her.

However, Wife should have been eligible for Connector Care, which is government-subsidized insurance. Her annual household income of \$44,439 is below \$50,730, which is 300 percent of the federal poverty level ("FPL") for a household of two persons like Appellants'. Individuals with incomes below 300 percent of the FPL are eligible for Connector Care, which is affordable government-sponsored insurance in Massachusetts, provided they meet the other eligibility criteria of citizenship or legal permanent residence in the United States and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Wife did meet those other criteria based on her testimony and on the fact that she had been determined eligible in 2019 when she applied.

However, Wife lost her Connector Care insurance when she reported that she had started receiving Social Security. This meant that the addition of that income brought the household income stated in her application over the eligibility limit for Connector Care. This proved to be erroneous because ultimately her household income for 2020 was below the eligibility limit. Nonetheless, Wife was effectively denied Connector Care at the time and she could not have afforded to maintain the health insurance without the subsidy that came through that program.

As a result, Wife did not have an affordable option for health insurance in 2020. Therefore, I am not required to determine whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will waive the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-421

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** February 17, 2022

**Decision Date:** February 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on February 17, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (4 pages)
- Exhibit 4: Request to Vacate Dismissal (1 page)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellant and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. Appellant was 32 at the end of 2020. Exhibit 2.
2. Appellant lived in Norfolk County in 2020. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$46,547. Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage standards at any point in 2020. Exhibit 2.
6. Appellant worked throughout 2020 at a job with variable hours. For part of the year, he was unable to work because his employer's business was closed during the early months of the Covid-19 pandemic. He was not offered health insurance through that employment.
7. Appellant applied for subsidized health insurance through the Health Connector, but his income was too high to qualify.
8. During 2020, Appellant had a number of expenses in addition to his rent and utilities. He was paying off credit card debt. He also contributed to the support of a child whom he did not take as a dependent.
9. Appellant applied for insurance through the Health Connector again in 2021 and at that time, his reported income qualified him for coverage. He was insured at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" 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.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, Appellant worked at a job that did not offer him health insurance. Thus, he did not have access to employment-based insurance during that year.

Further, Appellant was not eligible to obtain government-subsidized insurance. In order to obtain government-subsidized insurance in Massachusetts, an individual must meet the eligibility requirements for Connector Care, which is a joint federal-state funded program. See 956 CMR § 12.04 (Connector Care eligibility requirements.) To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. *Id.* In this case, Appellant would not have qualified based on income because his household income of \$46,547 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.)

However, Appellant could have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who had income of \$46,547 for a tax household of one person was deemed able to afford 7.6 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$3,537 annually or \$294 a month. During 2020, a person like Appellant who lived in Norfolk County and was 32 years of age could have obtained insurance for a premium of \$288 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. During 2020, Appellant was dealing with uncertain income, because his hours were variable and, for part of the time, he was not working at all due to business closure caused by COVID. He also had expenses above the normal expenses of rent and utilities, including paying off credit card debt and contributing to the support of a minor child. Under the state standards, insurance was barely affordable for him, and those extra expenses would have reduced the amount he could afford to pay for insurance. Further, I take into consideration the fact that Appellant subsequently obtained health insurance in 2021 and was covered as of the date of the hearing. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-469

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

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

**Hearing Date:** February 18, 2022

**Decision Date:** February 24, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant's Father, who was her authorized representative, appeared at the hearing, which was held by telephone on February 18, 2022. The Appellant's authorized representative was sworn in and testified on behalf of his daughter. (Appellant) The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 3/15/2021. (2 PP).
- Exhibit 2(a): Appellant's Documentation authorized representative form and 2020 Schedule (2020 Schedule HC for Representative crossed out with Appellant's information inserted (1 P).
- Exhibit 2(b) Authorized Representative for Appeals Form dated 8/30/21 (2 PP).
- Exhibit 2 c Appellant's Request to Vacate Dismissal recvd. 9/10/21 (1PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 1/20/2022 (2 PP).

The Record was left open until March 3, 2022, for the Appellant to submit additional documentation including Proof of coverage and documentation of minimum creditable coverage (MCC) for the Health Care Sharing Ministry, the Appellant was claiming for Samaritan Ministries International.

Exhibit 4: Email from the Appellant's on February 22, 2022, from the Authorized Representative with documentation from Samaritan Ministries dated February 16, 2022, to the Health Connector including correspondence and a certificate of medical costs program participation for the Appellant effective May 1, 2022 as well as correspondence from CMS dated February 14, 2014, regarding a review of materials (6P)

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 20 in 2020, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$20,267. (Exhibit 1).
3. Appellant was a student and worked part time. (Appellant's Testimony).
4. Appellant had coverage through her father's employer sponsored insurance ("ESI") through April 2020. (Appellant's Testimony).
5. Appellant's father changed his family plan's insurance to Shared Cared Ministries International in May 2020. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for five (5) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
7. According to Table 3 Appellant could have afforded \$48.97 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$267.00 per month.
8. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
9. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and included a document that during 2020, she had access and was enrolled in a shared ministries plan that met the minimum creditable coverage ("MCC") under 956 CMR 5.03(d). The Appellant submitted documentation and credibly testified that she had access and was enrolled under the Shared Cared Ministries International which satisfied the MCC criteria in 2020. (Appellant's Testimony, Exhibit 4).

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



insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. Under 956 CMR 5.03(3)(d), a health care sharing ministry (HSMC) is deemed to meet minimum creditable coverage (MCC) provided that the organization meets certain standards and attests to the Health Connector for each MCC reporting year that the arrangement meets those standards. The Samaritan Ministries International is listed as a HSSM reporting to the Connector under 956 CMR 5.03(3)(d)(7). Shared Cared Ministries International is listed in the Health Care Sharing Ministries Reporting to the Massachusetts Health Connector in 2020 & 2021.

The evidence provided by the Appellant established that she had access and was enrolled under the Shared Cared Ministries International which satisfied the MCC criteria in 2020. (Appellant's Testimony, Exhibit 4). Accordingly, I waive her penalty for the months in question

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

## **PENALTY ASSESSED**

Number of Months Appealed: 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

## **ADDENDUM**

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

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-863**

**Appeal Decision:** \_\_\_Penalty Upheld XXPenalty Overturned in Full \_\_\_Penalty Overturned in Part

**Hearing Issue:** Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

**Hearing Date:** January 26, 2022

**Decision Date:** February 14, 2022

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**AUTHORITY**

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c.30A, M.G.L. c.111M and M.G.L. c.176Q, 956 C.M.R 12.00, 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 M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant’s testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated May 29, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated October 5, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated December 14, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 24 years old and resided in Middlesex County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$97,821. (Exhibit 2).
3. Appellant had access to and was enrolled in employer sponsored health insurance (“ESI”) from January through March of 2020, when he was laid off. (Exhibit 2; Appellant’s Testimony).

4. Appellant submitted a Statement of Grounds for Appeal, dated May 29, 2021, claiming that in 2020 he was homeless, more than 30 days in arrears in rent or mortgage payments, or received an eviction or foreclosure notice. (Exhibit 1).
5. Appellant collected unemployment benefits from April through August of 2020, when he again began working for a different employer. (Appellant Testimony).
6. Appellant enrolled in ESI with his new employer, with coverage taking effect September of 2020, and continuing through December of 2020. (Exhibit 2; Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” 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 health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for two separate portions of 2020, he is entitled to two separate three-month grace periods. Appellant is appealing a two-month tax penalty for 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds dated May 26, 2020, claiming that he was homeless, more than 30 days in arrears in rent or mortgage payments, or received an eviction or foreclosure notice. (Exhibit 1).

A determination must be made whether the two-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$97,821 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$97,821 was greater than 300% of the FPL, he was ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 24 and living in Middlesex County, \$269 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$97,821, could afford to pay \$652 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

A determination must be made whether Appellant experienced a financial hardship such that he could not purchase otherwise affordable health insurance. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that he was enrolled in ESI from January through March of 2020, when he was laid off and lost his ESI. (Appellant Testimony). Because of his lay off and reduction in income despite receiving unemployment benefits, Appellant testified that he was unable to afford his rent and subsequently remained without a permanent address for a number of months in 2020. (Appellant Testimony). Appellant credibly explained that while he was hired by a second employer in mid-2020, this employer repeatedly delayed Appellant's start date due to the pandemic, and he did not start until August. (Appellant Testimony). Appellant enrolled in ESI with this new employer starting in September and continuing through the remainder of 2020. (Appellant Testimony).

I do not find that Appellant was homeless in the traditional sense; rather, I find that Appellant merely could not afford the rent where he was residing rather than an inability to afford *any* rent. Accordingly, I do not find Appellant entitled to a waiver of the individual mandate penalty based on homelessness. However, I do find that even though private health insurance was affordable for Appellant based on his 2020 income, it would have been difficult for Appellant to obtain private insurance for the relatively short time period when Appellant was between jobs and uninsured, given that his new employer, who would be providing Appellant with ESI, kept delaying his start date. (Appellant Testimony). Appellant did enroll in ESI with his new employer beginning in September and remains enrolled as of the hearing date. (Appellant Testimony).

Even if I were to find that Appellant was obligated to enroll in private health insurance during the period of time when he was between jobs, Appellant is entitled to two separate three-month penalty waivers, rather than one single three-month waiver, based on his enrollment in health insurance for two separate and distinct time periods with two different employers in 2020. A second three-month waiver covers Appellant's two-month TY 2020 penalty.

Accordingly, Appellant's appeal is **GRANTED** and the two-month 2020 Tax Penalty assessed against him is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should NOT be assessed a penalty for Tax Year 2020.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-864**

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

**Hearing Issue:** Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

**Hearing Date:** January 26, 2022

**Decision Date:** February 27, 2022

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**AUTHORITY**

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c.30A, M.G.L. c.111M and M.G.L. c.176Q, 956 C.M.R 12.00, 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 M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated May 29, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated October 5, 2021.
- Exhibit 3: Appellant's 2020 W2.
- Exhibit 4: Appellant's 2020 IRS Form 1095-C.
- Exhibit 5: Health Connector Appeals Unit Notice of Hearing dated October 22, 2021.
- Exhibit 6: Health Connector Open Request Form dated January 26, 2022.

**FINDINGS OF FACT**

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

1. Appellant turned 36 years old and resided in Worcester County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single with zero dependents claimed, reporting an Adjusted Gross Income ("AGI") of \$27,715. (Exhibit 2).
3. Appellants submitted a Statement of Grounds for Appeal, dated May 29, 2021, claiming that he purchased health insurance that did not meet minimum creditable coverage ("MCC") standards

because that is what his employer offered and that circumstances prevented him from buying other insurance that met the requirements during 2020. (Exhibit 1).

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” 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 health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2020, the three-month grace period is inapplicable, and Appellant is appealing a twelve-month tax penalty for 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds dated May 29, 2021, claiming that he purchased health insurance that did not meet MCC standards because that is what his employer offered and that circumstances prevented him from buying other insurance that met the requirements during 2020. (Exhibit 1). Appellant also submitted his 2020 W2 and 2020 IRS Form 1095-C. (Exhibits 3 and 4).

A determination must be made whether the twelve-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans (“ESI”), government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, Appellant’s 2020 AGI of \$27,715 made him eligible for subsidized care through the Connector (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). Because Appellants’ 2020 AGI of \$27,715 was less than 300% of the FPL, Appellant was eligible for ConnectorCare. *See* 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.



Based on Schedule HC for 2020 Table 4, it would have cost Appellant, living in Worcester County, \$298 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with zero dependents, with an AGI of \$27,715 could afford to pay \$97 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was greater than the amount Appellant could afford, I conclude that affordable private insurance was not available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that he believed he had health insurance meeting MCC in 2020 through his employer, offering his submission of IRS Form 1095-C as prove of coverage. (Appellant Testimony). Appellant was less than clear when asked about weekly deductions from his paycheck for health insurance premiums, claiming that he did not have copies of his paystubs with him and he was unable to confirm the weekly amount purportedly withdrawn for premiums. (Appellant Testimony). Appellant states only that withdrawals were made each week from his paycheck, and that he paid a total of \$614.71 for purported health insurance for 2020. (Appellant Testimony).

It was explained to Appellant that IRS Form 1095-C cannot be relied on as conclusive evidence of Appellant's enrollment in health insurance meeting MCC because IRS Form 1095-C does not show enrollment or coverage content; rather, IRS Form 1095-C shows only that an employer made an offer of coverage. The record was kept open for thirty days for Appellant to submit documentation from his 2020 employer showing that Appellant was enrolled in ESI, whether this coverage met MCC standards, and Appellant's monthly cost for premiums. (Exhibit 6). Appellant failed to submit a response to this request.

Based on Appellant's vague responses and inability at hearing to provide information regarding weekly payroll deductions and coverage details regarding his purported 2020 health insurance, his failure to respond to the open record request, and my finding that even if weekly amounts totaling \$641.71 were deducted from Appellant's paycheck in 2020, Appellant's apparent belief that he was paying for comprehensive yearly health insurance coverage for a mere \$650 was unreasonable and this low cost should have alerted Appellant that he may be paying for coverage that did not meet MCC.

Because Appellant did not claim, either at hearing or in his Statement of Grounds for Appeal, that he experienced a financial hardship such that he could not purchase otherwise affordable health insurance in 2020, and did not testify to experiencing any hardship circumstances, I find that Appellant did not experience a financial hardship in 2020 as defined in 956 C.M.R. 6.08.

Accordingly, Appellant's twelve-month penalty is **UPHELD**.

#### **PENALTY ASSESSED**

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

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

insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-910

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

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

**Hearing Date:** December 15, 2021

**Decision Date:** February 3, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on December 15, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2020 Signed by Appellant on 6/9/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 PP).
Exhibit 2(b):	Appellant's Summary of Benefits and Coverage	(1 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/12/2021	(2 PP).

The Record was left open until January 15, 2022, for the Appellant to submit additional documentation including:

Exhibit 4: Employer information regarding Employer Sponsored Insurance ("ESI") including summary of benefits. (1 page).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return reported they were married, filing joint, had 1 dependent in 2020, lived in Worcester County, and had a family size of 3. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time and was enrolled in an employer sponsored insurance("ESI") in 2020. (Testimony of Appellant).
3. Appellant testified his employer was headquartered in North Carolina and that his family was covered under Blue Cross Blue Shield premium plan. (Appellant Testimony).

4. The Appellant paid approximately \$342.70 per biweekly pay period. (Testimony of Appellant).
5. The Appellant was enrolled in ESI beginning on January 1, 2020. (Exhibit 4).
6. Appellant testified that he was informed by the Employer in 2020 that the plan does not meet the meet minimal credible coverage (“MCC”) standards for Massachusetts residents. (Testimony of Appellant, Exhibit 2(b)).
7. The Employer indicated the plan meets all of the necessary coverage requirements, except it does not provide maternity benefits to dependent children and the Healthy Value Plan has an annual deductible above the Massachusetts limit. (Testimony of Appellant).
8. The Appellant’s have an eight (8) year old daughter. (Testimony of Appellant).
9. Appellant’s Federal Adjusted Gross Income for 2020 was \$167,195 (Exhibit 1).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
11. According to Table 3 Appellant could have afforded \$ 1,114.63 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$751 per month.
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with their appeal that during 2020: they purchased health insurance that didn’t meet minimum creditable coverage standards because that is what the employer offered and they felt their circumstances prevented them from buying other insurance that met the requirements. (Exhibit 2).

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

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

The evidence provided by the Appellant established that their income for 2020, \$167,195 was more than 300% of the federal poverty level, which for 2020 was \$63,990 for an individual with a family size of three (3). According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$ 1,114.63 per month. According to Table 4, Appellant, ages 35 and 34 with one dependent and living in Worcester County during the time they was being penalized for not having insurance, could have purchased insurance for \$751.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through his employer, but that same did not meet minimal credible coverage, as he was informed by his employer in 2020. (Appellant Testimony). The Appellant’s testimony which I find credible that the ESI premium was a 342.70 Bi-Weekly. I find credible the Appellant’s testimony that he found out in 2020 from his employer that did not meet minimum credible standards because the policy does not provide maternity benefits to dependent children. (Appellant’s Testimony, Exhibit 2(b)). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2020 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$167,195 in 2020 and the ESI premium was less than 9.78% of \$167,195, or \$1,362 per month. Where the Appellant paid approximately \$342.70 per biweekly pay period, the ESI was affordable. However, although the ESI was affordable, as referenced above, the coverage is not considered to meet minimum value standards. Appellant was advised and should note that if this issue has continued in 2021, he will have the same penalty issues and should be addressed with the Employer, and he should purchase MCC compliant insurance.

Based upon the facts summarized above, I find that where the Appellant unknowingly paid for ESI that did not meet minimum creditable coverage offered by his employer, and that their circumstances prevented them from buying other insurance that met the requirements, they are not subject to a penalty within the meaning of 956 CMR 6.08 (3).

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

#### **PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-916**

**Appeal Decision:** \_\_\_Penalty Upheld \_\_\_Penalty Overturned in Full XXPenalty Overturned in Part

**Hearing Issue:** Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

**Hearing Date:** January 26, 2022

**Decision Date:** February 17, 2022

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**AUTHORITY**

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c.30A, M.G.L. c.111M and M.G.L. c.176Q, 956 C.M.R 12.00, 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 M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated May 30, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated October 8, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated December 17, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 55 years old and resided in Hampden County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single with zero dependents claimed, reporting an Adjusted Gross Income of \$27,637. (Exhibit 2).
3. Appellant had no health insurance for the entirety of 2020. (Exhibit 2; Appellants' Testimony).
4. Appellant was unemployed in January and February, and began working in March off 2020. (Appellant Testimony).

5. Appellant's employer furloughed him in May of 2020, then laid him off before his return from furlough. (Appellant Testimony).
6. Appellant did not provide his lay off date in 2020.
7. In support of his appeal, Appellant submitted a Statement of Grounds dated May 30, 2021, claiming that "Other" circumstances made health insurance unaffordable for Appellant in 2020. (Exhibit 1).

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the "individual mandate", which requires that every adult resident of Massachusetts obtain insurance coverage "[s]o long as it is deemed affordable." 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 health insurance. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty for Tax Year 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds dated May 30, 2021, claiming that "Other" circumstances made health insurance unaffordable for Appellant in 2020. (Exhibit 1).

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 55 and living in Hampden County, \$387 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with zero dependents, with an AGI of \$27,634, could afford to pay \$97 per month for health insurance. *See* 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was higher than the amount Appellant could afford, I conclude that affordable private insurance was not available to Appellant in 2020. *See* 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$27,634 made him eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). Because Appellant's 2020 AGI of \$27,634 was less than 300% of the FPL, he was eligible for subsidized health



insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Appellant testified that he was unemployed in January and February, and began working in March of 2020. (Appellant Testimony). Appellant testified that he was in the process of enrolling into his employer's health insurance ("ESI") when his employer furloughed him in May. (Appellant Testimony). Appellant testified that before his return from furlough, his employer laid him off, but he did not provide the specific month when the layoff occurred. (Appellant Testimony). During hearing, Appellant testified that he did not collect unemployment benefits in 2020. (Appellant Testimony). Appellant testified that after his lay off, he contacted the Health Connector to enroll in health insurance. (Appellant Testimony). The Connector asked him to email additional information regarding residency and income, which he did; however Appellant did not offer a credible reason why he was ultimately unable to enroll in a Health Connector plan, other than he kept entering the automated system. (Appellant Testimony). Despite testifying that throughout his 2021 employment he unsuccessfully attempted to enroll in his employer's health insurance plan, and that ultimately it took him almost a full year to obtain this health insurance, Appellant testified at hearing that he collected unemployment benefits in 2021. (Appellant Testimony). It is unclear if Appellant's contradictory testimony regarding the year in which he collected unemployment benefits - presumably correlating to the year he was laid off - results from poor memory, but I do not fully credit his testimony at hearing regarding the year he collected unemployment benefits, or his claim that he was unable to enroll in a Health connector plan in 2020 because he was not able to reach anyone at the Connector. I will credit Appellant's testimony that in 2020 he was unemployed in January and February, hired in March, furloughed in May, and laid off at some point before returning to work for a different employer in January of 2021. (Appellant's Testimony).

While Appellant did not have access to affordable private insurance in 2020, for the months of March, April and May when he was on furlough, Appellant had access to ESI, which would have blocked his access to subsidized coverage through the Connector. Accordingly, for these months I find Appellant had no access to affordable coverage and he is not subject to the penalty.

For the months of the year when Appellant was laid off, he was eligible for subsidized coverage through the Connector, and failed to offer a credible reason for his inability to enroll into ConnectorCare. It may be inferred from Appellant's testimony at hearing that in addition to January and February, Appellant was unemployed from June through December, but because of a gap in the hearing recording, this cannot be confirmed. Accordingly, in addition to waiving the penalty for the months of January and February when Appellant could reasonably have held off on applying for ConnectorCare based on his imminent employment, I will waive the penalty for the last two months of 2020 in the event that Appellant was employed during this time and had access to ESI, which would have blocked his access to subsidized care.

Having waived the individual mandate penalty for the months of January, February, November and December of 2020, for the remaining months of June through October when Appellant had access to subsidized coverage through the Connector and did not have access to ESI which may have blocked subsidized coverage, a determination must be made whether Appellant experienced a financial hardship

such that he could not purchase otherwise affordable health insurance. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2020 he had the following monthly expenses for basic necessities, totaling \$553 per month: car insurance - \$103; cell - \$50; food - \$400. (Appellant's Testimony). Given that Appellant's 2020 weekly gross amount was \$2,302 while his monthly essential expenses amounted to less than \$600, I conclude that purchasing health insurance in the months of June through October would not have caused Appellant to experience a financial hardship, as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellant's appeal is **ALLOWED** in part and **DENIED** in part.

**PENALTY ASSESSED**

Number of Months Appealed: 12      Number of Months Assessed: 5

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in 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

FINAL APPEAL DECISION: PA20-1013

**Appeal Decision:** The penalty is upheld.

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

**Hearing Date:** December 21, 2021

**Decision Date:** February 3, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on December 21, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 6/4/2021. (2 PP).
- Exhibit 2(a): Appellant's Statement in Support of Appeal (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/23/2021 (2 PP).

The record was left open until January 21, 2022, for the Appellant to submit documentation including amended tax returns as well as evidence of hardship, monthly expenses and receipts.

Exhibit 4:

The Appellant submitted an email on January 21, 2022, with images of attachments including credit card, tax, utility invoices and other statements in his Spouse's name (including an invoice from the Health Connector for a monthly premium of \$245.46 in his Spouse's name), as well as an incomplete, unsigned 2020 Amended Tax return (2) Pages without confirmation that the return was accepted for the Appellant, which included a box checked that he was filing married but separately. The Appellant also filed an incomplete 2020 1040 for his Spouse which indicated she was married but filing separately. (21 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married but filing separately with a family size of 2, was age 40 in 2020, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$129,464. (Exhibit 1).
3. Appellant testified that the income was not correct because the tax software he used was incorrect and included his spouse's income. (Appellant's Testimony, Ex 1, 2(a)).
4. The Appellant testified his income tax was flagged and that he has filed amended returns which have been approved which corrected the income. (Appellant's Testimony, Exs. 2(a),4).
5. The Appellant indicated his only income was unemployment income of \$11,242 for 2020. (Exhibit 4-email).
6. Appellant was laid off in April during Covid and could not afford the \$1,100 per month cost of COBRA from his Employer. (Appellant's Testimony, Ex 2(a)).
7. The Appellant testified he investigated obtaining Connectorcare and private insurance but was denied Connectorcare because his Spouse's income was being used to determine the cost of insurance. (Appellant's Testimony, Ex 2(a)).
8. Appellant testified he was unemployed during the time he was being penalized, that his spouse was ill, and with the limited number of hours there is no way he could afford health insurance or a penalty at this time. (Appellant's Testimony, Ex 2(a)).
9. Appellant investigated obtaining insurance through his spouse's employer's health insurance plan, but it was too expensive with his unemployment and his spouse's reduced earnings. (Appellant's Testimony, Ex 2(a)).
10. The Appellant testified that Covid-19 has greatly affected [them], he has had no income since last July which was only limited unemployment assistance, and have had sacrifices trying to keep food in the house, and that he could not afford to pay a fine. (Exhibit 2(a)).
11. Appellant has been assessed a tax penalty for six (6) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
12. The Appellant testified that he had the following average monthly living expenses in 2020: Mortgage: \$1,600, Utilities: \$275(average), Car Insurance: \$160, Gas/Transportation: \$600, Food: \$1,500(due to a required special diet), Cable Internet: \$240, Cell Phone: \$ 165: totaling: \$4,540. (Appellant's Testimony).
12. According to Table 3 Appellant could have afforded \$863.09 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
13. The Appellant would have not been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$50,730.00 for a family of two (2). (See Table 2 of Schedule HC 2020, Appellant's Testimony).

14. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal but did not check grounds for the appeal. However, during the hearing the Appellant adduced testimony that the individual mandate did not apply to him during 2020 because of a hardship and that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that the income for 2020, \$129,164.00 was more than 300% of the federal poverty level, which for 2020 was \$50,370.00 for a family size of two (2).<sup>1</sup> According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$863.09 per month. According to Table 4, Appellant, age 40 and living in Plymouth County during the time he was being

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<sup>1</sup> Appellant testified that the income was not correct because the tax software he used was incorrect and included his spouse’s income, who also filed married but separate. The Appellant testified that he filed amended returns which have been approved which corrected the income. However, the incomplete documentation and pertinent parts of the amended tax return submitted by the Appellant along with his Spouse’s 2020 1040 were incomplete and do not corroborate a reduced amount of the Appellant’s income.

penalized for not having insurance, could have purchased insurance for \$316.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he was laid off during Covid and could not afford COBRA. Appellant investigated obtaining insurance through his spouse's employer's health insurance plan, but it was too expensive with his unemployment and his spouse's reduced earnings. The Appellant did not testify to the cost. (Appellant's Testimony, Ex 2(a)). Thus, where the Appellant testified that he did not have access to affordable ESI under his Spouse's plan but did not have information on the cost, I am unable to determine whether the Appellant had access to affordable Employer Sponsored Insurance ("ESI"). The Appellant submitted documentation that although his Spouse filed a 2020 tax return with the designation of married, filing separately, his Spouse was receiving Connectorcare at a premium of \$245.56.

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

The Appellant testified that he had the following average monthly living expenses in 2020: Mortgage: \$1,600, Utilities: \$275(average), Car Insurance: \$160, Gas/Transportation: \$600, Food: \$1,500(due to a required special diet), Cable Internet: \$240, Cell Phone: \$ 165: totaling: \$4,540. (Appellant's Testimony). The record was left open for the Appellant to send in documents to corroborate same. The Appellant Submitted images of attachments including credit card, tax, utility invoices and other Statements in his Spouse's name submitted but no documents were submitted. Some of the invoices were blocked. There Was one Infinity Invoice in the Appellant's name. As such, I find that the Appellant did not submit evidence of hardships including being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant did not show evidence of a foreclosure, hardships, or testify to the cost of his spouse's health insurance and his spouse's income, and whether same was used for the cost of essential monthly costs. Moreover, the Appellant did not provide clear and complete documentation to corroborate his testimony that his income was substantially reduced and only included unemployment income. Accordingly, the Appellant did not meet his burden that he did not have adequate income to afford the cost of purchasing private insurance for \$863.09 per month. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities.

**PENALTY ASSESSED**

Number of Months Appealed:   6        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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:    Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1155**

**Appeal Decision:** \_\_\_Penalty Upheld XXPenalty Overturned in Full \_\_\_Penalty Overturned in Part

**Hearing Issue:** Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

**Hearing Date:** February 4, 2022

**Decision Date:** February 17, 2022

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**AUTHORITY**

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c.30A, M.G.L. c.111M and M.G.L. c.176Q, 956 C.M.R 12.00, 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 M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on February 4, 2022. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated September 21, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated December 21, 2021.
- Exhibit 3: Letter from Appellant's landlord dated October 10, 2021.
- Exhibit 4: Health Connector Appeals Unit Notice of Hearing dated January 10, 2022.

**FINDINGS OF FACT**

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

1. Appellant turned 61 years old and resided in Suffolk County in 2020. (Exhibit 2).
2. Appellant filed her 2020 Federal Income Tax return as single with zero dependents claimed, reporting an Adjusted Gross Income of \$76,298. (Exhibit 2).
3. In 2020, Appellant had no health insurance from January through August, then had coverage through MassHealth September through December. (Exhibit 2; Appellant's Testimony).



4. In support of her appeal, Appellant submitted a Statement of Grounds dated September 29, 2021, claiming that in 2020 she was homeless, more than 30 days in arrears in rent or mortgage payments or received an eviction or foreclosure notice. (Exhibit 1).

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” 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 health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2020, she is entitled to a three-month grace period, and she is appealing a five-month tax penalty for Tax Year 2020. (Exhibit 2).

In support of her appeal, Appellant submitted a Statement of Grounds dated September 29, 2021, claiming that in 2020 she was homeless, more than 30 days in arrears in rent or mortgage payments or received an eviction or foreclosure notice. (Exhibit 1). Appellant also submitted a letter from her landlord dated October 1, 2021, stating that Appellant fell behind in rent payments beginning in February of 2020, and that she is still in arrears. (Exhibit 3).

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 61 and living in Suffolk County, \$432 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with zero dependents, with an AGI of \$76,298, could afford to pay \$509 per month for health insurance. *See* 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. *See* 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2020 Table 2, I find that Appellant’s 2020 AGI of \$76,298 made her ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). Because Appellant’s 2020 AGI of \$76,298 was greater than 300% of the FPL, she was ineligible for subsidized health insurance through the Connector. *See* 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. *See* 2020 Schedule HC Instructions and Worksheets, Table 2.

Appellant testified that she is an independent contractor who began contracting for an entity three weeks before the pandemic hit. (Appellant Testimony). Shortly thereafter, in or around March of 2020, she had no work. (Appellant Testimony). Appellant did not have access to employer sponsored health insurance (“ESI”) as an independent contractor. (Appellant Testimony). Appellant testified that she did not collect unemployment benefits until August of 2020, and that she currently remains out of work. (Appellant Testimony).

Appellant submitted a letter from her landlord dated October 1, 2021, stating that Appellant fell behind in rent payments beginning in February of 2020, and that she is still in arrears. (Exhibit 3). Appellant testified that her landlord has been very understanding with her and other tenants regarding the pandemic and has been working with her regarding her outstanding rent. (Appellant Testimony).

Because Appellant had access to affordable private health insurance, a determination must be made whether Appellant experienced a financial hardship such that she could not purchase otherwise affordable health insurance. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Based on her landlord’s letter stating that Appellant’s rent arrearages began in February of 2020 and that her rent payments currently remain in arrears, as well as the fact that Appellant remained unemployed throughout 2020, I conclude that in 2020, Appellant experienced a financial hardship and could not afford the cost of purchasing health insurance. Accordingly, I find that Appellant is entitled to a waiver of the individual mandate penalty for all months in which the penalty was assessed.

Accordingly, Appellant’s appeal is **GRANTED** and the five-month 2020 Tax Penalty assessed against her is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: 5      Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should NOT be assessed a penalty for Tax Year 2020.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1064

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** January 12, 2022

**Decision Date:** February 1, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

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

The Appellant appeared at the hearing, which was held by telephone, on January 12, 2022.

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

Exhibit 1	Hearing Notice dated December 10, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 28 years old in August 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Middlesex County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$111,714.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$111,714.00, could afford to pay \$744.76 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Middlesex County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.
8. Appellant was not offered employer-sponsored health insurance during 2020. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$111,714.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was laid off from their job in late 2019. They secured a contract position in 2020, but it did not offer any health benefits. (Appellant's Testimony).
11. In January 2020, before Appellant had an opportunity to find affordable health insurance, they became ill, collapsed at work and hit their head. They were taken to a hospital emergency room and incurred a medical bill of about \$4,200.00, for which they had no health insurance coverage. (Appellant's Testimony, which I credit).
12. The Appellant also was working on the side running a film company to make additional money. While working in that job, Appellant had an automobile accident in February 2020

while driving a rental car during snowy and icy conditions out of state. They incurred expenses of a couple thousand dollars to cover repairs as a result of that accident. (Appellant's Testimony, which I credit).

13. The Appellant looked into obtaining Blue Cross Blue Shield health insurance coverage but determined the expense was too great given the uncertainty about the status of their contract job and their combined debt of about \$6,200.00. (Appellant's Testimony).
14. Appellant did not understand their options through the private health insurance market or for unsubsidized insurance through the Health Connector marketplace. (Appellant's Testimony, which I credit).
15. In approximately August 2020, Appellant's sister moved in to live with Appellant. Their sister was unable to contribute payment for rent or other living expenses. (Appellant's Testimony).
16. Appellant's 2020 monthly living expenses of \$3,130.00 included: Rent - \$2,095.00, National Grid - \$56.00, Zip car - \$40.00, Telephone - \$190.00, Food - \$180.00, Student loan - \$300.00, Car rental and expenses relating to accidental damage of rental car - \$260.00. (Appellants' Testimony). Additionally, Appellant had debt of \$4,200.00 to repay in connection with their emergency room visit in January 2020.
17. As of January 2021, Appellant became a full-time employee and was offered benefits, including health insurance, which they currently have. (Appellant's Testimony, which I credit).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant checked the box on the Statement of Grounds for Appeal that during 2020 the expense of purchasing health insurance would have caused a serious deprivation of food and other necessities. (Exhibit 3 and Appellant's Testimony).

To determine if the twelve (12)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage

standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$111,714.00, could afford to pay \$744.76 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Middlesex County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.

Appellant was not offered employer-sponsored health insurance during 2020. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$111,714.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant was laid off from their job in late 2019. They secured a contract position in 2020, but it did not offer any health insurance benefits. (Appellant's Testimony). In January 2020, before Appellant had an opportunity to find affordable health insurance coverage, they became ill, collapsed at work and hit their head. They were taken to a hospital emergency room and incurred a medical bill of about \$4,200.00, for which they had no health insurance coverage. (Appellant's Testimony).

The Appellant also was working on the side running a film company to make additional money. While working in that job, Appellant had an automobile accident in February 2020 while driving a rental car during snowy and icy conditions out of state. They incurred expenses of a couple of thousand dollars to cover repairs as a result of that accident. (Appellant's Testimony).

The Appellant looked into obtaining Blue Cross Blue Shield health insurance coverage during 2020 but determined the expense was too great given the uncertainty of the status of their contract job and their combined debt of about \$6,200.00. (Appellant's Testimony). Appellant did not understand their options through the private health insurance market or for unsubsidized insurance through the Health Connector marketplace. (Appellant's Testimony).

In approximately August 2020, Appellant's sister moved in to live with Appellant. Their sister was unable to contribute payment for rent or other living expenses. (Appellant's Testimony).

Appellant's 2020 monthly living expenses of \$3,130.00 included: Rent - \$2,095.00, National Grid - \$56.00, Zip car - \$40.00, Telephone - \$190.00, Food - \$180.00, Student loan - \$300.00, Car rental and expenses relating to accidental damage of rental car - \$260.00. (Appellants' Testimony). Additionally, Appellant had debt of \$4,200.00 to repay in connection with their emergency room visit in January 2020.

As of January 2021, Appellant became a full-time employee and was offered benefits, including health insurance, which they currently have. (Appellant's Testimony, which I credit).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2020 the Appellant experienced hardship and uncertainty within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

cc: Connector Appeals Unit





# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1105

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** January 27, 2022

**Decision Date:** February 15, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

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

The Appellant appeared at the hearing, which was held by telephone, on January 27, 2022.

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

Exhibit 1	Hearing Notice dated December 15, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal and Schedule HC Information for 2020	6 pages

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 49 years old in August 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Essex County, MA in 2020. (Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$52,789.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$52,789.00, could afford to pay \$351.93 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 49, living in Essex County, could have purchased private market health insurance for \$361.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Appellant was not offered employer-sponsored health insurance during 2020.
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$52,789.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant testified, and on the Statement of Ground for Appeal checked the "Other" box with a handwritten note stating that they did not receive medical health care during 2020. They also attached a copy of their Schedule HC for 2020 claiming a Religious Exemption (Question 8a). (Appellant's Testimony and Exhibit 3).
11. The Appellant testified that they had signed their original personal income tax return for 2020 although a copy of that signature was not available at the hearing held on January 27, 2022. Appellant testified further that they had produced their signed tax return originally to the MA Department of Revenue and another time in response to a request from an agency, although they could not identify the agency or date. (Appellant's Testimony, which I credit.). See "Exemption from Coverage Requirement Based on Religious Belief," 830 CMR 111M.2.1(6) (b) (the "Regulation")

12. Appellant moved to New Hampshire at the beginning of 2021. (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” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant checked the box on the Statement of Grounds for Appeal for “Other”, together with a handwritten note stating that they did not receive medical health care during 2020 and they had claimed a religious exemption on their Schedule HC (Question 8a). They also attached a copy of their Schedule HC for 2020 claiming a Religious Exemption (Question 8a). (Appellant’s Testimony and Exhibit 3).

To determine if the twelve (12)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$52,789.00, could afford to pay \$351.93 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 49, living in Essex County, could have purchased private market health insurance for \$361.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Appellant was not offered employer-sponsored health insurance during 2020.

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$52,789.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant’s Testimony and Exhibit 2).

The Appellant testified, and on the Statement of Ground for Appeal checked the “Other” box with a handwritten note stating that they did not receive medical health care during 2020. They also attached a copy of their Schedule HC for 2020 claiming a Religious Exemption (Question 8a). (Appellant’s Testimony and Exhibit 3).

The Appellant testified that they had signed their original personal income tax return for 2020, although a copy of that signature was not available at the hearing held on January 27, 2022. Appellant testified further that they had produced their signed tax return originally to the MA Department of Revenue and another time in response to a request from an agency, although they could not identify the agency or date. (Appellant’s Testimony, which I credit). See “Exemption from Coverage Requirement Based on Religious Belief,” 830 CMR 111M.2.1(6) (b) (the “Regulation”)

Appellant moved to New Hampshire at the beginning of 2021, where they continue to live (Appellants’ Testimony).

Based on the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the Appellant claimed a Religious Exemption on their Schedule HC for 2020 (Question 8a). Accordingly, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-207

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** February 3, 2022

**Decision Date:** February 9, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants are a married couple who will be referred to in this decision as Husband and Wife. Wife appeared at the hearing, which was held by telephone, on February 3, 2022. The hearing record consists of the testimony of Wife, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (8 pages)
- Exhibit 4: Request to vacate dismissal (2 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Wife and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. During 2020, Appellants lived in Essex County. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with no dependents. Exhibit 2.
3. Husband was 78 at the end of 2020. Wife was 64 at the end of 2020. Exhibit 2.
4. Appellants reported on their Massachusetts tax return and Wife confirmed at the hearing that they had adjusted gross income in 2020 of \$44,439. See Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of their 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that Husband had health insurance meeting minimum creditable (MCC) standards throughout 2020, but that Wife did not have such insurance at any point in 2020.
6. Husband was covered by Medicare throughout 2020.
7. Husband retired from his employment in late 2019. Up until that point, Appellants had been covered under insurance obtained through Husband's employment.
8. When Husband retired, he went on Medicare, but Wife was not yet eligible for Medicare. Instead, she applied for and received Connector Care insurance through the Health Connector. That insurance, which was government subsidized, cost her \$130 a month. Wife testified that she obtained coverage in early 2020 and was insured for the month of February.
9. Wife had part-time seasonal employment. However, that employment ended in early 2020 because of the quarantine resulting from the Covid pandemic.
10. Because she was not earning any income, Wife decided to apply for Social Security and she started receiving monthly payments.
11. Wife reported this increased income to the Health Connector. As a result, her eligibility was re-determined and she was found no longer to be eligible for Connector Care. As a result, her monthly premium was increased to approximately \$500 a month, which Wife considered unaffordable.
12. As a result, Wife went without insurance for the remainder of 2020 and into early 2021 when she became eligible for Medicare. She was covered under Medicare as of the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" 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.

In order to determine whether Wife should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, neither Appellant worked at a job that offered health insurance. As a result, Wife did not have access to employment-based insurance.

Further, Wife could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M.

Under those standards, persons like Appellants who were making \$44,439 for a household of two persons were deemed able to afford 7.4 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$3,288 annually or \$274 a month. During 2020, a person like Appellant who lived in Essex County and was 64 years of age would have had to pay \$432 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for her.

However, Wife should have been eligible for Connector Care, which is government-subsidized insurance. Her annual household income of \$44,439 is below \$50,730, which is 300 percent of the federal poverty level ("FPL") for a household of two persons like Appellants'. Individuals with incomes below 300 percent of the FPL are eligible for Connector Care, which is affordable government-sponsored insurance in Massachusetts, provided they meet the other eligibility criteria of citizenship or legal permanent residence in the United States and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Wife did meet those other criteria based on her testimony and on the fact that she had been determined eligible in 2019 when she applied.

However, Wife lost her Connector Care insurance when she reported that she had started receiving Social Security. This meant that the addition of that income brought the household income stated in her application over the eligibility limit for Connector Care. This proved to be erroneous because ultimately her household income for 2020 was below the eligibility limit. Nonetheless, Wife was effectively denied Connector Care at the time and she could not have afforded to maintain the health insurance without the subsidy that came through that program.

As a result, Wife did not have an affordable option for health insurance in 2020. Therefore, I am not required to determine whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will waive the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer



Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-227

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** February 3, 2022

**Decision Date:** February 9, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on February 3, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (6 pages)
- Exhibit 4: Request to vacate dismissal (5 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellant and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. During 2020, Appellant lived in Middlesex County. Exhibit 2.
2. Appellant filed his 2020 Massachusetts taxes as single with no dependents. Exhibit 2.
3. Appellant was 22 at the end of 2020. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$31,101. See Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.
6. Appellant moved to Massachusetts in 2019 and started working. At the time, he did not know that Massachusetts state law required individuals to obtain health insurance.
7. Appellant's employer offered him insurance, which would have cost him \$136 a month pre-tax. See Exhibit 3 (Form 1095-C).
8. Appellant did not take that offer of insurance at the time he was hired. He also did not sign up later in the year at his employer's open enrollment season.
9. Appellant started a new job in late 2021. He did not sign up for health insurance at the time he was hired for that job either.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" 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.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, Appellant worked at a job that offered health insurance. That insurance would have cost him \$130 a month. This amount would not have been affordable under state affordability standards set by the Health Connector board pursuant to M.G.L.c. 111M. Under those standards, persons like Appellant who earned \$31,101 for a household of one person are deemed able to afford 4.2 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$1,306 annually or \$108 a month. Thus, the \$130 a month would not have been affordable.

Further, Appellant could not have afforded to purchase unsubsidized health insurance in the non-group market. During 2020, a person like Appellant who lived in Essex County and was 22 years of age would have had to pay \$269 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for him.

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However, Appellant could have been eligible for Connector Care, which is government-subsidized insurance, if he had applied. His annual household income of \$31,101 is below \$37,70, which is 300 percent of the federal poverty level (“FPL”) for a household of one like Appellant’s. Individuals with incomes below 300 percent of the FPL are eligible for Connector Care, which is affordable government-sponsored insurance in Massachusetts, provided they meet the other eligibility criteria of citizenship or legal permanent residence in the United States and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant did meet those other criteria based on his testimony.

However, Appellant was unaware of the Connector Care program and so did not apply. If Appellant’s income is below \$38,640 a year, which is the upper eligibility limit for 2022, and if he is not offered affordable insurance through his employment, then he may be eligible for Connector Care, which would provide him with low cost, comprehensive health insurance. He can apply on line at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by calling 1-877-623-6765. When applying, he should say that he wants financial assistance to pay for the insurance.

Because Appellant could have obtained affordable health insurance in 2020 but didn’t, I am required to determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant did not have a high income in 2020. He was responsible for rent of \$1,000 a month and all his other living expenses. He could not have afforded insurance through his employer and was not aware of the option of obtaining health insurance through the Health Connector. Based on these facts, I exercise my discretion to waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-411

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** February 17, 2022

**Decision Date:** February 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants are a married couple who will be referred to in this decision as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on February 17, 2022. The hearing record consists of the testimony of Husband and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (6 pages)
- Exhibit 4: Request to vacate dismissal (2 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Husband and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. During 2020, Appellants lived in Essex County. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with one dependent. Exhibit 2. The dependent was a minor child.
3. Husband was 43 years old and Wife was 34 years old at the end of 2020. Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellants reported on their Massachusetts tax return and Husband confirmed at the hearing that they had adjusted gross income in 2020 of \$63,800. See Exhibit 2. Most of the income was derived from Wife's employment.
5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that neither of them had health insurance meeting minimum creditable (MCC) standards at any point in 2020.
6. Wife worked at a position that did not offer her health insurance as a benefit. Husband was either working at a position that did not offer him health insurance as a benefit or was unemployed during 2020.
7. Husband did not have legal permanent resident status in the United States in 2020. It was not until 2021 that he obtained a green card and acquired legal permanent resident status.
8. At several points in 2020, Wife applied to the Health Connector to get health insurance to cover the family. She was unable to obtain insurance covering all three of them because Husband could not get coverage through the Health Connector due to his lack of legal permanent resident status.
9. In 2021, after Husband obtained a green card, the family applied again for insurance through the Health Connector and obtained it. All three were covered as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" 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.

In order to determine whether Appellants should be penalized for not having coverage, I must first consider whether they could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, neither Appellant worked at a job that offered health insurance. Thus, they did not have access to employment-based insurance.

Further, Appellants could not obtain insurance for the family through Connector Care, which is government-subsidized insurance. Connector Care is a joint federal-state funded program. To be eligible for Connector Care, an individual must meet the eligibility requirements for advance premium tax credits under the federal Affordable Care Act (ACA). See 956 CMR § 12.04 (Connector Care eligibility requirements). The ACA provides that, in order to receive APTCs, an individual must be either a citizen or

a legal permanent resident of the United States. 42 U.S.C. §§ 18032(f)(3), 18081(a)(1). In this case, Husband did not meet that requirement, because he had not yet obtained a green card as of the time that the family was seeking Connector Care. When Appellants applied for Connector Care, Husband was included in the application and thus the couple were denied coverage. (Wife could have obtained coverage for herself and her daughter if she had not included Husband on the application, but understandably she did not know to do that.)

Finally, Appellants could not have afforded to purchase unsubsidized health insurance in the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, persons like Appellants who earned \$63,800 for a household of three persons are deemed able to afford 5.85 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellants' case, that amounts to \$3,732 annually or \$311 a month. During 2020, persons like Appellants who lived in Essex County and who were in a household with the oldest person being 43 years of age would have had to pay \$793 a month for health insurance to cover the family. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for them.

Because Appellants could not have obtained affordable health insurance in 2020, they are not subject to the individual mandate penalty. Therefore, I am not required to determine whether they have stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I am waiving the penalty assessed against them in its entirety.

#### **PENALTY ASSESSED**

Husband:

Number of Months Appealed: 12

Number of Months Assessed: 0

Wife:

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit





# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-417

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** February 17, 2022

**Decision Date:** February 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on February 17, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (4 pages)
- Exhibit 4: Request to Vacate Dismissal (1 page)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellant and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. Appellant was 26 at the end of 2020. Exhibit 2.
2. Appellant lived in Bristol County in 2020. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$50,614. Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes, and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage standards from January through November 2020 but did have such health insurance in December. Exhibit 2.
6. Appellant lost his job in December 2019.
7. He remained unemployed throughout the entire year of 2020.
8. Appellant's income in 2020 consisted of unemployment compensation.
9. When Appellant lost his job, he was offered insurance under COBRA, which costs \$700 a month. He considered that too expensive for him to afford.
10. At the end of the year, Appellant applied for health insurance through the Health Connector and obtained it. He remained insured through the Health Connector until the middle of 2021 when he obtained work and got insurance through that job.
11. During 2020, Appellant had regular expenses of rent and utilities, as well as the obligation to repay student and car loans.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" 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.

According to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector's "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 can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he was without insurance for eleven months in 2020. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only eight months.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, Appellant was unemployed. Thus, he did not have access to employment-based insurance during that year.

Further, Appellant was not eligible to obtain government-subsidized insurance. In order to obtain government-subsidized insurance in Massachusetts, an individual must meet the eligibility requirements for Connector Care, which is a joint federal-state funded program. See 956 CMR § 12.04 (Connector Care eligibility requirements.) To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. *Id.* In this case, Appellant would not have qualified based on income because his household income of \$50,614 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.)

However, Appellant could have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who had income of \$50,614 for a tax household of one person was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$4,049 annually or \$337 a month. During 2020, a person like Appellant who lived in Bristol County and was 26 years of age could have obtained insurance for a premium of \$269 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connor regulations. 956 C.M.R. § 6.08. I conclude that he has. During 2020, Appellant was dealing with the uncertainty of unemployment. At the time he left his job, he had been offered insurance under COBRA, which is the federal law that guarantees people continued insurance under their employer's plan for a period after leaving work. 29 U.S.C. § 1161(a). However, the cost of that insurance was \$700, which Appellant could not have afforded under state affordability standards. Appellant did not know about other options for health insurance at the time. Later, he believed that he had missed the open enrollment period, which is usually in the last two months of the calendar year. He did apply for insurance when the next open enrollment period occurred at the end of 2020. During the period that he was uninsured, he had considerable expenses, including paying off car and student loans, in addition to the normal expenses of rent and utilities. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 8

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-424

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** February 17, 2022

**Decision Date:** February 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants are a married couple who will be referred to in this decision as Husband and Wife. Both Appellants appeared at the hearing, which was held by telephone, on February 17, 2022. The hearing record consists of the testimony of Appellants and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (10 pages)
- Exhibit 4: Request to vacate dismissal (2 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellants and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. During 2020, Appellants lived in Plymouth County. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with two dependents. Exhibit 2. The dependents were minor children.
3. Husband and Wife were both 51 years old at the end of 2020. Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

4. Appellants reported on their Massachusetts tax return and confirmed at the hearing that they had adjusted gross income in 2020 of \$186,500. See Exhibit 2. The income was derived from Husband's employment.
5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that neither of them had health insurance meeting minimum creditable (MCC) standards at any point in 2020.
6. During 2020, Husband worked for an out-of-state employer.
7. He obtained health insurance through that employer to cover his family.
8. The insurance that Appellants obtained from Husband's job was a high deductible health plan. This meant that Appellants had a deductible of \$4,500 for an individual or \$9,000 for a family. The deductible is the amount they would have had to pay out-of-pocket for health services before insurance coverage started.
9. In 2021, when they were preparing to pay their 2020 taxes, Appellants were informed that their plan did not meet MCC standards under state law.
10. Husband left the job he was at in early 2021. Appellants subsequently applied for health coverage through the Commonwealth of Massachusetts and all of them were insured in MCC-compliant insurance as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" 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.

Chapter 111M further requires that the coverage obtained by residents be "creditable coverage." M.G.L. c. 111M, § 2(a). "Creditable coverage" is defined as a plan that meets the definition of "minimum creditable coverage" (or "MCC") under regulations promulgated by the Health Connector's board. M.G.L. c. 111M, § 1. Under those regulations, a coverage plan ordinarily does not meet MCC standards if it has deductibles of over \$2,000 for an individual or \$4,000 for a family. 956 C.M.R. § 5.03(1)(c)(3). A so-called "high deductible" plan can only satisfy MCC standards if it is paired with a sponsored health savings account ("HSA"), which is a plan to which the covered person can contribute money on a pre-tax basis to use for medical expenses incurred before the deductible is satisfied. 956 C.M.R. § 5.03(1)(k). The plan Appellants purchased did not meet these standards because they did not have access to an HSA. When Appellants purchased the plan, they were unaware that it did not meet MCC standards. The out-of-state employer did not inform them of that fact. As a result, Appellants did not have coverage meeting MCC standards at any point in 2020.

In order to determine whether Appellants should be penalized for not having MCC-compliant coverage, I must first consider whether they could have obtained affordable and compliant insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, Appellants obtained insurance through Husband's employment, but that insurance was not MCC-compliant. Thus, Appellants did not have access to compliant employment-based insurance.

Further, Appellants could not obtain insurance through Connector Care, which is government-subsidized insurance. Connector Care is a joint federal-state funded program. To be eligible for Connector Care, individuals must have household income that is below 300 % of the Federal Poverty Level (FPL). See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) Appellants' income of \$186,500 is above \$77,250, which is 300 % of the FPL for a household of four persons. (I obtain the figure of \$77,250 from Table 2 of the instructions for the 2020 Schedule HC.) Thus, Appellants would not have been eligible for government-subsidized insurance.

However, Appellants could have afforded to purchase unsubsidized health insurance in the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, persons like Appellants who earned \$186,500 for a household four persons are deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellants' case, that amounts to \$14,920 annually or \$1,243 a month. During 2020, persons like Appellants who lived in Plymouth County and who were in a household with the oldest person being 51 years of age could have obtained insurance for a family for a monthly premium of \$999. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for them.

Because Appellants could have afforded to purchase MCC-compliant insurance, but didn't, I must consider whether they have established grounds for waiving the individual mandate penalty under Health Connector regulations. 956 C.M.R. § 6.08(d). Here, Appellants obtained insurance through Husband's employment. They were unaware that the insurance did not meet state standards until 2021 when their employer informed them. By that point, Husband had left that job and Appellants were obtaining insurance through another source. In determining whether to waive the penalty on appeal, I am permitted to consider whether an appellant purchased insurance and, if so, what the cost of that insurance was. 956 C.M.R. § 6.08(2)(c). In this case, I conclude that Appellants did not purchase the coverage they did in order to avoid paying for MCC-compliant insurance, but rather they took that coverage because they were misinformed or did not understand the implications of their choice. Accordingly, I will exercise my discretion to waive the penalty in its entirety

#### **PENALTY ASSESSED**

Husband:

Number of Months Appealed: 12

Number of Months Assessed: 0

Wife:

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-249

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

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

**Hearing Date:** February 11, 2022

**Decision Date:** February 24, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on February 11, 2022. The procedures to be followed during the hearing were reviewed with the Appellant Wife who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2020 Signed by Appellant on 3/3/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(2 PP).
Exhibit 2(b):	Appellant's Request to Vacate Dismissal on 9/10/2021	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 1/18/2022	(2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return reported they were married, filing joint, had two (2) dependents in 2020, lived in Hampden County, and had a family size of 4. (Exhibit 1, Testimony of Appellant).
2. Appellants moved to Massachusetts in January 2019, have two small children, and lived paycheck to paycheck. (Exhibit 2(a), Testimony of Appellant).

3. Appellant Wife testified she worked part time, was laid off for approximately three (3) months during Covid, and that her employer did not offer employer health insurance (“ESI”). (Testimony of Appellant).
4. The Appellant Spouse worked full time as an Electrician but was not offered employer health insurance (“ESI”). (Testimony of Appellant).
5. The Appellants investigated obtaining insurance through the Connector but could not afford the monthly premium of \$175. (Testimony of Appellant).
6. The Appellants testified they are currently insured (Testimony of Appellant, Exhibit 2(a)).
7. The Appellants testified their 2020 income has been substantially reduced and that one of their vehicles died and they had to deplete their savings for an out-of-pocket expenditure of \$3,000 for purchase of another vehicle. (Testimony of Appellant, Exhibit 2(a)).
8. Appellants’ Federal Adjusted Gross Income for 2020 was \$53,069 (Exhibit 1).
9. Appellant Wife testified their take home pay when they were employed was approximately \$2,720 per month. (Appellant’s testimony).
10. Appellants had the following average monthly living expenses in 2020: Rent: \$1,300, Utilities: \$150, Car Payment: \$300, Car Insurance: \$112, Gas \$100, Cell Phone: \$333, Food/Incidentals \$300, totaling: \$2,595. (Appellant’s Testimony, Exhibit 2, 2(a), (b)).
11. Appellant Wife has been assessed a tax penalty for (8) months in 2020. The Appellants have appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellants could have afforded \$216.70 per month for health insurance in 2020. According to Table 4 Appellant could have purchased an individual insurance plan for \$261 per month.
13. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. The Appellant Wife has been assessed a tax penalty for eight (8) months in 2020. Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted grounds with their appeal that during 2020 they should not be subject to a penalty for failing to get health insurance for the months in question because the expense of purchasing

health insurance would have caused her to experience a serious deprivation of food, shelter, clothing, or other necessities and that during 2020. See 956 CMR 6.08. (Exhibit 2).

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

To determine if Appellants’ penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the 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 Appellants because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

The evidence provided by the Appellant established that their income for 2020, \$53,069 was less than 300% of the federal poverty level, which for 2020 was \$77,250 for a family size of four (4). According to Table 3 of Schedule HC for 2020, the Appellants could have afforded \$216.70 per month. According to Table 4, Appellants, ages 35 and 30 and living in Hampden County during the time they were being penalized for not having insurance, could have purchased an individual plan insurance for the Appellant Wife for \$261.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellants had access to affordable employer health insurance (“ESI”). The Appellant Wife credibly testified that health insurance was not offered through either one their employers. (Appellant Testimony).

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

The Appellants had the following average monthly living expenses in 2020: Rent: \$1,300, Utilities: \$150, Car Payment: \$300, Car Insurance: \$112, Gas \$100, Cell Phone: \$333, Food/Incidentals \$300, totaling: \$2,595. (Appellant's Testimony, Exhibit 2, 2(a), (b)).

The evidence presented by the Appellants in this case is sufficient to establish that they experienced a financial and other hardships pursuant to 956 CMR 6.08(1)(d)3, (e), (3) as defined by law so as to waive her penalty for the months in question. The Appellants incurred unexpected out of pocket increases of \$3,000 for a vehicle and the Appellant Wife was unemployed for approximately three (3) months because of Covid. Given the Appellants' expenses for basic necessities of \$ 2,595 per month, loss of income and reduced earnings because of Covid, the Appellants did not have adequate income to afford the cost of purchasing insurance for \$216.70 per month. I find this would have caused the Appellants to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2(a), Appellant Testimony).

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

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

#### **PENALTY ASSESSED**

Number of Months Appealed: 8 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.

Cc: Connector Appeals Unit

Hearing Officer

#### **ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-291

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

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

**Hearing Date:** February 11, 2022

**Decision Date:** February 24, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on February 11, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 3/14/2021. (2 PP).
- Exhibit 2(a): Appellant's Documentation (Connector Non Eligibility) in Support of Appeal (1 P).
- Exhibit 2(b): Appellant's Request to Vacate Dismissal recvd. 8/6/21 w/ supporting documentation (8 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 1/18/2022 (2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 21 in 2020, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$19,244. (Exhibit 1).
3. Appellant credibly testified that he was a full-time college student, paid his own tuition of \$700 per month, and investigated but could not afford the cost of the \$3,000 college health insurance in addition to his tuition. (Appellant's Testimony, Exhibit 2(a)).

4. Appellant was employed part time and was not eligible for Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).
5. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
6. Appellant attempted to obtain Connectorcare but was not eligible. (Appellant’s Testimony, Exhibit 2(a)).
7. Appellant had the following average monthly living expenses in 2020: Tuition: \$700, Gas: \$ 100, Cell Phone: \$80, totaling: \$880. (Appellant’s Testimony, Exhibits 2(a), (b)).).
8. According to Table 3 Appellant could have afforded \$46.50 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
9. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant’s income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant’s Testimony).
10. The Appellant now has ESI. (Appellant’s Testimony).
11. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and testified that the individual mandate did not apply to him during 2020 because he was unable to obtain government-sponsored insurance.

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

in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that his income for 2020, \$19,244.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$46.50 per month. According to Table 4, Appellant, age 21 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$269.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified that he did not investigate insurance as he was employed part time and a full-time student. (Appellant's Testimony, Exhibit 2(a).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship or other circumstances as defined by law so as to waive his penalty for the months in question. Given the Appellant's age of 21, his full-time student status and payment of own tuition of \$700/month and attempt to obtain but inability to obtain coverage through the Connector, I find there were other circumstances under 956 CMR 6.08 (3) that merit waiver of the penalty. The mandate has not been lost on the Appellant as he now has ESI.

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

## **PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-313

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

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

**Hearing Date:** February 11, 2022

**Decision Date:** February 24, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on February 11, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2020 Signed by Appellant on 3/19/2021.	(2 PP).
Exhibit 2(a):	Appellant's Documentation in Support of Appeal Statements of Food Expenses/Rent, Employer Offer, 2020 1095-C.	(6 PP).
Exhibit 2(b):	Appellant's Request to Vacate Dismissal	(received 10/21/21 (1 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 1/18/2022	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 32 in 2020, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1, Testimony).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$61,830. (Exhibit 1).
3. The Appellant worked as an hourly W-2 employee where he was paid \$25-30 per hour until he was promoted to a full-time salaried position in July 2020. (Appellant's Testimony).
4. The Appellant was eligible for employer sponsored insurance("ESI") while employed part-time but was not sure of the amount of the premium but could not afford it. (Appellant's Testimony, Exhibit 2(a)).
5. The Appellant did not investigate obtaining Connectorcare. (Appellant's Testimony, Exhibits. 2(a)).
6. Appellant's approximate take home pay during the time he was uninsured was approximately \$2,600-\$3,000. (Appellant's Testimony).

7. Appellant had the following average monthly living expenses in 2020: Rent: \$1,900, Utilities: \$100, Food: \$600, Transportation Costs: \$80, totaling: \$2,680. (Appellant's Testimony, Exhibit 2(a)).

8. Appellant's cost of his ESI was approximately \$100 per month. (Appellant's Testimony, Exhibit 2(a)).

9. According to Table 3 Appellant could have afforded \$412.20 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$288.00 per month.

10. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).

11. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and claimed that during 2020 that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance would have caused the Appellant to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that her income for 2020, \$61,830.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$412.20 per month. According to Table 4, Appellant, age 32 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$288 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that although he was eligible for ESI, did not know the amount of the premium, but notwithstanding same could not have afforded the premium.

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2020 is considered to be affordable if the employee's contribution for an individual plan is 9.78 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant's cost of ESI of approximately \$100 per month is less than \$503.91(61,830 X 9.78/12= 503.91). Appellant did have access to Employer Sponsored Insurance ("ESI") for the months he was being penalized. (Appellant's Testimony).

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

Appellant had the following average monthly living expenses in 2020: Rent: \$1,900, Utilities: \$100, Food: \$600, Transportation Costs: \$80, totaling: \$2,680. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive her penalty for the months in question. Given the Appellant's part time hourly earnings before he was hired full time and his net take home pay of approximately \$2,600 per month, he did not have adequate income to afford the cost of purchasing private insurance for \$ 412.20 per month given his monthly expenses of \$2,680. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony). The mandate has not been lost on the Appellant as he obtained ESI once he became full time in 2020.

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

## **PENALTY ASSESSED**

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

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

for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

FINAL APPEAL DECISION: PA 20-465

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** February 18, 2022  
**Decision Date:** February 24, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on February 18, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1: Appeal Case Information from Schedule HC. (1 page).  
Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 3/15/2021. (2 PP).  
Exhibit 3: Health Connector's Notice of Hearing dated 1/20/2022 (2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 51 in 2020, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$35,909. (Exhibit 1).
3. Appellant was enrolled in Connectorcare through July 2020 and was paying a premium of \$123 a month. (Appellant's Testimony).
4. Appellant could not continue to afford paying the Connectorcare premium. (Appellant's Testimony).
5. Appellant hourly rate was \$18, and her net take home pay was paid approximately \$1,100 per Bi-Weekly pay period. (Appellant's Testimony).

6. Appellant did not investigate if she was eligible for employer sponsored insurance (“ESI”) because although she did not know if it was offered or she was eligible, she thought it was too expensive and that was the reason she had enrolled in Connectorcare. (Appellant’s Testimony).
7. Appellant has health insurance again through the Connector. (Appellant’s Testimony).
8. Appellant experienced a death in the family and incurred a substantial expense in flying back home. (Appellant’s Testimony).
9. Appellant testified she was behind on her rent and received delinquency notices from her utility companies and had to go on a payment plan so she could afford same and not have her utilities discontinued. (Appellant’s Testimony).
10. Appellant has been assessed a tax penalty for two (2) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant had the following average monthly living expenses in 2020: Rent: \$1,400, Utilities: \$300, Electricity: \$100, Car Insurance: \$148, Cell Phone: \$105, Internet: \$70, Gas and Transportation \$180, Credit Cards: \$50, Food \$200, totaling: \$2,553. (Appellant’s Testimony).
12. In addition, the Appellant also had out of pockets medical expenses, auto maintenance, employment search related expenses, and other day to day expenses. in 2020. (Appellant’s Testimony).
13. According to Table 3 Appellant could have afforded \$149.62 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$420.00 per month.
14. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant’s income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant’s Testimony).
15. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2020, she incurred unexpected increases in basic living expenses due to the death of a family member. During the hearing, the Appellant also testified that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused her to experience a

serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that her income for 2020, \$35,909.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$149.62 per month. According to Table 4, Appellant, age 51 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$420 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified she did not investigate obtaining ESI because she was receiving Connectorcare. The Appellant did not know if (“ESI”) was offered or she was eligible, she thought it would be too expensive if she was eligible, and that was the reason she had enrolled in Connectorcare. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Rent: \$1,400, Utilities: \$300, Electricity: \$100, Car Insurance: \$148, Cell Phone: \$105, Internet: \$70, Gas and Transportation \$180, Credit Cards: \$50, Food \$200, totaling: \$2,553. (Appellant's Testimony, Exhibit 4).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. I find the Appellant met her burden that she could not afford the cost of \$149.62 and did not have adequate income to afford the cost of purchasing private insurance given her monthly income of approximately \$2,200 and monthly expenses of \$2,553. Moreover, I find it credible the Appellant received utility shutoff notices, had to go on a payment plan, and incurred a substantial expense for having to fly home because of the death of a family member. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony). The mandate has not been lost on the Appellant as she again enrolled in Connectorcare when she was able to afford to do so.

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

#### **PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:     Connector Appeals Unit

Hearing Officer

#### **ADDENDUM**

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



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-477

**Appeal Decision:** The penalty is overturned in part.  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** February 18, 2022  
**Decision Date:** February 24, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on February 18, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2020 Signed by Appellant on 4/3/2021.	(2 PP).
Exhibit 2(a):	Appellant's Documentation in Support of Appeal (current health insurance card)	(2 PP).
Exhibit 2 (b):	Appellant's Request to Vacate Dismissal	9/10/21 (1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 1/20/2022	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 55 in 2020, lived in Hampden County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$19,885. (Exhibit 1).
3. Appellant moved to Massachusetts in 2019 from the Philippines. (Appellant's Testimony).
4. Appellant was working in a temporary capacity and was not offered employer sponsored insurance("ESI"). (Appellant's Testimony).

5. Appellant hourly rate was approximately \$13.15, she sent approximately \$3,000 top \$4,000 home for family members. (Appellant's Testimony).
6. Appellant did not investigate if she was eligible for the Connectorcare as she was not familiar with the government sponsored insurance. (Appellant's Testimony).
7. Appellant changed jobs and procured ESI in 2021. (Appellant's Testimony, Exhibit 2(b)).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant testified she netted approximately \$4-5,000 in 2020, or approximately \$416 per month in 2020 after sending money to support her family members. (Appellant testimony).
10. Appellant had the following average monthly living expenses in 2020: Cell Phone: \$60. (Appellant's Testimony).
11. According to Table 3 Appellant could have afforded \$48.06 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$387.00 per month.
12. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
13. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2020, she incurred unexpected increases in basic living expenses due to support of a family member. During the hearing, See 956 CMR 6.08.

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

M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that her income for 2020, 19,885.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$48.06 per month. According to Table 4, Appellant, age 55 and living in Hampden County during the time she was being penalized for not having insurance, could have purchased insurance for \$387 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified she worked in a temporary position and she was not offered or eligible for ESI. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Cell Phone: \$60, totaling: \$60. (Appellant's Testimony, Exhibit 4).

The evidence presented by the Appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. I find the Appellant did not meet her burden that she could not afford the cost of \$48.06 and did have adequate income to afford the cost of purchasing private insurance given her income and monthly expenses of \$60.00. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony). The mandate has not been lost on the Appellant as enrolled in ESI in 2021. Accordingly, in order to mitigate the harshness of a full penalty, the penalty is reduced to 3 months.

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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:     Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-854**

**Appeal Decision:** \_\_\_Penalty Upheld \_\_\_Penalty Overturned in Full XXPenalty Overturned in Part

**Hearing Issue:** Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

**Hearing Date:** January 26, 2022

**Decision Date:** February 14, 2022

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**AUTHORITY**

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c.30A, M.G.L. c.111M and M.G.L. c.176Q, 956 C.M.R 12.00, 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 M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant Husband (“Appellant”) appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of Appellant’s testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal (blank).
- Exhibit 2: Appeal Case Information from Schedule HC dated October 4, 2021.
- Exhibit 3: Letter from Appellant in support of appeal dated May 26, 2021.
- Exhibit 4: Health Connector Appeals Unit Notice of Hearing dated December 14, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 40 years old, Appellant Spouse turned 38 years old, and both resided in Middlesex County in 2020. (Exhibit 2).
2. Appellants filed their 2020 Federal Income Tax return as married filing jointly with two dependents claimed, reporting an Adjusted Gross Income of \$231,546. (Exhibit 2).
3. Appellants were enrolled in health insurance from January through June of 2020. (Exhibit 3; Appellants’ Testimony).

4. Neither Appellant had health insurance from July through December of 2020. (Exhibit 2; Appellant Testimony).
5. In support of this appeal, Appellants submitted a Statement of Grounds for Appeal which was blank, and a letter dated May 26, 2021, stating that none of the appeal grounds apply to their situation and they would like to pay the health care penalties without proceeding with the appeal. (Exhibit 3).
6. In July 2020, Appellant Spouse, along with Appellants' minor children, relocated to Turkey for a period of approximately thirteen months. (Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the "individual mandate", which requires that every adult resident of Massachusetts obtain insurance coverage "[s]o long as it is deemed affordable." 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 health insurance. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellants had health insurance for a portion of 2020, they are each entitled to a three-month grace period and each is appealing a three-month tax penalty for 2020. (Exhibit 2).

In support of their appeal, Appellants submitted a Statement of Grounds which was blank, and a letter dated May 26, 2021, stating that none of the appeal grounds apply to their situation and they would like to pay the health care penalty without proceeding with the appeal. (Exhibit 3). At hearing, it was explained to Appellant that the appeal hearing needed to move forward because there is no way for to for Appellants to simply receive a bill from the Connector and pay the penalty because the individual mandate penalties are facilitated through tax returns, and not through billing invoices.

A determination must be made whether the three-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellants in 2020. In determining affordability, consideration is given first to the amount Appellants are deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellants through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if

such insurance was, in fact, not affordable based on Appellants experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellants' 2020 AGI of \$231,546 made them ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$77,250 for a family of four). Because Appellants' 2020 AGI of \$231,546 was greater than 300% of the FPL, they were ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellants, ages 40 and 38 and living in Middlesex County, between \$751 and \$793 per month to purchase a family plan on the private insurance market. Based on the Affordability Schedule, Appellants, filing the Federal tax return as married filing jointly with two dependents, with an AGI of \$231,546 could afford to pay \$1,544 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellants could afford, I conclude that affordable private insurance was available to Appellants in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that he was unaware of the individual mandate and unenrolled his family from their health insurance plan when his Appellant Spouse and children left in July of 2020 for an extended stay in Turkey, lasting approximately thirteen months. When Appellant looked at the possible grounds for appealing the individual mandate penalty, he realized that none of the situations applied to his family and he opted to pay the penalties assessed. (Exhibit 3; Appellant Testimony).

However, because Appellant credibly testified that his Appellant Spouse and children lived in Turkey from July 2020 to approximately August of 2021 while Appellant remained in Massachusetts, I find that Appellant Spouse is entitled to a waiver of the individual mandate penalty. Because Appellant remained in Massachusetts during this time, I find that Appellant is not entitled to a penalty waiver.

Accordingly, Appellants' appeal is **ALLOWED** in part and **DENIED** in part.

**PENALTY ASSESSED**

Appellant:	Number of Months Appealed: 3	Number of Months Assessed: 3
Appellant Spouse:	Number of Months Appealed: 3	Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-101

**Appeal Decision** Appeal Partially Denied

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

**Hearing Date:** February 1, 2022

**Decision Date:** February 24, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 1, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated January 11, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 25, 2022
- Exhibit 4: Written Statement of Appeal Dated February 15, 2022

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-one years old and is single with one dependent. He lives in Bristol County, Massachusetts.
2. Appellant worked in a insurance business. Appellant received unemployment during part of the year. A lot of Appellant's income came in in the latter part of 2020 because the income was for renewals.
3. Appellant does not have health insurance in 2022 and did not have insurance in 2021.
4. The Appellant's monthly expenses totaled \$3,865.00, consisting of rent \$1,500.00, heat and electricity \$300.00, internet & cable \$150.00, cell phone \$125.00, car insurance \$250.00, car gas \$200.00, food \$400.00 clothing \$150.00, credit card \$350.00, entertainment \$100.00, toiletries \$50.00, day care \$50.00, life insurance \$40.00, baby food and diapers \$200.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$80,431.00 was more than \$50,730.00. The monthly premium for health insurance available on the private market in Bristol County for a 30 year old single person with one dependent was \$636.00. The tables reflect that Appellant could afford \$536.20. This is more 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 did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 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 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$70,263.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$536.20 monthly for health insurance. See 2020 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 \$696.00 monthly for coverage with zero dependents *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 worked in a insurance business. Appellant received unemployment during part of the year. A lot of Appellant’s income came in in the latter part of 2020 because the income was for renewals.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   8  

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1047

**Appeal Decision** Appeal Denied

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

**Hearing Date:** February 1, 2022

**Decision Date:** February 24, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on February 1, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated January 11, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 2, 2021
- Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-one years old and is single. He lives in Essex County, Massachusetts.
2. Appellant worked in a marketing business. The company he worked for offered insurance but there was a waiting period of one year until December 2020, at which time the Appellant obtained health insurance. Appellant did not know there was a penalty for failing to obtain insurance.
3. Appellant does have health insurance in 2022 and had insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,425.00, consisting of rent \$1,000.00, internet & cable \$65.00, clothing \$80.00, credit card \$50.00, entertainment \$300.00, car insurance \$80.00, car gas \$150.00, food \$500.00, toiletries \$80.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$46,922.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Essexn County for a 30 year old single person was \$269.00. The tables reflect that Appellant could afford \$297.17. 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 did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “Other. During 2020 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 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 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$46,922.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$297.17 monthly for health insurance. See 2020 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 \$269.00 monthly for coverage with zero dependents *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 worked in a marketing business. The company he worked for offered insurance but there was a waiting period of one year until December 2020, at which time the Appellant obtained health insurance. Appellant did not know there was a penalty for failing to obtain insurance.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed:   8        Number of Months Assessed:   4  

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-133

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** January 3, 2022

**Decision Date:** January 18, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 3, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated December 9, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 18, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty years old and is single. She lives in Worcester County, Massachusetts. Appellant works in the food delivery business.
2. Appellant was a manager of four acoustic stores but due to the pandemic she was laid off in mid-March 2020. She did not apply for insurance right away because she thought she would be hired back and was ineligible for health insurance when she did apply after thirty days of being laid off.
3. Appellant does have health insurance in 2022 and did have insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,410.00, consisting of rent \$1,600.00, heat & light \$100.00, car insurance \$90.00, car gas \$100.00, food \$200.00, clothing \$50.00, toiletries \$150.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable". Appellant should also have applied under "During 2020, 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$46,090.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Worcester County for a 29 year old single person was \$269.00. The tables reflect that Appellant could afford \$268.85 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant was a manager of four acoustic stores but due to the pandemic she was laid off in mid-March 2020. She did not apply for insurance right away because she thought she would be hired back and was ineligible for health insurance when she did apply after thirty days of being laid off.

The Appellant did submit a Statement of Grounds for Appeal-2020 “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” . Appellant should also have applied under “During 2020, 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 2020, 150 percent of the FPL was \$18,735.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$46,090.00 in 2020, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$268.85 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$269.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$268.85 for health insurance coverage because of her income. Private insurance in the market place was \$269.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-593

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** January 31, 2022

**Decision Date:** February 26, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 31, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

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

Ex. 3—Notice of Hearing

The appellant filed an appeal of the 2019 Tax Penalty (PA19-1178) and the hearing was scheduled before the instant hearing. He agreed to consolidate the appeals and have them both heard at the same time.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 30-years-old, is single, and does not have children. In 2020, he resided in Middlesex County, MA. He did not health insurance in 2020. (Testimony, Ex. 2)
2. The appellant last had health insurance in 2016 through his father's employer health insurance. He was assessed a penalty for not obtaining insurance for the 2017 and 2018 tax years. (Testimony)
3. The appellant was employed in 2020 as a landscaper. The employer did not offer health insurance. His work hours were reduced at times during the year and he was laid off in the month of December until the spring of 2021. (Testimony)

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

4. The appellant investigated his eligibility for MassHealth and was denied coverage. (Testimony)
5. The appellant did not enroll in health insurance in 2021 or 2022. (Testimony)
6. The appellant lived in an apartment until the end of April, 2020, when he could no longer afford the rent. He had fallen behind with his payments, but was not evicted. At the time he left, he did not owe any money to his landlord. Thereafter, he stayed with his father for close to two weeks in Texas, and spent some time with his mother who lives in the same town as him. Subsequently, he bounced around and “lived on the street”. (Testimony)
7. The appellant’s landlord filed a Notice to Quit dated January 20, 2021. (Ex. 1)
8. The appellant reported an adjusted gross income of \$31,323.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
9. In 2020, the appellant had regular monthly expenses of approximately \$2155.00 for rent (\$1250.00), heat (\$100.00), electricity (\$200.00), cell phone (\$120.00), public transportation pass (\$120.00), bus transportation (\$65.00) and food (\$300.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because 1) he was homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice; 2) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities; and 3) “other” reasons. He also submitted a letter with his statement in which he stated in part that he was in arrears more than 30 days with his rent and was on the threshold of eviction on more than one occasion during the year. He further stated that he had to stay with his father for more than a month in order to eat and have access to basic needs. He attached a Notice to Quit to his statement dated January 20, 2021.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified that he was employed throughout most of 2020, but his hours were reduced at times, and he was laid off on a seasonal basis in December. He testified that the employer did not offer health insurance. He testified that he investigated his eligibility for insurance with MassHealth, but was denied coverage. He testified that he has not had health insurance since 2016, and paid a penalty for the 2017 and 2018 tax years. He testified that he lived in an apartment until April when he could no longer afford the rent. He testified that he stayed with his father for close to two weeks and spent some time with his mother. He testified that he lived on the street for the rest of the year. Finally, he testified that he did not enroll in health insurance in 2021 and 2022.

With respect to the ground of homelessness, the appellant's credibility was weakened by contradictory statements he made in his letter and in his testimony. He testified that he moved out of his apartment at the end of April, and with the exception of a two-week stay with his father and a few days with his mother, he lived on the street thereafter. He further testified that although he had fallen behind with his rent, he did not owe any money to the landlord upon vacating the premises in April. Yet in his letter, he wrote that he was on the threshold of eviction on more than one occasion during the year and had to stay with his father for more than a month in order to eat and have access to basic needs. He attached a Notice to Quit to his letter which is dated January 20, 2021, and does not contain any information about the months in arrears. The notice certainly does not corroborate his testimony that he left the apartment on his own accord, but rather suggests that he was subject to an eviction proceeding early in 2021. In the absence of more specific information, it is concluded that the appellant failed to establish that he was homeless or subject to eviction in 2020. The more likely account is that he occupied his apartment for the whole year, fell behind with his rent several times, and spent time out of state with his father for pandemic-related reasons.

As a result of the aforesaid conclusion, and given that no evidence was presented to support the "other" ground checked in the Statement of Grounds for Appeal, the appeal will be considered on the ground of serious deprivation of food, shelter, clothing and other necessities, as follows.

The evidence provided by the appellant established that his income for 2020, \$31,323.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$31,226.00 and \$37,470.00 is deemed to be able to afford a monthly premium of \$130.51 (5.00% of \$31,323.00/12). Table 4 of the Premium Schedule indicates that a 28-year-old individual (the age of the appellant in 2020) in Middlesex County (where the appellant resided in 2020) could have purchased private health insurance for \$269.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$130.51 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived

if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$2155.00. Those expenses were barely less than his regular monthly pre-tax income of approximately \$2610.25 thereby making a private health insurance premium of \$130.51/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2020 only and is based upon the extent of information submitted in this appeal.

**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 2019 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 2019.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-607

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** October 18, 2021

**Decision Date:** February 18, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 18, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until November 18, 2021, for the Appellant to submit additional evidence, including a list of his expenses for basic necessities in 2020. The Appellant did not submit any additional evidence, and the record was closed on November 18, 2021.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/29/21 Appeal (43pages)
- Exhibit 3: 9/7/21 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellants' federal AGI in 2020 was \$20,630. The Appellants turned forty years old in 2020. (Exhibit 1)
2. The Appellant moved from Connecticut to Massachusetts on June 25, 2020, and resided in Barnstable County during the rest of 2020. (Exhibit 1)
3. The Appellant appealed from the assessment of a four-month penalty, checking off "Other" as the basis of his appeal and stating that he was unemployed and did not have any income during the first half of 2020 and that, as a part-time employee, he did not qualify for the health insurance coverage offered by his employer. (Exhibit 1)
4. At the start of 2020, the Appellant worked as a musician, until March 13, 2020, when the COVID pandemic ended at opportunities for him to work. (Appellant's testimony)
5. The Appellant did not apply for unemployment insurance benefits in 2020. (Appellant's testimony)

6. The Appellant received no income after March 13, 2020, until he accepted a part-time position at a supermarket on Cape Cod and moved to Massachusetts on June 25, 2020. (Appellant’s testimony)
7. As the Appellant did not reside in Massachusetts until June 25, 2020, the individual mandate did not apply to the Appellant until September 1, 2020. (Schedule HC Instructions)
8. The Appellant worked different hours every week and does not recall his rate of pay or how much he earned while working at the supermarket. (Appellant’s testimony)
9. The Appellant did not work enough hours to qualify for the employer-sponsored health insurance coverage offered by his employer. (Appellant’s testimony)
10. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant was eligible for government-subsidized health insurance in 2020, as the Appellant’s 2020 AGI was less than \$37,470 for a family size of one.
11. According to Table 3 of the 2020 Schedule HC Health Care, the Appellant could have afforded to pay up to \$49/monthly for health insurance coverage in 2020, based on his tax filing status and 2020 AGI of \$20,630.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

As a part-year resident of Massachusetts in 2020, the Appellant had a grace period through August 2020 to obtain health insurance coverage, after moving to Massachusetts at the end of June 2020. At issue here is the Appellant’s failure to have health insurance coverage from September 2020 through December 2020.

The Appellant has failed to submit any evidence in support of his position that he could not have afforded health insurance coverage for \$49/monthly during the last four months of 2020. While he had struggled financially during the first six months of 2020, after losing his employment as a musician due to the pandemic, the Appellant was employed during the last six months of 2020. Although, as a part-time employee, he did not qualify for the health insurance coverage offered by his new employer, the Appellant qualified for government-subsidized health insurance coverage for a monthly premium of \$49.

As health insurance coverage was available to the Appellant in 2020 for a monthly premium of \$49 and the Appellant has failed to provide any evidence that he could not pay \$49/monthly for coverage in 2020, I deny his appeal of his 2020 tax penalty.

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

**PENALTY ASSESSED**

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

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-709

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 8, 2021

**Decision Date:** February 22, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 8, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until November 22, 2021, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on November 23, 2021, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/30/21 Appeal (7 pages)
- Exhibit 3: 10/14/21 Hearing Notice (2 pages)
- Exhibit 4: 10/14/21 Open-Record Request
- Exhibit 5: 11/23/21 Response to Open-Record Request (8 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Married Filing Joint with one dependent. The Appellant's federal AGI in 2020 was \$118,226. The Appellant turned forty-one years old in 2020. (Exhibit 1)
2. The Appellant lived in Essex County in 2020. (Exhibit 1)
3. The Appellant appealed from the assessment of a twelve-month penalty on the Appellant's 2020 income tax return, checking off, "Other," as the basis for her appeal. (Exhibit 2)
4. The Appellant had health insurance coverage through the spouse's employer in 2019. (Appellant's testimony)
5. In November 2019, the Appellant's spouse opted not to continue the Appellant's coverage on the spouse's employer-sponsored health insurance plan. (Exhibit 2)

6. The Appellant started working at a clothing store at the end of 2019 and was told by her new employer that the Appellant would get employer-sponsored health insurance coverage for 2020 automatically, unless the Appellant declined it on the company's portal. (Appellant's testimony)
7. As the Appellant did not decline the coverage, the Appellant assumed that she had health insurance coverage at the start of 2020. (Appellant's testimony)
8. In late January 2020, when the Appellant learned from her employer that she was not enrolled, she made an effort to enroll, and was denied because the open-enrollment period for 2020 coverage had ended. (Appellant's testimony)
9. On January 27, 2020, the Appellant complained to her employer's HR department about how she had been misled and as a result did not currently have any health insurance coverage. (Appellant's testimony)
10. On March 20, 2020, the Appellant's store closed, and she lost her job. (Appellant's testimony)
11. The Appellant was not employed again until July 2020, when she was hired by a supermarket as a full-time employee. (Appellant's testimony)
12. The Appellant's new employer offered health insurance coverage to full-time employees after a three-month probationary period. (Appellant's testimony)
13. When her probationary period ended at the end of October 2020, the Appellant missed the opportunity to enroll in her employer's coverage, due to the on-going stress of marital difficulties that led to the Appellant's separation from the Appellant's spouse, and the Appellant moving out of their house. (Appellant's testimony)
14. The Appellant was next eligible for the employer-sponsored coverage during open enrollment for 2021, and the Appellant enrolled in the coverage at that time, effective at the beginning of 2021. (Appellant's testimony)
15. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as her family's income was more than \$63,990 for a family size of three.
16. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$778/monthly for health insurance coverage in 2020, based on her family's 2020 AGI of \$118,226.
17. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$316/monthly, based on her age and county of residence.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

When the Appellant lost health insurance coverage through her spouse's employer-sponsored coverage at the end of 2019, the Appellant had a three-month grace period, through March 2020, to obtain new coverage. The Covid epidemic, as well as marital discord, started up during this time, and the Appellant lost her job and income in March 2020. As the Appellant was unemployed from April 2020 through June 2020, health insurance coverage was unaffordable for the Appellant during this period. In July 2020, when the Appellant started a new job at a supermarket, the Appellant had to wait three months, through October, to become eligible for the employer-sponsored coverage offered by the new employer. Although the Appellant was then eligible for coverage for the last two months of 2020, I am persuaded by the Appellant's testimony that she was preoccupied with and distressed by marital discord during this period and that she overlooked her eligibility for health insurance coverage through her employer as a result. As the Appellant wanted health insurance coverage, would obtain it at the beginning of 2021 through her new employer, but was preoccupied by marital discord at the time, I conclude that it would not be fair to assess the Appellant any tax penalty for 2020. 956 CMR 6.08(2)(c)&(d)

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

**PENALTY ASSESSED**

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

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

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 20120

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-730

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 1, 2021

**Decision Date:** February 22, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 1, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until November 15, 2021, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on November 23, 2021, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 5/7/21 Appeal (27 pages)
- Exhibit 3: 10/15/21 Hearing Notice (2 pages)
- Exhibit 4: 11/23/21 Open-Record Response (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$25,888. The Appellant turned thirty-three years old in 2020. (Exhibit 1)
2. The Appellant lived in Norfolk County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on the Appellant's 2020 income tax return checking off, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities; and, "Other," stating that the Appellant was unable to obtain government-subsidized insurance even though the Appellant's income qualified. (Exhibit 2)
4. The Appellant did not have health insurance coverage throughout 2020. (2020 Schedule HC)

5. The Appellant’s employer at the start of 2020 did not offer health insurance coverage. (Appellant’s testimony)
6. The Appellant was laid off from her job at the end of March 2020. (Appellant’s testimony)
7. On March 2, 2020, the Appellant applied to the Health Connector for health insurance coverage and was informed that the Appellant qualified for Health Connector Plans but did not qualify for a special enrollment period at that time. (Exhibit 4)
8. The Appellant maintained throughout 2020 a balance due on her credit cards of \$10,000 to \$15,000. (Appellant’s testimony)
9. The Appellant’s 2020 monthly expense for basic necessities included: rent, \$400; utilities, \$70; Internet, \$50; phone, \$50; car payment, \$300; gas, \$100; insurance, \$100; maint/repair of old car, \$250; clothing, \$85; food, \$600; and, credit card payment, \$500, for a total of \$2,505/monthly and \$30,060 for the year.
10. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as the Appellant’s income was less than \$37,470 for a family size of one.
11. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$90/monthly for health insurance coverage in 2020.
12. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$288/monthly, based on the Appellant’s age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

At issue is the Appellant’s failure to have health insurance coverage throughout 2020. The Appellant clearly wanted to have health insurance coverage in 2020, as the Appellant had applied for coverage through the Health Connector for coverage at the end of March 2020, after becoming unemployed, and was denied because the Appellant was determined ineligible for a special enrollment period. The Appellant has presented compelling testimony and evidence in support of the contention that health insurance coverage was unaffordable in 2020, as the Appellant’s basic expenses along with the substantial monthly cost of the debt carried by the Appellant left the Appellant going further into debt during the year.

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

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

**PENALTY ASSESSED**

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

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

OR



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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-732

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 1, 2021

**Decision Date:** February 22, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 1, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 1, 2021, for the Appellant to submit a copy of his May 2020 lease that he contends began his residence in Massachusetts; and, evidence that he had health insurance coverage in Massachusetts during the last six months of 2020. The Appellant did not submit any additional evidence by December 1, 2021, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 5/8/21 Appeal (6 pages)
- Exhibit 3: 10/15/21 Hearing Notice (2 pages)
- Exhibit 4: 5/1/21 Diploma (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$34,877. The Appellant turned twenty-nine years old in 2020. (Exhibit 1)
2. The Appellant resided in Massachusetts throughout 2020. (Exhibit 1)
3. The Appellant lived in Middlesex County in 2020. (Exhibit 1)
4. The Appellant appeals from the assessment of a twelve-month penalty on his 2020 income tax return checking off, "Other," on the appeal form and underlining that "you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2)
5. The Appellant did not have health insurance coverage throughout 2020. (2020 Schedule HC)

6. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as the Appellant's income was less than \$37,470 for a family size of one.
7. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$145/monthly for health insurance coverage in 2020.

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

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

At issue here is the Appellant's failure to have health insurance coverage throughout 2020. While the Appellant testified that he did not reside in Massachusetts until July 2020 and wanted to get health insurance coverage through his Massachusetts employer, I do not find his testimony credible. The Appellant's 2020 Massachusetts tax return indicates that he was a full year resident of Massachusetts in 2020, and the Appellant presented no evidence to the contrary in response to an open-record request. Also, the Appellant's testimony was inconsistent: first stating that he wanted to get health insurance coverage in Massachusetts as soon as possible, and later saying that he was unaware that he was required to have health insurance coverage in Massachusetts. Still later in the hearing, the Appellant stated that he had health insurance coverage through his employer during the last six months of 2020, but then failed to provide any evidence of this in response to the open-record request for documentation in support of the Appellant's testimony.

Therefore, I conclude that the Appellant has not established any basis for waiving or reducing his 2020 tax penalty for not having health insurance coverage in 2020.

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

### **PENALTY ASSESSED**

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

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-869

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** December 6, 2021

**Decision Date:** February 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 6, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 20, 2021, for the Appellant to submit additional evidence. The Appellant submitted additional evidence on December 10, 2021, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 6/2/21 Appeal (5 pages)
- Exhibit 3: 11/9/21 Hearing Notice (2 pages)
- Exhibit 4: 12/6/21 Open-Record Request (2 pages)
- Exhibit 5: 12/10/21 Open-Record Response (19 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$81,591. The Appellant turned fifty-four years old in 2020. (Exhibit 1)
2. The Appellant lived in Worcester County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a two-month penalty on her 2020 income tax return checking off, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities; incurred an unexpected natural event causing substantial household or personal damage to/for her; and, "Other," stating that the government had shut down the country and she had lost her job and healthcare coverage. (Exhibit 2)

4. The Appellant had health insurance coverage through her employer during the first seven months of 2020. (Appellant’s testimony)
5. The Appellant lost her job and her health insurance coverage at the end of June 2020, due to the Covid epidemic. (Appellant’s testimony)
6. The Appellant’s only income after June 2020 was from unemployment benefits that she received, until she got a new job on November 9, 2020. (Appellant’s testimony)
7. In late September or early October 2020, a neighbor’s tree fell on the Appellant’s yard and house, causing the Appellant stress and inconvenience in sorting out what needed to be done immediately and in the near future to repair her house. (Appellant’s testimony)
8. The damage cost the Appellant \$5,000 for her insurance deductible and \$2,000 to replace damaged trees and lawn on her property. (Appellant’s testimony; Exhibit 4 and Exhibit 5)
9. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as the Appellant’s income was more than \$37,470 for a family size of one.
10. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$543/monthly for health insurance coverage in 2020.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$420/monthly, based on the Appellant’s age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

As the Appellant had health insurance coverage during the first seven months of 2020 through her employer and then had a three-month grace period to obtain new coverage, at issue here is the Appellant’s failure to have health insurance coverage during the last two months of 2020. The Appellant has presented persuasive testimony and documentary evidence to establish that she could not have afforded to purchase health insurance coverage for a monthly premium of \$420 during the last two months of 2020. The Appellant experienced an extraordinary event at the end of September or start of October 2020 that added to her existing financial difficulties and needed to be addressed as soon as possible. After her neighbor’s tree fell on her house, the Appellant had to take immediate steps to address the damage to her house, while waiting for her insurance company to sort out how much her coverage would pay for. She soon learned that her deductible would be \$5,000 for the covered damage. Repairing her lawn and planting new trees were not covered.

Under these circumstances, I conclude that the Appellant has established that health insurance that provided minimum creditable coverage was not affordable for the Appellant in 2020 because she incurred an unexpected natural event causing substantial household or personal damage. 956 CMR 6.08(1)(d)4.

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

**PENALTY ASSESSED**

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

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

you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-885

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** December 9, 2021  
**Decision Date:** February 9, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on December 9, 2022. Appellant also appeared for Appellant spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated May 28, 2021
- Exhibit 3: Correspondence from Health Connector, dated November 10, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 38 and 35 years old in 2020 and resided in Middlesex County (Exhibit 1).
2. Appellants filed a Massachusetts 2020 tax return as married filing jointly with no dependents claimed (Exhibit 1).
3. Appellants had an Adjusted Gross Income for 2020 of \$83,212 (Exhibit 1).
4. Appellant received a penalty for six months and Appellant Spouse received a penalty for twelve months (Exhibit 1).
5. Appellant Spouse does not wish to appeal the penalty assessed for twelve months against Appellant Spouse (Testimony of Appellant).
6. Appellant started at a new job in late 2019 (Testimony of Appellant).
7. Appellant worked during January through early March 2020 and then was furloughed due to the Covid 19 pandemic (Testimony of Appellant).
8. Appellant paid for employer sponsored health insurance during January through March (Exhibit 2 and Testimony of Appellant).
9. When Appellant was furloughed, the employer promised that all employees' coverage would continue until July if employees remained on call and employed by the restaurant (Exhibit 2 and Testimony of Appellant).

10. In July 2020, Appellant was hired at a new job (Testimony of Appellant).
11. Appellant's new job included employer sponsored health insurance after three months (Testimony of Appellant).
12. Appellant began coverage under the new employer's plan in October 2020 (Exhibit 1 and Testimony of Appellant).
13. When Appellant began receiving tax documents in early 2021, Appellant did not receive a 1099 HC from Appellant's job from early 2020 (Testimony of Appellant).
14. Appellant contacted the employer, and eventually learned that Appellant had never been signed up for health insurance, despite having money subtracted from Appellant's paychecks (Exhibit 2 and Testimony of Appellant).
15. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
16. According to Table 3 of Schedule HC for 2020 a couple filing as married filing jointly with no dependents claimed with an adjusted gross income of \$83,212 could afford to pay \$555 per month for private insurance. According to Table 4, Appellants, who were 38 and 35 years old and lived in Middlesex county could have purchased private insurance for a cost of \$591 per month.
17. Private insurance was not considered affordable for Appellants in 2020 (Schedule HC for 2020).
18. Appellants, earning more than \$50,730 would not have been income eligible for government subsidized health insurance (Schedule HC for 2020).
19. Appellant did have affordable employer sponsored health insurance available through the job in early 2020 and Appellant believed that Appellant was covered (Testimony of Appellant).
20. Appellant did not have health insurance for nine months of 2020 (Testimony of Appellant and Exhibit 1).
21. Appellant has been assessed a penalty for six months for 2020 (Exhibit 1).
22. Appellant filed a hardship Appeal on May 28, 2021 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Affordable employer sponsored health insurance was available to Appellant during January through July. Appellant signed up for the health insurance and had the employee's deducted from Appellant's paycheck. Appellant did not learn until early 2021 that Appellant had not been covered by the health insurance from Appellant's employer. Appellant started at a new job in July 2020. Appellant began employer sponsored health



insurance at the new job beginning in October 2020. Given the circumstances, I will waive the penalty assessed against Appellant. See Schedule HC for 2020, Exhibits 1, 2 and Testimony of Appellant, which I find credible.

**PENALTY ASSESSED**

Number of Months Appealed: 6/12

Number of Months Assessed: 0/12

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-979

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** December 29, 2021

**Decision Date:** February 3, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 29, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated November 17, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 8, 2021
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Open Record Documents

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-two years old and is single. She lives in Essex County, Massachusetts. Appellant works for a real estate company. Appellant was laid off and lost her health insurance. Due to a lack of income Appellant was not able to obtain health insurance until January 2021.
2. Appellant does have health insurance in 2021.
3. The Appellant's monthly expenses totaled \$2,430.00, consisting of heat and light, \$200.00, internet & cable \$200.00, cell phone \$100.00, car insurance \$100.00, car gas \$80.00, food \$600.00, credit card \$1,000.00, clothing \$100.00, toiletries \$50.00.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities."
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$60,740.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Essex County for a 61 year-old single person was \$432.00. The tables reflect that Appellant could afford \$403.13 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant was laid off and lost her health insurance. Due to a lack of income Appellant was not able to obtain health insurance until January 2021.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$60,740.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay 403.13 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 432.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$403.13 for health insurance coverage because of her income. Private insurance in the market place was \$432.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-980

**Appeal Decision** Appeal Partially Allowed

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

**Hearing Date:** December 29, 2021

**Decision Date:** February 8, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 29, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated November 17, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 10, 2021
- Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty years old and is single. She lives in Middlesex County, Massachusetts. Appellant works for a restaurant company.
2. Appellant worked in Maryland until January 2020. Appellant indicated she had health insurance through January 2020 but did not provide proof of insurance. Appellant was laid off in March 2020. Appellant finally got back to work in July of 2021 for a company but was told that it was a company based in New Hampshire and that the insurance offered by the company did not meet the minimum standards for Massachusetts. Appellant decided that she rarely went to the doctors and opted not to obtain the insurance offered by her company. Appellant stated she applied to the Health Connector but was denied.
3. Appellant did not have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$4,167.00, consisting of rent \$925.00, heat and light, \$250.00, internet & cable \$75.00, cell phone \$175.00, car payment \$545.00, car insurance \$160.00, car gas \$200.00, food \$200.00, credit card \$1,200.00, clothing \$120.00, toiletries \$100.00, old credit card bills \$300.00, renters insurance \$17.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$43,512.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Middlesex County for a 49 year-old single person was \$361.00. The tables reflect that Appellant could afford \$270.13 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant worked in Maryland until January 2020. Appellant indicated she had health insurance through January 2020 but did not provide proof of insurance. Appellant was laid off in March 2020. Appellant finally got back to work in July of 2021 for a company but was told that it was a company based in New Hampshire and that the insurance offered by the company did not meet the minimum standards for Massachusetts. Appellant decided that she rarely went to the doctors and opted not to obtain the insurance offered by her company. Appellant stated she applied to the Health Connector but was denied.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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



Appellant reported a federal AGI of \$43,512.00 in 2020, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$270.13 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$361.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$270.13 for health insurance coverage because of her income. Private insurance in the market place was \$361.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was partially precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is partially exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY ALLOWED**, and the 2020 penalty assessed is **PARTIALLY OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:     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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-176

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** February 8, 2022

**Decision Date:** February 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on February 8, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Letter from appellant dated September 21, 2021, requesting that the dismissal of his appeal be vacated

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

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 39-years-old, is single, and does not have children. From January-June, 2018, he resided in Suffolk County, and from September through December, 2018, he resided in Essex County. He did not have health insurance in 2018. (Testimony, Ex. 2)
2. Prior to 2018, the appellant last had health insurance in August, 2016. He has never been assessed a tax penalty for failure to obtain health insurance. (Testimony)
3. The appellant was employed in 2018 as an independent contractor and did not have access to employer health insurance. He investigated health insurance options through the Health Connector and determined that that the cost was unaffordable. (Testimony, Ex. 1)
4. From January-June, 2018, the appellant shared an apartment with roommates. His employment was sporadic causing him to be late or short with his rent, and in June, he was asked to leave the apartment

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

due to his unstable work situation. In July and August, the appellant lived in his car and occasionally stayed with friends. In September, the appellant moved into his relatives' house and has continued to live there since then. (Testimony, Ex. 1)

5. The appellant considered filing for bankruptcy in 2018 and paid a \$400.00 filing fee towards that end. Ultimately, he did not declare bankruptcy. (Testimony, Ex.1)
6. The appellant got a job in 2019 and has been enrolled in employer health insurance since that time. (Testimony)
7. The appellant reported an adjusted gross income of \$55,242.00 on his 2018 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. From January through June, 2018, the appellant had regular monthly expenses of approximately \$2010.00 for rent which included electricity (\$780.00), heat (\$50.00), internet service (\$50.00), cell phone (\$84.00), automobile loan (\$372.00), automobile insurance (\$224.00), food (\$400.00), and gasoline (\$50.00). In addition, he paid approximately \$200.00/month towards his credit card debt and \$200.00/month for medications for depression and ADD. From September through December, 2018, the appellant had regular monthly expenses of \$1196.00 for his basic living expenses which he paid to his relatives (\$500.00), internet (\$50.00), automobile loan (\$372.00), automobile insurance (\$224.00) and gasoline (\$50.00). He stopped making his credit card payments during that period. (Testimony)

In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2018>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 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." 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 did not submit a statement of grounds for appeal, but in his letter dated September 21, 2021, he indicated that the grounds for his hardship during 2018 were that he was 1) homeless during the months of July and August; and 2) the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Ex. 1) He further stated that an unstable job and mounting debt prevented him from being able to secure a residence resulting in being homeless for two months.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2018, 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 the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he worked as an independent contractor in 2018 and did not have access to employer health insurance. He testified that he investigated insurance options through the Health Connector and

determined that the cost was unaffordable. He testified that his income was sporadic due to unstable job circumstances and he was asked to leave his apartment in June because he could not make timely rent payments. He testified that he lived in his car and occasionally stayed with friends for July and August. He testified that he moved into his relatives' house in September and has continued to live there since then. Finally, he testified that he has been enrolled in employer health insurance since 2019.

With respect to the ground of homelessness, the appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2018. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, or sudden responsibility for providing care for a family member, or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2018 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant offered credible testimony that he lived in his car and with friends for the months of July and August. Accordingly, it is concluded that the appellant established through credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(a) as a result of which he should not be subject to a penalty for those two months.

With respect to the ground of serious deprivation, the evidence provided by the appellant established that his income for 2018, \$55,242.00, was greater than 300% of the federal poverty level (FPL), which for 2018 was \$36,180.00 for a single person. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$48,241.00 is deemed to be able to afford a monthly premium of \$370.58 (8.05% of \$55,242.00/12). Table 4 of the Premium Schedule indicates that a 35-year-old individual (the appellant's age in 2018) in Suffolk and Essex County (where the appellant resided in 2018) could have purchased private health insurance for \$290.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2018.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced one of the aforementioned hardships during 2018.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that from January through June, he incurred basic monthly expenses of approximately \$2210.00, including credit card debt, and from September through December, he incurred basic monthly expenses of approximately \$1196.00. Those expenses were less than his regular monthly pre-tax income of approximately \$4603.00, thereby making a private insurance premium of \$290.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$2393.00/month (January -June) and \$3407.00/month (September-December) is not a panacea, it does not appear on its face that the payment of \$290.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant offered compelling testimony that he experienced a level of financial distress that the foregoing numbers do not

demonstrate. He contemplated a declaration of personal bankruptcy in 2018 and was homeless for two months. Moreover, he has been enrolled in employer health insurance since 2019 thereby demonstrating that the mandate to obtain insurance was not lost on him.

Based on the totality of the evidence, it is concluded that the appellant established that he was homeless for two months and could not have afforded private health insurance for the remaining months. As such, his request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2018, only and is based upon the extent of information submitted by him in this appeal.

**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 2018 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 2018.

**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: PA19-1153

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2019 Tax Year Penalty

**Hearing Date:** January 24, 2022

**Decision Date:** February 19, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

Ex. 1—Statement of Grounds for Appeal—2019

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

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 40-years-old, is single, and has three minor children. In 2019, he resided in Middlesex County, MA. He had minimum creditable coverage (MCC) health insurance from January through May, 2019. (Testimony, Ex. 2)
2. The appellant was employed from January through May during which time he had employer health insurance. He left that job and started a new employment in June. Prior to starting the new position, the employer had advised him that health insurance would be provided. After he started, he was advised that no insurance would be available. (Testimony, Ex. 1)
3. The appellant investigated health insurance options for the rest of 2019 through the Health Connector and was advised that he did not qualify for MassHealth and was not eligible for any other insurance through the Connector because the open enrollment period had passed. He did not make any inquiries

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

elsewhere as he did not believe that he was in a financial position to afford the cost of insurance. (Testimony, Ex. 1)

4. The appellant enrolled in health insurance through the Health Connector for 2020, and subsequently accepted employment with employer-provided health insurance which has continued to the present time. (Testimony)
5. The appellant reported an adjusted gross income of \$59,952.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
6. The appellant lived with his parents in 2019 because he could not afford to pay rent. He gave them \$100.00/month for utilities and food. He paid \$200.00/week for child support for two of his children and \$184.00/week for the third child. (Testimony, Ex. 1)
7. In 2019, the appellant had regular monthly expenses of approximately \$1664.00 which included utilities and food (\$100.00); an automobile loan for two vehicles (\$896.00); automobile insurance for one vehicle (\$168.00); cellphone (\$100.00) and gasoline (\$400.00). In addition, the appellant paid credit card debt in the amount of \$100.00/month, \$440.00/month for daycare for his youngest child, and \$600.00/month for one of his children's hockey programs. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 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." Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated that he was promised health insurance with his new job which never materialized. He further stated that after he made his child support payments, he was left with approximately \$337.00/week.

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

The appellant testified credibly that he was employed from January through May during which time he had employer health insurance. He testified that he left that job and began new employment in June which he understood would be providing health insurance. He testified that there was no health insurance offered and he contacted the Health Connector to investigate his options. He testified that he was advised that he did not qualify



for insurance because he was outside of the open enrollment period. He testified that he did not make any further inquiries because he did not feel he could afford the cost of insurance. Finally, he testified that he enrolled in insurance through the Connector in 2020 and started a new job at some point thereafter which provided insurance that has continued to date.

The appellant testified that he left his job in May, 2019, and was not able to enroll in insurance through his new employer. In order to qualify for health insurance through the Connector outside of the open enrollment period, an individual must experience a triggering event as set forth in 45 CFR 155.420 and applicable state law. Typically, the loss of insurance from a job is considered a qualifying event which would entitle an individual to a Special Enrollment Period (SEP). It is unclear why the appellant was not considered eligible for a SEP based on the loss of his insurance from his job. However, since the appeal was not filed on the ground of a SEP denial, it will be analyzed on the ground on which it was filed—that of serious deprivation.

The evidence provided by the appellant established that his income for 2019, \$59,952.00 was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$48,561.00 is deemed to be able to afford a monthly premium of \$399.68 (8.0% of \$59,952.00/12). Table 4 of the Premium Schedule indicates that a 37-year-old individual (the age of the appellant in 2019) in Middlesex County (where the appellant resided in 2019) could have purchased private health insurance for \$286.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2019, he incurred basic monthly expenses of approximately \$3300.00 including his child support payments and credit card payments. Those expenses were less than his regular monthly pre-tax income of approximately \$4996.00, thereby making a private health insurance premium of \$286.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1696.00/month is not a panacea, it does not appear on its face that the payment of \$286.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified credibly to a level of financial distress that the foregoing numbers do not demonstrate. He could not afford to live in his own place and spent most of his income on large child support payments and other related childcare expenses. Moreover, the appellant investigated options as soon as he became aware that his new job did not provide insurance, and subsequently enrolled in insurance in 2020 and 2021, thereby demonstrating that the mandate to obtain insurance was not lost on him.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   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 2019 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 2019.

**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: PA19-1178

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2019 Tax Year Penalty

**Hearing Date:** January 31, 2022

**Decision Date:** February 25, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 31, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

The appellant filed an appeal of the 2020 Tax Penalty (PA20-593) and the hearing was scheduled after the instant hearing. He agreed to consolidate the appeals and have them both heard at the same time.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 30-years-old, is single, and does not have children. In 2019, he resided in Middlesex County, MA. He did not health insurance in 2019. (Testimony, Ex. 2)
2. The appellant last had health insurance in 2016 through his father's employer health insurance. He was assessed a penalty for not obtaining insurance for the 2017 and 2018 tax years. (Testimony)
3. The appellant was employed on a full-time basis in 2019. The employer did not offer health insurance. The appellant investigated his eligibility for MassHealth and was denied coverage. (Testimony)
4. The appellant did not enroll in health insurance in 2021 or 2022. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant lived in an apartment for all of 2019 and did not fall behind with his rent. (Testimony)
6. The appellant reported an adjusted gross income of \$41,610.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2019, the appellant had regular monthly expenses of approximately \$1985.00 for rent (\$1200.00), heat (\$100.00), electricity (\$200.00), public transportation pass (\$120.00), bus transportation (\$65.00) and food (\$300.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 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.” Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019 because 1) he was homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice; 2) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities; and 3) “other” reasons. He also submitted a letter with his statement, but it addressed his circumstances in 2020, not 2019.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified that he was employed on a full-time basis in 2019, but the employer did not offer health insurance. He testified that he investigated his eligibility for insurance with MassHealth, but was denied coverage. He testified that he has not had health insurance since 2016, and paid a penalty for the 2017 and 2018 tax years. He testified that he lived in an apartment for the year and did not fall behind with his rent. Finally, he testified that he did not enroll in health insurance in 2021 or 2022.

Since the appellant did not fall behind with his rent payments in 2019, and since he did not specify what other ground his appeal might be based on, it will be analyzed on the remaining ground of serious deprivation as set forth herein.

The evidence provided by the appellant established that his income for 2019, \$41,610.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income

between \$36,421.00 and \$42,490.00 is deemed to be able to afford a monthly premium of \$258.33 (7.45% of \$41,610.00/12). Table 4 of the Premium Schedule indicates that a 27-year-old individual (the age of the appellant in 2019) in Middlesex County (where the appellant resided in 2019) could have purchased private health insurance for \$269.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Based on the totality of the evidence, it is concluded that 1) the appellant would not have been eligible for subsidized insurance because his income exceeded 300% of the federal poverty level; 2) health insurance was not available through employment; and 3) he could not have purchased affordable insurance on the private market. Accordingly, his request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

**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 2019 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 2019.

**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: PA201002

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

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

**Hearing Date:** December 20, 2021

**Decision Date:** February 22, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on December 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 15, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated November 23, 2021 for December 20, 2021 hearing
- Exhibit 4: Eversource Final Termination Notice dated January 7, 2020 sent to Appellant

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 56 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$24,283 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed until August, 2018 when she had to leave her job because of medical issues within her family. Appellant has been unemployed since she left her job. Appellant did not receive any unemployment compensation after she stopped working. All of her income for 2020 came from a withdrawal from her 401k (Testimony of Appellant).
5. In 2019 and through February, 2020, Appellant had health insurance through COBRA. Her COBRA coverage ended at the end of February. Appellant was uninsured the rest of 2020. As of the date of this hearing, Appellant

had coverage through the Connector. This coverage cost the appellant approximately \$700 a month (Testimony of Appellant, Exhibit 2).

6. Appellant did not apply for health insurance coverage through the Connector because she assumed that she would not be eligible for any financial assistance paying for the premium (Testimony of Appellant).

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

8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$24,283 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Middlesex County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in mortgage payments in 2020 (Testimony of Appellant).

12. Appellant received a final termination notice for electricity in 2020 (Testimony of Appellant, Exhibit 4).

13. Appellant had the following monthly expenses for basic necessities in 2020: mortgage, property taxes, and home owners insurance- \$2,667; heat, and electricity-\$450; telephone and internet-\$100; food, household items, and personal items-\$500; car insurance-\$85; gas-\$170; clothing-\$90. The appellant also paid \$2,250 during the year for car and home repairs (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance in January and February, 2020. The appellant has been assessed a tax penalty for seven months, June through December. Appellant was not assessed a penalty for March through May because the appellant was entitled to a three-month grace period after losing coverage. See Massachusetts General Laws, Chapter 111M, Section 2. The appellant appealed the assessment. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$24,283 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 56 years old and living in Middlesex County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment all year. She was unemployed the entire year. See the testimony of the appellant which I find to be credible and Exhibit 1 attachment.

Appellant could have had affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$24,283, less than the income limit for one person (\$37,470). She also had no access to employer-sponsored insurance. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

Appellant had the following expenses for basic necessities in 2020: mortgage, property taxes, and home owners insurance- \$2,667; heat, and electricity-\$450; telephone and internet-\$100; food, household items, and personal items-\$500; insurance-\$85; gas-\$170; clothing-\$90. The appellant paid \$2,250 during the year for car and home repairs. She also spent about \$1,400 during January and February for COBRA coverage. See the testimony of Appellant which I find to be credible.

Appellant's expenses for basic necessities came to about \$4,000 a month, not including her expenses for car and home repairs. Her income, all from a withdrawal from her 401K, was about \$2,000 a month. Every month Appellant ran a significant deficit. Based upon this, I determine that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e), health insurance was unaffordable for the appellant.

In addition, in 2020, Appellant received a final termination notice for electricity. See the testimony of the appellant which I find to be credible and Exhibit 4. Pursuant to 956 CMR 6.08(1)(b), health insurance was unaffordable for the appellant.

Given the financial hardships that Appellant experienced in 2020, Appellant's penalty is waived in its entirety.



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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201003

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

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

**Hearing Date:** December 20, 2021

**Decision Date:** February 25, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on December 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 15, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated November 23, 2021 for December 20, 2021 hearing
- Exhibit 4: Letter to Appellant from landlord dated June 5, 2020 regarding unpaid rent for April, May, and June, 2020
- Exhibit 5: March to April, 2020 gas bill showing arrearages

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 30 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Bristol County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$32,470 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant obtained employment at the beginning of January, 2020. He was laid off mid-March because of the pandemic. While employed, Appellant was paid \$18 an hour and worked about 40 hours a week. When he was laid off, Appellant collected unemployment compensation until he found a new job at the beginning of November. At his new job, Appellant was paid \$15.00 an hour and worked about 40 hours per week (Testimony of Appellant).
5. When Appellant started working, he was offered health insurance, but only after he worked for 90 days. Appellant was laid off before he had worked the 90 days. When Appellant obtained work in November, he was offered and got health insurance with an effective start date of mid-January, 2021 (Testimony of Appellant, Exhibit 2).

6. Appellant had no health insurance in 2020. He has been assessed a twelve-month tax penalty; he has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$32,470 could afford to pay \$135 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Bristol County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2020, Appellant, who earned less than \$37,470 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
11. Appellant fell more than thirty days behind in rent payments in 2020. As of June, 2020, Appellant owed rent for April and May (Testimony of Appellant, Exhibit 4).
12. Appellant received shut-off notices for gas and internet in 2020 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities in 2020: rent- \$500; heat, and electricity-\$300 on average (more for heat in the winter and more for electricity in the summer); telephone and internet-\$160; food, household items, and personal items-\$520; car insurance-\$220 (from February through December); gas-\$215 (also February through December); clothing-\$30 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant had no health insurance in 2020. The appellant has been assessed a tax penalty for the year. The appellant appealed the assessment. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$32,470 could afford to pay \$135 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Bristol County, could have purchased insurance for \$269 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment all year. Appellant was employed from January through mid-March when he was laid off because of the pandemic. He had been offered health insurance but only after he had worked for 90 days. He was laid off before he was eligible for the coverage. Appellant was then unemployed until the beginning of November. Again, he was offered health insurance, but with a start date in January, 2021. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$32,470, less than the income limit for one person (\$37,470). He also had no access to employer-sponsored insurance. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

In 2020, Appellant fell more than 30 days behind in his rent. After being laid off because of the pandemic, Appellant was unable to pay his rent in April, May, and the beginning of June. His landlord sent him a letter dated June 5, 2020 informing him that he owed rent for the three months. The appellant also received shut off notices for his heat (gas) and internet. See the testimony of the appellant which I find to be credible and Exhibit 4. Pursuant to 956 CMR 6.08(1)(a) and (b), Appellant had financial hardships such that health insurance was unaffordable for the appellant.

Given the financial hardships that Appellant experienced in 2020, Appellant's penalty is waived in its entirety.

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

### **PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

cc.Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201049

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** January 7, 2022  
**Decision Date:** February 16, 2022

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on January 7, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing the record was kept open so that Appellant could submit further documents showing that Appellant had health insurance in 2020. Appellant submitted a form MA 1099-HC, which has been marked as Exhibit 4. The hearing record consists of the Testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated May 30, 2021
- Exhibit 3: Correspondence from Health Connector dated December 9, 2021
- Exhibit 4: Form MA 1099-HC for 2020

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 40 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Middlesex County, MA in 2020 (Exhibit 1).
3. Appellant had an Adjusted gross income of \$29,276 for 2020 (Testimony of Appellant and Exhibit 1).
4. Appellant worked and was covered by employer sponsored health insurance during January, February and March 2020 (Testimony of Appellant and Exhibit 4).
5. Appellant was laid off from employment in March due to the Covid 19 pandemic. Appellant lost employer sponsored insurance after the lay-off (Testimony of Appellant).
6. Appellant returned to work in June 2020 (Testimony of Appellant).
7. Appellant began coverage again under employer sponsored health insurance in July and was covered for the duration of 2020 (Testimony of Appellant and Exhibit 4).
8. Appellant's Appeal Case Information from Schedule HC 2020 shows that Appellant was uninsured for twelve months in 2020 (Exhibit 1).

9. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
10. Appellant filed an appeal on May 30, 2021 (Exhibit 2).

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

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

Appellant has been assessed a tax penalty for twelve months. Appellant was properly insured by a Health Insurance Plan that met Massachusetts Creditable Coverage Standards from January through March and July through December 2020. Appellant did not have health insurance for three months, which is within the grace period allowed by law. See G.L. 111M and 956 CMR 6, Exhibit 4 and Testimony of Appellant, which I find to be credible.

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

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1083

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** January 19, 2022

**Decision Date:** February 3, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

- Exhibit 1: Notice of Hearing dated December 13, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 23, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**



The record shows, and I so find:

1. The appellant is fifty-eight years old and is married. He lives in Berkshire County, Massachusetts. Appellant's wife is on Medicare.
2. Appellant was laid off from his job in 2020 due to Covid 19. He is currently working two days a week.
3. Appellants did have health insurance in 2021. Appellants have applied with the Health Connector for health insurance in 2022.
4. The Appellant's monthly expenses totaled \$3,769.00, consisting of mortgage \$1,600.00, heat & light \$390.00, internet & cable \$234.00, cell phone \$200.00, car insurance \$200.00, car gas \$200.00, food \$800.00, toiletries \$80.00, water bill \$65.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under "During 2020, 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$79,043.00 was more than \$77,250.00. The monthly premium for health insurance available on the private market in Berkshire County for a 57 year old married person was \$918.00. The tables reflect that Appellant could afford \$500.60 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$38,625.00 for a married person with two 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 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$79,043.00 in 2020, and Appellant’s filing status was married with two dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$500.60 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$918.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$500.60 for health insurance coverage because of his income. Private insurance in the market place was \$928.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1085

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** January 19, 2022

**Decision Date:** February 14, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated December 13, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated July 1, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-seven years old and is single. She lives in San Diego, California. Appellant moved in December 2020.
2. Appellant was in Haiti in January 2020 and moved to California in December 2020. Appellant was out of a job for a long time in 2020.
3. Appellant does have health insurance in 2022 and did have insurance in 2021.
4. The Appellant's monthly expenses totaled \$3,050.00, consisting of rent \$900.00, heat & light \$50.00, cell phone \$100.00, car insurance \$200.00, car gas \$400.00, food \$500.00, clothing \$300.00, credit card \$200.00, entertainment \$200.00 toiletries \$50.00, helping family \$300.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$40,975.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Plymouth County for a 36 year old single person was \$298.00. The tables reflect that Appellant could afford \$254.38 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant was in Haiti in January 2020 and moved to California in December 2020. Appellant was out of a job for a long time in 2020.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$40,978.00 in 2020, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$254.38 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$298.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$254.38 for health insurance coverage because of her income. Private insurance in the market place was \$298.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health

insurance during 2020. 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.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1086

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** January 21, 2022  
**Decision Date:** February 26, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 21, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated June 29, 2021
- Exhibit 3: Correspondence from Health Connector, dated December 13, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 26 years old in 2020 and resided in Suffolk County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$29,376 (Exhibit 1).
4. Appellant started a new job in January 2020 (Testimony of Appellant).
5. Appellant's job would provide employer sponsored health insurance after ninety days (Testimony of Appellant).
6. Appellant's job ended prior to ninety days (Testimony of Appellant).
7. After the loss of the job, Appellant received unemployment insurance (Testimony of Appellant).
8. After the loss of the job, Appellant attempted to apply for government subsidized health insurance, but Appellant could not get a response (Exhibit 2 and Testimony of Appellant).
9. In June, 2020, Appellant's family member was diagnosed with a serious disease, and needed full-time care (Testimony of Appellant).
10. Appellant was the primary care taker for the family member (Testimony of Appellant).
11. Appellant's family member passed away in December 2020 (Exhibit 2 and Testimony of Appellant).
12. Appellant struggled to pay for basic necessities in 2020 (Testimony of Appellant).



13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
14. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$29,376 could afford to pay \$103 per month for private insurance. According to Table 4, Appellant, who was 26 years old and lived in Suffolk county could have purchased private insurance for a cost of \$269 per month.
15. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
16. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
17. Appellant did not have health insurance for twelve months of 2020 (Exhibit 1 and Testimony of Appellant).
18. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
19. Appellant filed a hardship Appeal on June 29, 2021 (Exhibit 2).

**ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant was income eligible for subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant lost a job and struggled to pay for necessities. Appellant incurred a significant increase in essential expenses resulting directly from the consequences of having the sudden responsibility for providing full care for a family member so that health insurance was not affordable to Appellant. See Schedule HC for 2020, 956 CMR 6.08 (1)(d)(3), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1090

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** January 21, 2022  
**Decision Date:** February 25, 2022

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 21, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents from July 2021
- Exhibit 3: Correspondence from Health Connector, dated December 13, 2021

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 49 years old in 2020 and resided in Essex County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$25,387 (Exhibit 1).
4. Appellant was covered by government subsidized health insurance in 2019 (Testimony of Appellant).
5. Appellant began a job in early 2020 and was covered by employer sponsored health insurance from the job in February through April (Exhibit 1, 2 and Testimony of Appellant).
6. Appellant became ill with Covid 19 in April 2020 and did not return to the job (Testimony of Appellant).
7. Appellant was unemployed from May through December 2020 (Testimony of Appellant).
8. Appellant was hospitalized and had a lot of medical care after Appellant lost the employer sponsored health insurance (Testimony of Appellant).
9. Appellant's medical care from May through December was covered by government subsidized health insurance (Testimony of Appellant).
10. Appellant has had serious mental and physical health issues for the past several years (Testimony of Appellant).
11. Appellant struggled financially in 2020 and Appellant relied on family to meet basic needs (Testimony of Appellant).

12. Appellant filed for bankruptcy (Testimony of Appellant).
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
14. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$25,387 could afford to pay \$89 per month for private insurance. According to Table 4, Appellant, who was 49 years old and lived in Essex county could have purchased private insurance for a cost of \$361 per month.
15. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
16. Appellant, earning less than \$37,470 was income eligible for government subsidized health insurance (Schedule HC for 2020).
17. Appellant has been assessed a penalty for five months for 2020 (Exhibit 1).
18. Appellant filed a hardship Appeal in July 2021 (Exhibit 2).

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

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

Appellant has been assessed a tax penalty for five months. Appellant testified that Appellant was covered by employer sponsored health insurance for three months and was covered by government subsidized health insurance for the remainder of the year. Additionally, Appellant had numerous hardships in 2020, including serious physical and mental health issues, several hospital stays, losing employment, contracting Covid 19 and filing for bankruptcy. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

### **PENALTY ASSESSED**

Number of Months Appealed: 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1109

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** January 31, 2022

**Decision Date:** February 21, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 31, 2022, 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—2020

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

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 40-years-old, is married, and has two minor children. She resided in Bristol County, MA in 2020. She had minimum creditable coverage (MCC) health insurance in 2020. (Testimony, Ex. 2)
2. The appellant wife had employer-provided health insurance throughout 2020. (Testimony, Ex. 2)
3. The appellant husband has been living in Senegal for the past ten years. He spent no part of 2020 in Massachusetts. He and his wife do not live together and are in the process of getting divorced. (Testimony)
4. The appellant and her husband have never been assessed a penalty for failure to obtain health insurance. For several years, the appellant wife indicated on their MA Schedule HC that her husband was not a resident of the state and was not subject to the penalty. In other years, she filed a tax return separately with the same result. (Testimony)

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

5. The appellants reported an adjusted gross income of \$217,834.00 on their jointly filed 2020 federal tax return, and reported that they were married with two dependents. (Ex. 2)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

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

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 appellants submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to them during 2020 for “other” reasons. They added on the form that one of them resided in Senegal

The appellant wife was enrolled in MCC employer health insurance throughout 2020. The appellant husband did not reside in Massachusetts for any part of 2020, but did not indicate on their Schedule HC that he was not a resident. 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 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 appellants failed to indicate that the husband was not a resident of the state, he was assessed and is appealing a penalty of twelve months.

According to the 2020 Schedule HC instructions for part-year residents of the state as set forth on page HC-2, “Part-year residents are not required to file Schedule HC if they were residents of Massachusetts for less than three full months.” Inasmuch as the appellant husband spent no part of the year in the state, he did not have to be included on their Schedule HC and should not have been assessed a penalty.

Based on the foregoing, the appellant husband’s request for a waiver from the penalty is **granted** for the months in question. The determination that he is not subject to a penalty is with respect to 2020, only and is based upon the extent of information submitted by the appellants in this appeal.

### **PENALTY ASSESSED**

Number of Months Appealed: (wife)   0  

Number of Months Assessed: (wife)   0  

Number of Months Appealed: (husband)  12 

Number of Months Assessed: (husband)   0  

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1110

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** January 31, 2022

**Decision Date:** February 22, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 31, 2022, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

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

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 25-years-old, is single, and does not have children. In 2020, he resided in Middlesex County, MA. He had minimum creditable coverage (MCC) health insurance for the months of October and November, 2020. (Testimony, Ex. 2)
2. The appellant was insured under his father's health insurance plan in 2019 until his father retired. The appellant moved to Massachusetts in September, 2019 and began employment with a large distribution company. He was advised that he would be eligible for employer health insurance within thirty days of his start date. After thirty days, he inquired about the insurance and got the "runaround", and eventually determined that no insurance would be offered. (Testimony, Ex. 1)
3. The appellant investigated his eligibility for health insurance through MassHealth online and determined that he was not eligible. He left his job in late February, 2020, and began a new position in May, 2020. The employer offered health insurance and he was advised that he would be eligible to

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

enroll within thirty days of his start date. When nothing materialized, he spoke with the employer and was advised that he had to wait ninety days before he could enroll. In September, 2020, the appellant enrolled in insurance effective October 1, 2020. He remained insured through November, 2020, at which time he was separated from employment. (Testimony, Exs. 1,2)

4. Following his job separation, the appellant again investigated his eligibility for health insurance with MassHealth and was determined eligible effective January 1, 2021. He has remained enrolled since that time. (Testimony, Ex. 1)
5. The appellant reported an adjusted gross income of \$33,263.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2020](http://www.mass.gov/dor/docs/dor/health-care/2020), and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 for “other” reasons. He also submitted a letter with his statement in which he stated in part that he was advised by his first employer that he would be eligible for health insurance within thirty days of the commencement of employment, and was advised of the same by the second employer, only to be told that he had to wait an additional ninety days

The appellant had health insurance for the months of October and November, 2020. 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 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 ten months, he was assessed and is appealing a penalty of six months (i.e., the number of months of uninsurance less the gap period of three months).<sup>2</sup>

The appellant testified credibly that he began a job in the fall of 2019 and was advised that he was eligible for employer health insurance thirty days after he started. He testified that nothing was offered after thirty days and when he made an inquiry, he got the “runaround”, after which he was told that no insurance would be available. He testified that he investigated insurance options online and determined that he was not eligible for MassHealth. He testified that he left his job in February, 2020, and started a new position in May, 2020, where he was also advised that he was eligible for insurance after thirty days. He testified that when nothing materialized, he spoke with the employer who told him that he had to wait an additional ninety days before he could enroll. He testified that he enrolled in September, 2020, and had insurance for the months of October and November, after which he

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<sup>2</sup> It is unclear why the assessed penalty is six months, instead of seven months.

was separated from employment. Finally, he testified that he investigated insurance options again and was determined eligible for MassHealth, which began on January 1, 2021 and has continued to date.

With respect to the first job, the appellant offered credible testimony that he relied to his detriment on the employer's representation that health insurance would be available after thirty days. As for the second job, it appears that the appellant received incorrect information when he was hired and had to pass a ninety-day waiting period in order to enroll in insurance. Both of these circumstances were unfortunate and occurred through no fault of his own. In addition, he acted diligently to investigate his options during the periods he was without insurance and did not exhibit an intention to avoid the mandate. In fact, he has been enrolled in MassHealth since January, 2021, thereby demonstrating that the requirement to obtain insurance was not lost on him.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   6  

Number of Months Assessed:   0  

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1122

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** January 12, 2022

**Decision Date:** February 23, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 12, 2022. The record was left open and Appellant submitted additional documents. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellants:

- Exhibit 1: Notice of Hearing (12-20-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-18-21) (with letter and documents) (4 pages); and
- Exhibit 4: Additional documents submitted pursuant to open record (2-12-22) (16 pages) .

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 35 during 2020, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$57,414.00 (Exhibit 2).
4. Appellant had health insurance available through the employer, but did not believe it was affordable. Appellant also experienced expenses as a result of their grandmother's death, including funeral expenses. (Appellant's testimony, Exhibit 3).
5. Appellant did get insurance as of July 2021 through the employer. (Appellant Testimony).

6. Appellant's expenses for food, shelter, clothing, student loans and other necessities used a substantial amount of the income. The expenses totaled approximately \$3,500.00.00 per month, or \$42,000.00 per year. (Appellant's Testimony, Exhibit 4).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$298.00 per month. According to Table 3, Appellant was deemed to afford \$382.00. (Appellant Testimony).
9. Private insurance was affordable for the Appellant in 2020. (Schedule HC for 2020).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, and other necessities, and that they experienced extra expenses as a result of the death of a family member. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; but did incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived 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 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 did not have health insurance for 2020. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. 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 they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$57,414.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$382.00 per month; according to Table 4, Appellant, who was 35 years old in 2020, from Essex County, and filed the 2020 Massachusetts taxes as single with a family size of 1, would have had to pay \$298.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, and other necessities, and that they had extra expenses as the result of the death of a family member. The monthly expenses for food, shelter, clothing and other necessities used a substantial amount of the income. Appellant has health insurance as of July 2021. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 appeal. They 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 which meets the Commonwealth's minimum creditable coverage standards.

#### **PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1127

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** January 13, 2022  
**Decision Date:** February 25, 2022

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 13, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the close of Appellant's testimony, the record was left open so that Appellant could submit further information. Appellant submitted a document about employer sponsored health insurance and the document has been marked as Exhibit 4. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated July 26, 2021
- Exhibit 3: Correspondence from Health Connector, dated December 20, 2021
- Exhibit 4: Document about available employer sponsored health insurance

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 43 years old in 2020 and resided in Plymouth County (Exhibit 1).
2. Appellant filed a Massachusetts tax return in 2020 as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$47,603 (Exhibit 1).
4. Appellant had employer sponsored health insurance available at a cost of \$325 per month (Exhibit 4).
5. Appellant did not sign up for the employer sponsored health insurance due to the cost (Testimony of Appellant).
6. Appellant did not have health insurance for twelve months in 2020 (Exhibit 1 and Testimony of Appellant).
7. Appellant struggled to pay for basic expenses in 2020 (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

9. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$47,603 could afford to pay \$301 per month for private insurance. According to Table 4, Appellant, who was 43 years old and lived in Plymouth county could have purchased private insurance for a cost of \$316 per month.
10. Private insurance and the offered employer sponsored health insurance were not considered affordable for Appellant in 2020 (Schedule HC for 2020).
11. Appellant, earning more than \$36,470 would not have been income eligible for government subsidized health insurance (Schedule HC for 2020).
12. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
13. Appellant filed a hardship Appeal on July 26, 2021 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

During 2020 both private health insurance and the offered employer sponsored insurance were not considered affordable for Appellant. Additionally, Appellant was not income eligible for subsidized health insurance. See Tables 2, 3 and 4 of Massachusetts Schedule HC 2020, Exhibits 1, 2 and 4 and Testimony of Appellant, which I find to be credible.

I find that affordable health insurance was not available to Appellant in 2020 and that the penalty assessed against Appellant for 2020 should be waived in its entirety.

## **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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



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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA201007

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

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

**Hearing Date:** December 20, 2021

**Decision Date:** February 25, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on December 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on June 14, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated November 23, 2021 for December 20, 2021 hearing
- Exhibit 4: Appellant's bank statement showing rent payment transfers, August-December, 2020
- Exhibit 5: Appellant's car payment bill, August 11, 2020
- Exhibit 6: Appellant's cellphone bill, August, 2020
- Exhibit 7: Print-out showing Appellant's unemployment compensation payments, September 5th through November 7th, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 34 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$48,767 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant had a job at a consulting firm from January through mid-July, 2020. Appellant's take-home pay was \$1,900 biweekly. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards through this job. He lost coverage at the end of July, 2020 (Testimony of Appellant, Exhibit 2).

5. Appellant was laid off in mid-July because of the pandemic. Appellant collected unemployment benefits from September through November 7th. His gross benefit was \$697 weekly (Testimony of Appellant, Exhibit 7).
6. In November, Appellant worked at a series of temporary jobs, earning about \$2,000 from mid-November through December with no benefits (Testimony of the Appellant).
7. After Appellant was laid off in July, he was offered COBRA coverage but Appellant felt he could not afford the cost. Appellant also looked into obtaining coverage through the Connector, but again, he felt he could not afford the cost (Testimony of Appellant).
8. Appellant was insured from January through July, 2020. He was uninsured the rest of the year. The appellant has been assessed a tax penalty for two months, November and December. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
10. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$48,767 could afford to pay \$308 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Norfolk County, could have purchased insurance for \$288 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
11. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
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 a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2020: rent-\$1,000; electricity, heat, and internet-\$200; telephone-\$55; food, household items, and personal care items-\$430; clothing-\$0.00; car payment-\$458; car insurance-\$100; gas-\$85 (Testimony of Appellant, Exhibits 4-6).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$48,767 could afford to pay \$308 per month for health insurance. According to Table 4, Appellant, 34 years old and living in Norfolk County, could have purchased insurance for \$288 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$48,767, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had health insurance through employment which met the Commonwealth’s minimum creditable coverage standards from January through July. The appellant was then laid off because of the pandemic. Appellant was unemployed until some time in November when he obtained some temporary work without any benefits. He had no access to employer-sponsored insurance once he was laid off. See the testimony of the appellant which I find to be credible and Exhibit 2.

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

Appellant had the following expenses for basic necessities in 2020: rent-\$1,000; electricity, heat, and internet-\$200; telephone-\$55; food, household items, and personal care items-\$430; clothing-\$0.00; car payment-\$458; car insurance-\$100; gas-\$85. See the testimony of the appellant which I find credible, and Exhibits 4-6.

Appellant’s Federal Adjusted Gross Income in 2020 was \$48,767. However, during the months for which he has been assessed a penalty, November and December, Appellant only had some temp job for which he earned about

\$2,000 and one unemployment compensation check for about \$700 gross, or about \$2,700 income for the two months. Appellant's expenses amounted to about \$2,325 a month. These expenses did not change after he was laid off because of the pandemic. In both November and December, Appellant's expenses were about \$1,000 greater than his income. If Appellant purchased health insurance through the Connector for \$288 a month (See Table 4, Schedule HC for 2020), Appellant would have had a monthly deficit of about \$1,300. See Exhibits 4-6 and the testimony of the appellant which I find to be credible.

Based on the facts noted above, I find that during the pandemic, health insurance was unaffordable for the appellant. Pursuant to 956 CMR 6.08 (1)(e), I determine that if the appellant purchased health insurance, the appellant would have experienced a serious deprivation of basic necessities. Affordable health insurance was not available to the appellant. Appellant's penalty is, therefore, waived in its entirety.

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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1087

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** January 21, 2022  
**Decision Date:** March 7, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 21, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated June 20, 2021
- Exhibit 3: Correspondence from Health Connector, dated December 13, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 46 years old in 2020 and resided in Bristol County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$25,624 (Exhibit 1).
4. Appellant worked sporadically and was only given a part time schedule due to the Covid 19 pandemic (Testimony of Appellant).
5. Appellant struggled to pay for basic necessities, due to the part time schedule (Testimony of Appellant).
6. It was necessary for Appellant to purchase a vehicle. Appellant bought a used vehicle for \$7,360 (Exhibit 2 and Testimony of Appellant).
7. Appellant was unsure if Appellant's employment would become full-time due to the pandemic (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

9. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$25,624 could afford to pay \$90 per month for private insurance. According to Table 4, Appellant, who was 46 years old and lived in Bristol county could have purchased private insurance for a cost of \$361 per month.
10. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
11. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
12. Appellant did not have health insurance for twelve months of 2020 (Exhibit 1 and Testimony of Appellant).
13. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
14. Appellant filed a hardship Appeal on June 20, 2021 (Exhibit 2).
15. At the time of the hearing, Appellant was working full time and in a waiting period for employer sponsored health insurance (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 health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was income eligible for government subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities due to pandemic reduction in hours and lay-offs. Appellant was unsure of when Appellant would have full time employment again. Appellant also had to purchase a vehicle during 2020. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

**ADDENDUM**

**Appellant is advised that this decision is based upon the facts as I have found them for 2020 and should not assume that a similar decision will be made if Appellant fails to have health insurance that meets Massachusetts standards in the future.**

**If Appellant does not have health insurance, Appellant should immediately contact the Health Connector at 1 877 623-6765 to find out about affordable options.**